

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1430

5 By: Representative Dotson
6 By: Senator B. Ballinger
7

For An Act To Be Entitled

9 AN ACT TO ELIMINATE UNNECESSARY REFERENCES TO
10 REGULATIONS THROUGHOUT THE ARKANSAS CODE; TO PROVIDE
11 FOR CONSISTENT REFERENCES TO RULES THROUGHOUT THE
12 ARKANSAS CODE; TO CHANGE THE NAME OF A ARKANSAS
13 LEGISLATIVE COUNCIL SUBCOMMITTEE; TO AMEND PORTIONS
14 OF THE ARKANSAS CODE RESULTING FROM INITIATED ACT 1
15 OF 1914, INITIATED ACT 4 OF 1948, INITIATED ACT 1 OF
16 1988, AND INITIATED ACT 1 OF 1996; AND FOR OTHER
17 PURPOSES.
18
19

Subtitle

21 TO ELIMINATE UNNECESSARY REFERENCES TO
22 REGULATIONS AND TO PROVIDE FOR CONSISTENT
23 REFERENCES TO RULES THROUGHOUT THE
24 ARKANSAS CODE; AND TO CHANGE THE NAME OF
25 A ARKANSAS LEGISLATIVE COUNCIL
26 SUBCOMMITTEE.
27
28

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
30

31 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

32 (a) The General Assembly finds:

33 (1) The Administrative Procedure Act, § 25-15-202(9)(A) defines
34 "rule" as "an agency statement of general applicability and future effect
35 that implements, interprets, or prescribes law or policy, or describes the
36 organization, procedure, or practice of an agency and includes, but is not



1 limited to, the amendment or repeal of a prior rule".

2 (2) While the term "regulation" is not defined in the
 3 Administrative Procedure Act, the term is used interchangeably with the
 4 defined term "rule" throughout the Arkansas Code;

5 (3) Use of the term "regulation" out of the proper context
 6 creates confusion and inconsistency in the Arkansas Code;

7 (4) This act provides for the uniform use of the term "rule" for
 8 an agency statement of general applicability and future effect that
 9 implements, interprets, or prescribes law or policy, or describes the
 10 organization, procedure, or practice of an agency and includes, but is not
 11 limited to, the amendment or repeal of a prior rule throughout the Arkansas
 12 Code as envisioned by defining of the term in the Administrative Procedures
 13 Act.

14 (b) It is the intent of the General Assembly that the uniform use of
 15 the term rule shall be applied to mean an agency statement of general
 16 applicability and future effect that implements, interprets, or prescribes
 17 law or policy, or describes the organization, procedure, or practice of an
 18 agency and includes, but is not limited to, the amendment or repeal of a
 19 prior rule, and includes a regulation.

20
 21 SECTION 2. Arkansas Code § 2-1-102(c), concerning the definition of
 22 "sustainable agriculture", is amended to read as follows:

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

28 (2) This section does not apply to silviculture and any state
 29 rules or federal rules or regulations regarding silviculture.

30
 31 SECTION 3. Arkansas Code § 2-5-207(a)(6), concerning unlawful acts,
 32 penalties, and revocations of certificate under the Commercial Bait and
 33 Ornamental Fish Act, is amended to read as follows:

34 (6) Violate any rule ~~or regulation~~ of the board under this
 35 subchapter; or

36

1 SECTION 4. Arkansas Code § 2-6-105(a) and (b), concerning the
2 exceptions to registration and suspension of a catfish processor, are amended
3 to read as follows:

4 (a)(1) Except as provided in subsection (e) of this section, every
5 catfish processor in the state shall register with the State Plant Board.

6 (2) Applications for registration as a catfish processor under
7 this chapter shall be made on forms prescribed by the Director of the State
8 Plant Board.

9 (3) Every application is to be accompanied by an application fee
10 of one hundred fifty dollars (\$150), a certified financial statement in a
11 form prescribed by the director, and any further information the director may
12 by ~~regulation~~ rule require.

13 (b) The board shall promulgate such rules ~~and regulations~~ as necessary
14 to secure the performance of catfish purchasing obligations.

15
16 SECTION 5. Arkansas Code § 2-6-106(c), concerning unlawful practices
17 with respect to the purchase, sale, or handling of catfish or catfish
18 products, is amended to read as follows:

19 (c) The board is authorized to apply for and the court is authorized
20 to grant a temporary or permanent injunction restraining any person from
21 violating or continuing to violate any of the provisions of this chapter or
22 any rule ~~or regulation~~ promulgated under this chapter, notwithstanding the
23 existence of other remedies at law. The injunction shall be issued without
24 bond.

25
26 SECTION 6. Arkansas Code § 2-9-109(a)(2), concerning the rules
27 regarding catfish feed assessment records, is amended to read as follows:

28 (2) The records shall be in such form and contain other
29 information as the Arkansas Catfish Promotion Board shall prescribe by rule
30 ~~or regulation~~.

31
32 SECTION 7. Arkansas Code § 2-15-302(8)(B)(iii), concerning an
33 exemption to the definition of "permitted lien" under the Grain, Soybean, and
34 Peanut Owner's Lien Act, is amended to read as follows:

35 (iii) Is not validly perfected with a first priority
36 against the claims of all persons under applicable law other than a person

1 holding a statutory or regulatory lien as to which first priority is granted
2 by statute or ~~regulation~~ rule;

3
4 SECTION 8. Arkansas Code § 2-16-203(b)(2)(B), concerning the penalties
5 for a violation of State Plant Board rules, is amended to read as follows:

6 (B) The board may promulgate any other ~~regulation~~ rule
7 necessary to carry out the intent of this section.

8
9 SECTION 9. Arkansas Code § 2-16-404(a) concerning penalties of the
10 State Plant Board, is amended to read as follows:

11 (a) Any person who violates any provision of this subchapter or a
12 ~~regulation~~ rule adopted under this subchapter shall be guilty of a violation
13 and upon conviction shall be punished for the first offense by a fine of not
14 less than one hundred dollars (\$100) nor more than one thousand dollars
15 (\$1,000) and for the second and any additional offense a fine of not less
16 than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000).

17
18 SECTION 10. Arkansas Code § 2-16-407(e) and (f), concerning pesticide
19 registration requirements, are amended to read as follows:

20 (e) The board may prescribe other necessary information by ~~regulation~~
21 rule.

22 (f) The applicant desiring to register a pesticide shall pay an annual
23 registration fee as prescribed in the ~~regulations~~ rules of the board for each
24 pesticide registered by the applicant. The annual registration fee shall be
25 no less than sixty dollars (\$60.00) for each product registered. All
26 registrations shall expire December 31 each year.

27
28 SECTION 11. Arkansas Code § 2-16-610(a), concerning the designation of
29 boll weevil eradication zones, the prohibition of planting cotton, the
30 participation in suppression eradication program, and penalties, is amended
31 to read as follows:

32 (a) The State Plant Board may designate by ~~regulation~~ rule one (1) or
33 more areas of this state as eradication zones where boll weevil eradication
34 programs will be undertaken.

35
36 SECTION 12. Arkansas Code § 2-16-610(d)(1), concerning the designation

1 of boll weevil eradication zones, the prohibition of planting cotton, the
2 participation in suppression eradication program, and penalties, is amended
3 to read as follows:

4 (d)(1) The board may set by ~~regulation~~ rule a reasonable schedule of
5 penalty fees to be assessed when growers in designated eradication zones do
6 not meet the requirements of rules issued by the board with respect to
7 reporting of acreage and participation in cost sharing as prescribed by
8 ~~regulation~~ rule.

9
10 SECTION 13. Arkansas Code § 2-18-105(b)(1), concerning advertising and
11 promotion fees set by the State Plant Board, is amended to read as follows:

12 (b)(1) To cover costs of promotion and advertising of certified seed,
13 the board after a public hearing shall establish by ~~regulation~~ rule promotion
14 and advertising fees which shall be collected in advance. The fees shall be
15 assessed upon the acreage grown for certified agricultural seed production or
16 upon the number of certified tags and labels sold for production of certified
17 seed from the acreage.

18
19 SECTION 14. Arkansas Code § 2-19-201(a), concerning the penalty for
20 the sale of fertilizer, is amended to read as follows:

21 (a) Any person selling or offering for sale any fertilizer or
22 fertilizer material in violation of a provision of this subchapter, of a
23 ~~regulation~~ rule made under this subchapter, or of a notice issued under the
24 authority of this subchapter shall be guilty of a violation.

25
26 SECTION 15. Arkansas Code § 2-19-302 is amended to read as follows:

27 2-19-302. Penalty.

28 Any person who shall violate any provision of this subchapter or any
29 ~~regulation~~ rule adopted under this subchapter shall upon conviction be guilty
30 of a violation and fined not less than one hundred dollars (\$100) for the
31 first offense and not less than three hundred dollars (\$300) for every
32 subsequent offense.

33
34 SECTION 16. Arkansas Code § 2-19-402(11)(C), concerning the definition
35 of "misbranded" under the Soil Amendment Act of 1977, is amended to read as
36 follows:

1 (C) Any material is represented as a soil amendment or is
2 represented as containing a soil amendment, unless the soil amendment
3 conforms to the definition of identity, if any, prescribed by ~~regulation~~
4 rule;

5
6 SECTION 17. Arkansas Code § 2-19-407(d)(3), concerning the labeling
7 requirements and approval of ingredients for soil amendments, is amended to
8 read as follows:

9 (3) The board may stipulate, by ~~regulation~~ rule, the quantities
10 of the soil-amending ingredients required in soil amendments.

11
12 SECTION 18. Arkansas Code § 2-19-413(a), concerning authorization to
13 issue injunctions for violations of the rules related to soil amendments, is
14 amended to read as follows:

15 (a) The State Plant Board is authorized to apply for, and the court is
16 authorized to grant, a temporary or permanent injunction restraining any
17 person from violating or continuing to violate any of the provisions of this
18 subchapter or any rule ~~or regulation~~ promulgated under it, notwithstanding
19 the existence of other remedies at law.

20
21 SECTION 19. Arkansas Code § 2-20-508(a)(2), concerning records and
22 documentation required by the Arkansas Rice Research and Promotion Board, is
23 amended to read as follows:

24 (2) The records shall be in such form and contain other
25 information as the Arkansas Rice Research and Promotion Board shall prescribe
26 by rule ~~or regulation~~.

27
28 SECTION 20. Arkansas Code § 2-32-402(9)(B)(iii), concerning the
29 definition of "permitted lien" under the Livestock Owner's Lien Act, is
30 amended to read as follows:

31 (iii) Is not validly perfected with a first priority
32 against the claims of all persons under applicable law other than a person
33 holding a statutory or regulatory lien as to which first priority is granted
34 by statute or ~~regulation~~ rule;

35
36 SECTION 21. Arkansas Code § 2-36-206(a)(2), concerning appropriations

1 for construction and operation of a district livestock show, is amended to
2 read as follows:

3 (2) No state funds may be paid over to any district
4 association unless and until the executive officer shall have furnished bond
5 to the State of Arkansas in such form and amount and containing such
6 conditions and type of surety as the Arkansas Livestock and Poultry
7 Commission shall by general ~~regulation~~ rule determine.

8

9 SECTION 22. Arkansas Code § 2-36-208 is amended to read as follows:
10 2-36-208. Bonding of executive officers.

11 No state funds may be paid over to any county and district livestock
12 show or fair association unless and until the executive officer shall have
13 furnished bond to the State of Arkansas in such form and amount and
14 containing such conditions and type of surety as the Arkansas Livestock and
15 Poultry Commission shall by general ~~regulation~~ rule determine.

16

17 SECTION 23. Arkansas Code § 2-37-105(a)(3) and (4), concerning the
18 labeling of commercial feed, are amended to read as follows:

19 (3) The guaranteed analysis stated in such terms as the
20 State Plant Board by ~~regulation~~ rule determines is required to advise the
21 user of the composition of the feed or to support claims made in the
22 labeling. In all cases the substances or elements must be determinable by
23 laboratory methods such as the methods published by the AOAC International.

24 (4) The common or usual name of each ingredient used in
25 the manufacture of the commercial feed, provided that the board by ~~regulation~~
26 rule may permit the use of a collective term for a group of ingredients which
27 perform a similar function, or the board may exempt such commercial feeds, or
28 any group thereof, from this requirement of an ingredient statement if the
29 board finds that such statement is not required in the interest of consumers.

30

31 SECTION 24. Arkansas Code § 2-37-105(a)(6) and (7), concerning the
32 labeling of commercial feed, are amended to read as follows:

33 (6) Adequate directions for use for all commercial feeds
34 containing drugs and for such other feeds as the board may require by
35 ~~regulation~~ rule as necessary for their safe and effective use.

36 (7) Such precautionary statements as the board by

1 ~~regulation rule~~ determines are necessary for the safe and effective use of
2 the commercial feed.

3
4 SECTION 25. Arkansas Code § 2-37-105(b)(5), concerning the labeling of
5 commercial feed, is amended to read as follows:

6 (5) Adequate directions for use and precautionary
7 statements for all customer-formula feeds containing drugs and for such other
8 feeds as the board may require by ~~regulation rule~~ as necessary for their safe
9 and effective use.

10
11 SECTION 26. Arkansas Code § 2-37-110 is amended to read as follows:
12 2-37-110. ~~Regulations~~ Rules.

13 (a) The State Plant Board is authorized to promulgate such reasonable
14 ~~regulations rules~~ as may be necessary for the efficient enforcement of this
15 chapter. In the interest of uniformity the board shall by ~~regulation rule~~
16 adopt, unless the board determines that they are inconsistent with the
17 provisions of this chapter or are not appropriate to conditions which exist
18 in this state, the following:

19 (1) The Official Definitions of Feed Ingredients and Official
20 Feed Terms adopted by the Association of American Feed Control Officials and
21 published in the Official Publication Association of American Feed Control
22 Officials; and

23 (2) Any ~~regulation rule~~ promulgated pursuant to the authority of
24 the Federal Food, Drug, and Cosmetic Act, provided, that the board would have
25 the authority under this chapter to promulgate such ~~regulations rule~~.

26 (b) Before the issuance, amendment, or repeal of any ~~regulation~~
27 rule authorized by this chapter, the board shall publish the proposed
28 ~~regulation rule~~, amendment, or notice to repeal an existing ~~regulation rule~~
29 in a manner reasonably calculated to give interested parties, including all
30 current registrants, adequate notice and shall afford all interested persons
31 an opportunity to present their views thereon, orally or in writing, within a
32 reasonable period of time. After consideration of all views presented by
33 interested persons, the board shall take appropriate action to issue the
34 proposed ~~regulation rule~~ or to amend or repeal an existing ~~regulation rule~~.
35 The provisions of this subsection notwithstanding, if the board, under the
36 authority of this subsection, adopts the Official Definitions of Feed

1 Ingredients or Official Feed Terms as adopted by the Association of American
 2 Feed Control Officials, or regulations promulgated under the authority of the
 3 Federal Food, Drug, and Cosmetic Act, any amendment or modification adopted
 4 by said Association or by the United States Secretary of Health and Human
 5 Services in the case of regulations promulgated pursuant to the Federal Food,
 6 Drug and Cosmetic Act, shall be adopted automatically under this chapter
 7 without regard to the publication of the notice required by this subsection
 8 (b), unless the board by order specifically determines that said amendment of
 9 modification shall not be adopted.

10
 11 SECTION 27. Arkansas Code § 2-37-113(d), concerning penalties for
 12 violations of State Plant Board rules, is amended to read as follows:

13 (d) The board is authorized to apply for and the court to grant a
 14 temporary or permanent injunction restraining any person from violating or
 15 continuing to violate any of the provisions of this chapter or any ~~regulation~~
 16 rule promulgated under the chapter notwithstanding the existence of other
 17 remedies at law. The injunction shall be issued without bond.

18
 19 SECTION 28. Arkansas Code § 2-40-205(b), concerning the livestock or
 20 poultry blood test training program, is amended to read as follows:

21 (b) These technicians shall be used at the market, where economically
 22 feasible, except when in violation of state law or rule or federal law, rule,
 23 or regulation.

24
 25 SECTION 29. Arkansas Code § 2-40-403 is amended to read as follows:

26 2-40-403. Requirements.

27 The Arkansas Livestock and Poultry Commission shall, by ~~regulation~~
 28 rule, specify acceptable methods for the disposal of fowl carcasses,
 29 including, but not limited to:

- 30 (1) Composting of carcasses;
- 31 (2) Cremation or incineration;
- 32 (3) Extrusion;
- 33 (4) On-farm freezing;
- 34 (5) Rendering; and
- 35 (6) Cooking for swine feed.

1 SECTION 30. Arkansas Code § 2-40-404 is amended to read as follows:
2 2-40-404. Specifications.

3 The Arkansas Livestock and Poultry Commission shall, by ~~regulation~~
4 rule, specify acceptable methods of the disposal of fowl carcasses in the
5 event of a major die-off.

6
7 SECTION 31. Arkansas Code § 3-1-103(a)(2), concerning products
8 exempted from the Arkansas Alcoholic Control Act, is amended to read as
9 follows:

10 (2) All wines or vinous liquors which shall be manufactured
11 without the confines of this state shall be legally sold, imported,
12 transported, possessed, and consumed only upon payment of the same privilege
13 and excise taxes as provided for all other alcoholic liquors which are
14 included and legalized under the provisions of this act, and traffic in such
15 vinous liquors shall be subject to all ~~regulations~~ rules provided herein.

16
17 SECTION 32. Arkansas Code § 3-2-201(g), concerning the Alcoholic
18 Beverage Control Board, is amended to read as follows:

19 (g) In addition to any other powers, duties, and authority, the board
20 shall be vested with the additional authority to establish written policies
21 for the enforcement, by the Alcoholic Beverage Control Enforcement Division,
22 of the laws and ~~regulations~~ rules affecting alcoholic beverage control.

23
24 SECTION 33. Arkansas Code § 3-2-202(a), concerning the Director of
25 Alcoholic Beverage Control, is amended to read as follows:

26 (a) The Director of Alcoholic Beverage Control shall be an attorney
27 duly authorized to practice law by the Supreme Court, who shall present all
28 evidence tending to prove violations of the law or ~~regulations~~ rules at
29 hearings held by the Alcoholic Beverage Control Board.

30
31 SECTION 34. Arkansas Code § 3-2-204(d) and (e), concerning the seal of
32 the Director of the Alcoholic Beverage Control Division and the Alcoholic
33 Beverage Control Board, are amended to read as follows:

34 (d) All acts, orders, proceedings, rules, ~~regulations~~, entries,
35 minutes, and other records of the director and all reports and documents
36 filed with the director may be proved in any court of this state by copy

1 thereof, certified by the director with the seal of the director attached.

2 (e) All acts, orders, proceedings, rules, ~~regulations~~, entries,
3 minutes, and other records of the board and all reports and documents filed
4 with the director may be proved in any court of this state by copy thereof,
5 certified by the chair of the board with the seal of the board attached.

6
7 SECTION 35. Arkansas Code § 3-2-205(b)(2), concerning the powers and
8 duties of the Alcoholic Beverage Control Division and the Alcoholic Beverage
9 Control Enforcement Division, is amended to read as follows:

10 (2) To adopt rules ~~and regulations~~ for the supervision and
11 control of the manufacture and sale of vinous (except wines), spirituous, or
12 malt liquors throughout the state not inconsistent with law;

13
14 SECTION 36. Arkansas Code § 3-2-205(b)(6), concerning the powers and
15 duties of the Alcoholic Beverage Control Division and the Alcoholic Beverage
16 Control Enforcement Division, is amended to read as follows:

17 (6) To adopt rules ~~and regulations~~ for the supervision and
18 control of nonresident beer sellers' permits.

19
20 SECTION 37. Arkansas Code § 3-2-206 is amended to read as follows:

21 3-2-206. Rules ~~and regulations~~.

22 (a) The Director of the Alcoholic Beverage Control Division shall
23 adopt and promulgate such rules ~~and regulations~~ as shall be necessary to
24 carry out the intent and purposes of this subchapter and any other alcohol
25 control acts enforced in this state.

26 (b) All rules ~~and regulations~~ of general application, including the
27 amendment or repeal thereof, shall first be submitted by the director to the
28 Alcoholic Beverage Control Board for its approval and upon approval shall be
29 filed in the office of the Secretary of State.

30 (c) All the valid rules ~~and regulations~~ adopted under the provisions
31 of this subchapter shall be absolutely binding upon all licensees and
32 enforceable by the director through the power of suspension or cancellation
33 of licenses.

34 (d) It is intended by this grant of power to adopt rules ~~and~~
35 ~~regulations~~ that the director shall be clothed with broad discretionary power
36 to govern the traffic in alcoholic liquor and to enforce strictly all the

1 provisions of the alcohol control laws of this state.

2 (e) The Alcoholic Beverage Control Division is authorized to assess a
3 ~~regulation~~ rule book fee which shall not exceed ten dollars (\$10.00) for each
4 ~~regulation~~ rule book.

5
6 SECTION 38. Arkansas Code § 3-2-212(b), concerning the denial,
7 suspension, or revocation of licenses by the Director of the Alcoholic
8 Beverage Control Division, is amended to read as follows:

9 (b) The proceedings shall be in accordance with rules ~~and regulations~~
10 established by the director and not inconsistent with law.

11
12 SECTION 39. Arkansas Code § 3-2-213(b)(5), concerning the denial,
13 suspension, or revocation of a license and an appeal to the Alcoholic
14 Beverage Control Board, is amended to read as follows:

15 (5) The board shall adopt such rules ~~and regulations~~ as it shall
16 deem necessary to govern the procedure in the hearing, and the board shall
17 not be bound by the legal rules of evidence in hearing appeals and in making
18 its determination.

19
20 SECTION 40. Arkansas Code § 3-2-404(5)(b)(ii), concerning a request to
21 change wholesalers under the Arkansas Alcoholic Control Act, is amended to
22 read as follows:

23 (ii) A wholesaler's repeated violations of any
24 provision of federal or state law, rule, or ~~regulations~~ regulation, whether
25 or not such violations resulted in official action;

26
27 SECTION 41. Arkansas Code § 3-2-406(c), concerning hearings requesting
28 to change wholesalers before the Director of the Alcoholic Beverage Control
29 Division, is amended to read as follows:

30 (c) Any aggrieved party may appeal the decision of the director to the
31 full board to be heard de novo and any such appeal hearing will be scheduled
32 and held pursuant to hearing procedures established for the Alcoholic
33 Beverage Control Division by state law and division ~~regulations~~ rules.

34
35 SECTION 42. Arkansas Code § 3-2-412(b), concerning the prohibition of
36 dual distributorships, is amended to read as follows:

1 (b) In addition to any remedies to any aggrieved party authorized by
2 law, the Director of the Alcoholic Beverage Control Division may withdraw
3 approval of any and all brands registered by any manufacturer found to be in
4 violation of this subchapter, such findings to be made after a hearing
5 pursuant to hearing procedures established for the Alcoholic Beverage Control
6 Division by state law and administrative ~~regulations~~ rules.

7
8 SECTION 43. Arkansas Code § 3-3-213(2)(B), concerning exclusivity
9 agreements in manufacturer-seller relationships, is amended to read as
10 follows:

11 (B) Furnishing, giving, renting, lending, or selling to
12 the retailer any equipment, fixtures, signs, supplies, money, service, or
13 other thing of value, subject to exceptions provided by the rules ~~and~~
14 ~~regulations~~ of the Alcoholic Beverage Control Board and established trade
15 customs;

16
17 SECTION 44. Arkansas Code § 3-3-218(e), concerning the enforcement of
18 the duty of care of privilege license holders, is amended to read as follows:

19 (e) The Alcoholic Beverage Control Division and its board are hereby
20 authorized to adopt ~~regulations~~ rules to implement each and every provision
21 of this section.

22
23 SECTION 45. Arkansas Code § 3-3-303 is amended to read as follows:

24 3-3-303. Rules ~~and regulations~~.

25 The Director of the Alcoholic Beverage Control Division shall
26 promulgate all rules ~~and regulations~~ necessary to enforce and administer this
27 subchapter.

28
29 SECTION 46. The introductory language of Arkansas Code § 3-4-214,
30 concerning the contents of Alcoholic Beverage Control Division permits, is
31 amended to read as follows:

32 A permit shall contain, in addition to any further information or
33 material to be prescribed by the rules ~~and regulations~~ of the Alcoholic
34 Beverage Control Division, the following:

35
36 SECTION 47. Arkansas Code § 3-4-220 is amended to read as follows:

1 3-4-220. Duplicate permits.

2 Whenever a permit shall be lost or destroyed without fault on the part
3 of the permittee or his or her agents or employees, a duplicate permit in
4 lieu thereof may be issued by the Director of the Alcoholic Beverage Control
5 Division in his or her discretion and in accordance with its rules ~~and~~
6 ~~regulations~~, on payment of a fee of five dollars (\$5.00).

7
8 SECTION 48. Arkansas Code § 3-4-401 is amended to read as follows:

9 3-4-401. Authorization to impose fines.

10 In addition to all other sanctions and penalties which may be
11 administratively imposed by the Director of the Alcoholic Beverage Control
12 Division pursuant to the procedures outlined in this title and the Arkansas
13 Administrative Procedure Act, § 25-15-201 et seq., the director shall have
14 the power and authority to levy fines and suspend them against controlled
15 beverage permit holders when the director determines the permit holder has
16 violated the alcoholic beverage control laws of this state or ~~regulations~~
17 rules of the Alcoholic Beverage Control Division.

18
19 SECTION 49. Arkansas Code § 3-4-404(3), concerning Class B violations
20 of alcoholic beverage control laws, is amended to read as follows:

21 (3) Transporting controlled beverages in violation of
22 ~~regulations~~ rules or law;

23
24 SECTION 50. Arkansas Code § 3-4-407(a), concerning violations of local
25 closing hours laws, is amended to read as follows:

26 (a) The General Assembly, by legislation, and the Alcoholic Beverage
27 Control Division, by ~~regulations~~ rule, have created general closing hours for
28 establishments which sell or dispense alcoholic beverages. However, the
29 General Assembly and the division have also given the power to local city
30 governments or local county quorum courts to adopt hours of operation which
31 are more restrictive than the general hours of operation stated for certain
32 permits issued by the division. It is recognized that it is more convenient
33 for local authorities to change local ordinances on a basis that can be more
34 frequent than the basis with which the General Assembly meets or the division
35 adopts ~~regulations~~ rules. For that reason, local control of these issues, as
36 allowed by Code sections and regulations, is desirable. It is also recognized

1 that when a city or county adopts a more restrictive law in this area it is
2 unnecessary and burdensome for the city or county to notify the division each
3 time that a modification is made to local laws, and for this reason
4 enforcement of more restrictive ordinances should be by local law enforcement
5 personnel who are attached to the jurisdiction which creates the more
6 restrictive hours-of-operations law.

7
8 SECTION 51. Arkansas Code § 3-4-602(d), concerning distillers or
9 manufacturers, is amended to read as follows:

10 (d) If the director shall grant the application, he or she shall issue
11 a permit in such form as shall be determined by rules ~~and regulations~~
12 established by the director.

13
14 SECTION 52. Arkansas Code § 3-4-606(a), concerning additional
15 requirements for alcoholic beverage wholesalers, is amended to read as
16 follows:

17 (a) In addition to any restriction or requirement now imposed by law
18 or by valid ~~regulation~~ rule promulgated in accordance with law, the following
19 persons shall not be eligible hereafter to receive, obtain, or be granted any
20 wholesale liquor permit:

21 (1) Any individual person who is not a citizen and bona fide
22 resident of the State of Arkansas and who has not been domiciled in the State
23 of Arkansas continuously for at least five (5) years next preceding the date
24 of his or her application for permit;

25 (2) Any corporation in which any officer, director, manager, or
26 stockholder of which would be ineligible as an individual person to obtain a
27 permit by reason of the foregoing provisions of subdivision (a)(1) of this
28 section or by reason of any other existing restriction or provision of law or
29 valid ~~regulation~~ rule promulgated in accordance with law; or

30 (3) Any partnership, any of whose members or manager would be
31 ineligible as an individual to obtain such permit by reason of the provisions
32 of subdivision (a)(1) of this section or of any other provisions of law or
33 valid ~~regulation~~ rule as aforesaid.

34
35 SECTION 53. Arkansas Code § 3-4-606(b)(3), concerning additional
36 requirements for alcoholic beverage wholesalers, is amended to read as

1 follows:

2 (3) No stock in any corporation holding a permit shall be issued
3 or transferred to any ineligible individual, except in the case of transfer
4 by reason of death of a stockholder. In that event, the transfer by death to
5 any ineligible individual shall be reported by the corporation to the issuing
6 officer or authority not later than sixty (60) days after the death. If
7 within six (6) months thereafter the stock transferred by death shall not
8 have been transferred by bona fide transaction to an individual otherwise
9 eligible to receive the permit as provided herein, and as provided by
10 existing law or ~~regulations~~ rule, as aforesaid, the permit of the corporation
11 shall immediately be revoked and cancelled.

12

13 SECTION 54. Arkansas Code § 3-4-606(d)(1), concerning additional
14 requirements for alcoholic beverage wholesalers, is amended to read as
15 follows:

16 (d)(1) Any wholesale liquor permit that may be issued to any
17 individual, partnership, or corporation which shall be found thereafter
18 ineligible as provided in this section, or as otherwise provided by law or
19 ~~regulations~~ rule, shall be cancelled and revoked.

20

21 SECTION 55. Arkansas Code § 3-4-704 is amended to read as follows:

22 3-4-704. Rules ~~and regulations~~.

23 The Alcoholic Beverage Control Division is authorized to adopt
24 reasonable rules ~~and regulations~~ to carry out the intent and provisions of
25 this subchapter, to establish appropriate application forms, permit forms,
26 and procedures, and to do any and all other things necessary to implement the
27 provisions of this subchapter.

28

29 SECTION 56. Arkansas Code § 3-4-706(c)(4), concerning military service
30 club mixed drink permits, is amended to read as follows:

31 (4) The division is authorized to adopt reasonable rules ~~and~~
32 ~~regulations~~ to provide for the operation of such service clubs consistent
33 with the intent and purposes of this section.

34

35 SECTION 57. Arkansas Code § 3-4-803(a)(2), concerning the Alcoholic
36 Beverage Control Board responsible permittee program. is amended to read as

1 follows:

2 (2) To that end, the board shall adopt rules ~~and~~
3 ~~regulations~~ which shall implement the intent of this subchapter.

4
5 SECTION 58. Arkansas Code § 3-4-806 is amended to read as follows:

6 3-4-806. Mitigation of fines or penalties.

7 The Alcoholic Beverage Control Board shall consider certification of a
8 permittee in the responsible permittee program in mitigation of
9 administrative penalties or fines for a permittee's or employee's violation
10 of state laws and ~~regulations~~ rules relating to the sale of alcoholic
11 beverages.

12

13 SECTION 59. Arkansas Code § 3-4-905 is amended to read as follows:

14 3-4-905. ~~Regulations~~ Rules and forms.

15 The Alcoholic Beverage Control Division is authorized to adopt
16 reasonable rules ~~and regulations~~ implementing and facilitating the purpose
17 and intent of this subchapter, to establish appropriate application forms,
18 permit forms, and procedures, and to do any and all other things necessary to
19 implement the provisions of this subchapter.

20

21 SECTION 60. Arkansas Code § 3-5-105(f), concerning beer festival
22 permits, is amended to read as follows:

23 (f) Every provision of this section shall be subject to all beer and
24 malt beverage laws and ~~regulations~~ rules, except that conflicting beer and
25 malt beverage laws and ~~regulations~~ rules shall be inapplicable to any
26 provision of this section to the extent that they conflict herewith.

27

28 SECTION 61. Arkansas Code § 3-5-202(9), concerning the definition of
29 "regulation" or "proper regulation" under the laws legalizing the manufacture
30 and sale of beer and light wine, is amended to read as follows:

31 (9) ~~"Regulation"~~ "Rule" or ~~"proper regulation rule"~~ means such
32 reasonable ~~regulations~~ rules authorized by law and made and promulgated by
33 the Director of the Alcoholic Beverage Control Division with the approval of
34 the Alcoholic Beverage Control Board;

35

36 SECTION 62. Arkansas Code § 3-5-205(d), concerning exceptions to the

1 levy and collection of privilege tax, is amended to read as follows:

2 (d) The tax shall be levied, assessed, and collected by such methods,
3 within the limitations prescribed in this subchapter, and under such
4 ~~regulations~~ rules as may be regularly provided.

5
6 SECTION 63. Arkansas Code § 3-5-206(b), concerning the issuance of a
7 state permit by the Director of the Alcoholic Beverage Control Division, is
8 amended to read as follows:

9 (b) A permit shall be applied for by the special taxpayer and issued
10 by the director on such forms and under such ~~regulations~~ rules as may be
11 prescribed.

12
13 SECTION 64. Arkansas Code § 3-5-217(c), concerning the transportation
14 of products, is amended to read as follows:

15 (c) The transportation of such liquor into or within this state in all
16 cases shall be under such ~~regulations~~ rules as may be regularly prescribed.

17
18 SECTION 65. Arkansas Code § 3-5-222(c), concerning the prohibition of
19 nudity on premises, is amended to read as follows:

20 (c) The Alcoholic Beverage Control Board shall promulgate such
21 ~~regulations~~ rules as it deems necessary for the implementation of this
22 section.

23
24 SECTION 66. Arkansas Code § 3-5-226(b), concerning on-premises sales
25 by a brewery, is amended to read as follows:

26 (b)(1) The Alcoholic Beverage Control Board is hereby authorized to
27 promulgate reasonable rules ~~and regulations~~ for the on-premises sale with
28 foods and the off-premises package sale, labeling, and identification of beer
29 sold at beer outlets maintained on the premises and operated in connection
30 with a brewery in this state.

31 (2) Such ~~regulations~~ rules shall include the following minimum
32 requirements:

33 (A) The brewery shall provide tours through its
34 facilities; and

35 (B) Only sealed containers may be removed from the brewery
36 premises.

1
2 SECTION 67. Arkansas Code § 3-5-601(a)(2), concerning legislative
3 determinations and intent regarding the production and sale of native wines,
4 is amended to read as follows:

5 (2) It is essential that the ~~regulations~~ rules pertaining to the
6 production of native wines in this state be modified to permit Arkansas
7 wineries to use various other sources of sugar that have been approved for
8 wine production under applicable federal regulations.

9
10 SECTION 68. Arkansas Code § 3-5-602(a), concerning the rules about
11 production and sale of native wines, is amended to read as follows:

12 (a) The Director of the Department of Finance and Administration is
13 authorized to establish appropriate rules ~~and regulations~~, if he or she deems
14 it advisable, to simplify the furnishing of information to the Department of
15 Finance and Administration as required under the provisions of this
16 subchapter.

17
18 SECTION 69. Arkansas Code § 3-5-603(b), concerning the bottling of
19 native wines, is amended to read as follows:

20 (b) The ~~regulations~~ rules may also authorize the packaging of wines
21 produced in two-fifths (2/5) of a pint or split size containers in the form
22 of cluster sampler packages for sale in package form under such ~~regulations~~
23 rules as the board shall determine, for sale in this state or for export sale
24 in other states.

25
26 SECTION 70. Arkansas Code § 3-5-605(b), concerning importing fruits
27 and vegetables for the production of native wines, is amended to read as
28 follows:

29 (b) The importation of fruits and vegetables and the use thereof in
30 wine production shall be in accordance with reasonable rules ~~and regulations~~
31 promulgated by the Department of Finance and Administration to assure
32 compliance with this subchapter and prevent abuse thereof.

33
34 SECTION 71. Arkansas Code § 3-5-606(e), concerning importing wines for
35 blending, is amended to read as follows:

36 (e) The Department of Finance and Administration shall establish

1 appropriate rules ~~and regulations~~ for the reporting and collecting of the tax
2 on imported wines used in such blends.

3
4 SECTION 72. Arkansas Code § 3-5-903 is amended to read as follows:

5 3-5-903. Rules ~~and regulations~~.

6 The Director of the Department of Finance and Administration may
7 establish reasonable rules ~~and regulations~~ to be followed by wineries in this
8 state in making application for the subsidy payments and to prevent abuse of
9 the subsidy payments.

10
11 SECTION 73. Arkansas Code § 3-5-905 is amended to read as follows:

12 3-5-905. Applications.

13 Any winery in this state that produces wine from grapes, fruits,
14 berries, or vegetables grown in this state and complies with the provisions
15 of § 3-5-904, that desires to receive the grants authorized in this
16 subchapter with respect to the purchase of such products or with respect to
17 such products produced in vineyards or of other growing facilities in this
18 state belonging to the winery, may make application for grant payments under
19 this subchapter upon forms and in accordance with the rules ~~and regulations~~
20 promulgated by the Director of the Department of Finance and Administration.

21
22 SECTION 74. Arkansas Code § 3-5-1005 is amended to read as follows:

23 3-5-1005. Applications.

24 Any winery in this state which produces wines from grapes, berries,
25 fruits, or vegetables grown in this state, which desires to receive the
26 subsidy authorized in this subchapter with respect to such purchases, may
27 make application for the subsidy with the Department of Finance and
28 Administration upon forms and in accordance with rules ~~and regulations~~
29 promulgated by the Director of the Department of Finance and Administration.

30
31 SECTION 75. Arkansas Code § 3-5-1201(a), concerning legislative
32 determinations and intent regarding microbrewery-restaurants, is amended to
33 read as follows:

34 (a) The General Assembly reaffirms the policy of this state of strict
35 enforcement of laws and ~~regulations~~ rules applicable to the manufacture or
36 sale of beer including, but not limited to, those establishing the three-tier

1 distribution system with prohibitions against ownership and employment
2 interests between the three (3) tiers, or the "three-tier system".

3
4 SECTION 76. The introductory language of Arkansas Code § 3-5-1202(3),
5 concerning the definition of "beer, malt beverage, and hard cider law or
6 regulation", is amended to read as follows:

7 (3) "Beer, malt beverage, and hard cider law or ~~regulation rule~~"
8 means any law of this state, or any ~~regulation rule~~ promulgated and adopted
9 with respect thereto, that is:

10
11 SECTION 77. Arkansas Code § 3-5-1202(5), concerning the definition of
12 "conflicting beer, malt beverage, or hard cider law or regulation", is
13 amended to read as follows:

14 (5) "Conflicting beer, malt beverage, or hard cider law or
15 ~~regulation rule~~" means any beer, malt beverage, or hard cider law or
16 ~~regulation rule~~ that prohibits or conflicts with the otherwise legal
17 licensing and operation of microbrewery-restaurants, as authorized in this
18 subchapter, by requiring any brewer to sell only to a licensed wholesaler, or
19 requiring any licensed retailer to sell only beer, malt beverage, or hard
20 cider purchased from a licensed wholesaler, or prohibiting any brewer or
21 retailer from having any ownership or employment interest in the business of
22 the other or the premises of the other, or requiring that the excise and
23 enforcement tax on beer, malt beverage, or hard cider manufactured by a
24 brewer be paid by a licensed wholesaler, or any beer, malt beverage, or hard
25 cider law or ~~regulation rule~~ of similar direct or indirect effect;

26
27 SECTION 78. Arkansas Code § 3-5-1203 is amended to read as follows:

28 3-5-1203. Effect on other laws.

29 Every provision of this subchapter shall be subject to all beer, malt
30 beverage, and hard cider laws and ~~regulations rules~~, except that conflicting
31 beer, malt beverage, and hard cider laws and ~~regulations rules~~ shall be
32 inapplicable to any provision of this subchapter to the extent that they
33 conflict herewith.

34
35 SECTION 79. Arkansas Code § 3-5-1205(2), concerning the effect on
36 other laws, is amended to read as follows:

1 (2) Measure beer, malt beverages, and hard cider manufactured by
2 the microbrewery, otherwise comply with applicable ~~regulations~~ rules
3 respecting excise and enforcement tax determination of the beer, malt
4 beverages, and hard cider, and pay any applicable bond or deposit and the
5 amount of the state excise tax and enforcement tax to this state, but free
6 from the fees and taxes provided in § 3-5-205, and as required by §§ 3-7-104
7 and 3-7-111; and

8
9 SECTION 80. Arkansas Code § 3-5-1208 is amended to read as follows:

10 3-5-1208. Rules ~~and regulations~~.

11 The Director of the Alcoholic Beverage Control Division and the
12 Alcoholic Beverage Control Board and the Director of the Department of
13 Finance and Administration, and any other applicable agency of this state,
14 shall promulgate and adopt such ~~regulations~~ rules as they deem necessary for
15 the implementation of this subchapter, which ~~regulations~~ rules may consist in
16 whole or in part of the federal regulations.

17
18 SECTION 81. Arkansas Code § 3-5-1404 is amended to read as follows:

19 3-5-1404. Effect on other laws.

20 Every provision of this subchapter is subject to all beer, malt
21 beverage, and hard cider laws and ~~regulations~~ rules not in conflict with the
22 provisions of this subchapter.

23
24 SECTION 82. Arkansas Code § 3-5-1408(2), concerning fees and taxes of
25 a small brewer, is amended to read as follows:

26 (2) Measure beer, malt beverages, and hard cider manufactured by
27 the small brewer or purchased from a contract brewery, or otherwise comply
28 with applicable ~~regulations~~ rules respecting excise and enforcement tax
29 determination of the beer, malt beverages, and hard cider, and pay any
30 applicable bond or deposit and the amount of the state excise tax and
31 enforcement tax to this state as required, but is free from the fees and
32 taxes provided in § 3-5-205 and as required by §§ 3-7-104 and 3-7-111; and

33
34 SECTION 83. Arkansas Code § 3-5-1507(a), concerning administrative
35 rules for a temporary wine charitable auction license, is amended to read as
36 follows:

1 (a) The Alcoholic Beverage Control Division shall adopt ~~regulations~~
2 rules governing the application, issuance, and use of a temporary wine
3 charitable auction permit.
4

5 SECTION 84. Arkansas Code § 3-6-103 is amended to read as follows:

6 3-6-103. Administration by Alcoholic Beverage Control Division.

7 The Alcoholic Beverage Control Division or its successor shall have the
8 right to regulate the manufacture and sale of the products authorized in § 3-
9 6-102 and shall make reasonable rules ~~and regulations~~ governing the
10 manufacture and sale thereof. Except as otherwise specifically provided in
11 this chapter, all other laws now in effect governing the manufacture and sale
12 of intoxicating liquors shall be deemed applicable.
13

14 SECTION 85. Arkansas Code § 3-7-106(a)(3) and (4), concerning shipping
15 permits, are amended to read as follows:

16 (3) The permit shall be in such form as may be prescribed by the
17 director, and all such shipments into the state shall be governed by such
18 rules ~~and regulations~~ as may be promulgated by the director.

19 (4) However, the railroad or express company or river
20 transportation company shall not be required to obtain any permit to
21 transport distilled spirits but shall be subject to all rules ~~and regulations~~
22 promulgated by the director.
23

24 SECTION 86. Arkansas Code § 3-7-106(b)(1), concerning shipping
25 permits, is amended to read as follows:

26 (b)(1) It shall be unlawful for any person who is permitted by law to
27 manufacture, sell, or transport spirituous liquors, vinous liquors, wines
28 other than Arkansas wines, or beer or malt beverages to transport or cause
29 spirituous liquors, vinous liquors, wines other than Arkansas wines, or beer
30 or malt beverages to be transported by any means of transportation except as
31 may be prescribed by the rules ~~and regulations~~ of the director.
32

33 SECTION 87. Arkansas Code § 3-7-107(b), concerning enforcement, is
34 amended to read as follows:

35 (b) The Director of the Alcoholic Beverage Control Division and the
36 Director of the Department of Finance and Administration are authorized and

1 directed to issue permits as provided for in §§ 3-7-101 – 3-7-104 and 3-7-106
2 – 3-7-110, for the manufacture, sale, and transportation of distilled spirits
3 and to enforce the license tax provisions of §§ 3-7-101 – 3-7-104 and 3-7-106
4 – 3-7-110 and the collection of the license taxes imposed hereby and to
5 promulgate reasonable rules ~~and regulations~~ for those purposes.
6

7 SECTION 88. Arkansas Code § 3-7-201(d), concerning tax imposed and
8 collection, is amended to read as follows:

9 (d) Returns shall be filed upon forms prescribed by the director in
10 accordance with such ~~regulations~~ rules as the director may promulgate
11 hereunder.
12

13 SECTION 89. Arkansas Code § 3-7-306 is amended to read as follows:

14 3-7-306. Right to contract.

15 To strengthen enforcement of this subchapter, the wholesalers,
16 importers, manufacturers, and suppliers to whom this subchapter is applicable
17 shall have the right to contract with each other to provide a distribution
18 system best adapted, under proper ~~regulations~~ rules, to ensure payment of the
19 taxes provided by law and to minimize the possibility of tax loss to this
20 state.
21

22 SECTION 90. Arkansas Code § 3-7-307 is amended to read as follows:

23 3-7-307. Rules ~~and regulations~~ – Sales to the military.

24 The Director of the Department of Finance and Administration shall
25 continue the present, and if necessary promulgate additional, rules ~~and~~
26 ~~regulations~~ to relieve wholesale distributors and importers from the
27 liability of paying the excise tax levied and imposed on beverages covered by
28 this subchapter which are sold to agencies of the United States Armed Forces.
29

30 SECTION 91. Arkansas Code § 3-7-401(a)-(c), concerning reports and
31 payments of excise tax on beer, are amended to read as follows:

32 (a) The Director of the Alcoholic Beverage Control Division is
33 authorized and directed to adopt and issue rules ~~and regulations~~ to protect
34 the revenue of this state, prescribing a reporting method for paying and
35 collecting the excise tax on beer.

36 (b) The rules ~~and regulations~~ shall require the reports to be filed

1 with the Alcoholic Beverage Control Division on or before the fifteenth day
2 of the month following the month in which the wholesaler acquired possession
3 of or title to the beer.

4 (c) The reports required by the ~~regulations~~ rules shall be in lieu of
5 those provisions of § 3-7-106 relating to the necessity to obtain
6 transportation permits for beer.

7
8 SECTION 92. Arkansas Code § 3-7-404 is amended to read as follows:

9 3-7-404. Rules ~~and regulations~~.

10 (a) The rules ~~and regulations~~ required by § 3-7-401 pertaining to a
11 reporting method for paying and collecting excise tax on beer shall be
12 adopted and promulgated by the Director of the Department of Finance and
13 Administration.

14 (b) The rules ~~and regulations~~ shall be jointly enforced by both the
15 Director of the Department of Finance and Administration and the Alcoholic
16 Beverage Control Board.

17 (c) The Director of the Alcoholic Beverage Control Division shall have
18 authority to promulgate rules ~~and regulations~~ pertaining to the possession,
19 transportation, or importation of beer into the State of Arkansas.

20 (d) The express purpose of this section is to carry out the intention
21 of §§ 3-7-401 – 3-7-403 to provide authority for protecting the state against
22 loss of revenues derived from the levy of the excise tax on beer. The
23 Director of the Department of Finance and Administration shall have full
24 authority to adopt whatever rules ~~and regulations~~ he or she may deem
25 necessary to this end.

26
27 SECTION 93. Arkansas Code § 3-7-501 is amended to read as follows:

28 3-7-501. Rules ~~and regulations~~ generally.

29 (a) The Director of the Department of Finance and Administration is
30 authorized and directed to adopt and issue rules ~~and regulations~~ to protect
31 the revenues of this state by prescribing a reporting method for paying and
32 collecting the tax on wines.

33 (b) ~~Regulations~~ Rules shall provide a method of tax credit for wines
34 sold to United States military installations or returned to the manufacturer,
35 on which excise taxes are not required.

36 (c) There will be no change in the present system of reporting the tax

1 on native Arkansas wines.

2
3 SECTION 94. Arkansas Code § 3-7-502 is amended to read as follows:
4 3-7-502. Reports and payment.

5 The rules ~~and regulations~~ shall require reports to be filed with the
6 Director of the Department of Finance and Administration on or before the
7 fifteenth day of the month following the month in which the wholesaler or
8 importer of wines shall obtain delivery of wines from the supplier. The tax
9 due shall accompany this report.

10
11 SECTION 95. Arkansas Code § 3-9-101(c), concerning the prohibition of
12 nudity on premises, is amended to read as follows:

13 (c) The Alcoholic Beverage Control Board shall promulgate such
14 ~~regulations~~ rules as it deems necessary for the implementation of this
15 section.

16
17 SECTION 96. Arkansas Code § 3-9-202(16)(A)(iii)(c), concerning the
18 definition of "restaurant", is amended to read as follows:

19 (c) Comply with the ~~regulations~~ rules of the
20 Department of Health.

21
22 SECTION 97. Arkansas Code § 3-9-202(16)(B)(ii)(d), concerning the
23 definition of "restaurant", is amended to read as follows:

24 (d) The board shall promulgate such
25 ~~regulations~~ rules as it deems necessary to implement subdivisions
26 (16)(B)(ii)(a)-(c) of this section.

27
28 SECTION 98. Arkansas Code § 3-9-205(a), concerning rules and the
29 police power of state and local governments, is amended to read as follows:

30 (a) The Alcoholic Beverage Control Board is authorized to adopt and
31 enforce reasonable rules ~~and regulations~~ governing the qualifications for
32 permits hereunder, the operation of licensed premises, and otherwise
33 implementing and effectuating the provisions and purposes of this subchapter
34 and, in so doing, shall be guided, insofar as pertinent, by rules ~~and~~
35 ~~regulations~~ now or hereafter applicable to retail liquor outlets.

36

1 SECTION 99. Arkansas Code § 3-9-210(a)(1), concerning the issuance of
2 a permit to sell beverages, is amended to read as follows:

3 (a)(1) Any hotel or restaurant as defined in § 3-9-202 desiring to
4 sell alcoholic beverages for on-premises consumption shall make application
5 to the Director of the Alcoholic Beverage Control Division for a permit upon
6 forms prescribed and furnished by the director and in accordance with the
7 rules ~~and regulations~~ of the Alcoholic Beverage Control Board.

8
9 SECTION 100. Arkansas Code § 3-9-213(c)(1), concerning gross receipts
10 and supplemental taxes on the sale of alcoholic beverages, is amended to read
11 as follows:

12 (c)(1) The supplemental tax shall be reported and paid to the Director
13 of the Department of Finance and Administration in the same manner and at the
14 same time as the gross receipts tax and shall be subject to such reasonable
15 rules ~~and regulations~~ as the director may prescribe, including the
16 maintenance of permanent records showing all purchases and sales of alcoholic
17 beverages.

18
19 SECTION 101. Arkansas Code § 3-9-221(b)(2)(C), concerning the private
20 club exception from alcoholic beverage laws, is amended to read as follows:

21 (C) The director may promulgate ~~regulations~~ rules he or
22 she deems necessary to implement this subdivision (b)(2).

23
24 SECTION 102. Arkansas Code § 3-9-223(d), concerning private club
25 permit renewal fees and taxes, is amended to read as follows:

26 (d) The director shall promulgate reasonable rules ~~and regulations~~ for
27 the enforcement and collection of the tax levied herein, including a
28 requirement that each permittee maintain records showing all such charges
29 made.

30
31 SECTION 103. Arkansas Code § 3-9-225 is amended to read as follows:

32 3-9-225. Private clubs – Rules ~~and regulations~~.

33 The Alcoholic Beverage Control Board is authorized and directed to
34 establish rules ~~and regulations~~ with respect to permits issued under the
35 provisions of § 3-9-222 to assure compliance with the provisions hereof and
36 to prohibit any permittee from engaging in the unlawful sale of alcoholic

1 beverages.

2

3 SECTION 104. Arkansas Code § 3-9-233(a), concerning closing hours, is
4 amended to read as follows:

5 (a) The ~~regulations~~ rules of the Alcoholic Beverage Control Board and
6 existing laws with respect to the closing hours of licensed premises under
7 this subchapter shall be applicable to all such licensed premises in the
8 state, except that:

9 (1) The governing body of a city in which hotel and restaurant
10 licensed premises are located may fix by ordinance later closing hours for
11 such hotel and restaurant licensed premises than are prescribed by state law
12 or ~~regulations~~ rules of the board for licensed premises generally. In that
13 case, the closing hours for such hotel and restaurant licensed premises as
14 provided by ordinance of the governing body of the city shall govern with
15 respect to the licensed premises in the city; and

16 (2) In any county of this state having a population of not less
17 than fifty-three thousand (53,000) and not more than fifty-eight thousand
18 (58,000) in which hotel and restaurant licensed premises are located outside
19 the corporate limits of any municipality, the county court of the county may
20 fix by order of the court later closing hours for the hotel and restaurant
21 licensed premises than are prescribed by state law or ~~regulations~~ rules of
22 the board for licensed premises generally. In that case, the closing hours
23 for the hotel and restaurant licensed premises located in the county outside
24 of municipal limits shall be governed by the order of the county court.

25

26 SECTION 105. Arkansas Code § 3-9-301(6)(C)(iii), concerning the
27 definition of "restaurant", is amended to read as follows:

28 (iii) Comply with the ~~regulations~~ rules of the
29 Department of Health.

30

31 SECTION 106. Arkansas Code § 3-9-301(6)(D)(1), concerning the
32 definition of "restaurant" is amended to read as follows:

33 (D)(i) The Alcoholic Beverage Control Board is authorized
34 and directed to establish appropriate rules ~~and regulations~~ defining
35 "established eating places" to the extent that licenses granted under the
36 provisions of this subchapter shall be issued only to those business

1 establishments whose principal business is serving food for consumption on
2 the premises.

3
4 SECTION 107. Arkansas Code § 3-9-305(a)(7), concerning license
5 applications and qualifications, is amended to read as follows:

6 (7) The cafe or restaurant making application for the license is
7 primarily engaged in the business of serving foods to the public prepared for
8 consumption on the premises and must be an established eating place within
9 the rules ~~and regulations~~ promulgated by the Alcoholic Beverage Control Board
10 as provided in § 3-9-301(6).

11
12 SECTION 108. Arkansas Code § 4-9-201(b)-(d), concerning the general
13 effectiveness of a security agreement, are amended to read as follows:

14 (b) A transaction subject to this chapter is subject to any applicable
15 rule of law which establishes a different rule for consumers; to any other
16 statute or ~~regulation~~ rule of this state that regulates the rates, charges,
17 agreements, and practices for loans, credit sales, or other extensions of
18 credit; to rights for workers' compensation as provided in § 11-9-110(a); and
19 to any consumer-protection statute or ~~regulation~~ rule of this State.

20 (c) In case of conflict between this chapter and a rule of law,
21 statute, or ~~regulation~~ rule described in subsection (b), the rule of law,
22 statute, or ~~regulation~~ rule controls. Failure to comply with a statute or
23 ~~regulation~~ rule described in subsection (b) has only the effect the statute
24 or ~~regulation~~ rule specifies.

25 (d) This chapter does not:

26 (1) validate any rate, charge, agreement, or practice that
27 violates a rule of law, statute, or ~~regulation~~ rule described in subsection
28 (b); or

29 (2) extend the application of the rule of law, statute, or
30 ~~regulation~~ rule to a transaction not otherwise subject to it.

31
32 SECTION 109. Arkansas Code § 4-28-103(d)(1)(A), concerning status of
33 nonprofit entities as statutory life insurance beneficiaries, is amended to
34 read as follows:

35 (d)(1)(A) Notwithstanding any other law or ~~regulation~~ rule to the
36 contrary, any religious, educational, charitable, or benevolent institution,

1 organization, corporation, association, or trust, including, but not limited
2 to, charitable remainder trusts, may be named beneficiary or owner, or both,
3 of the policy or contract by any applicant for insurance upon his or her own
4 life in any policy of life insurance issued by any life insurance company
5 authorized to do business in this state or in the state of domicile of the
6 applicant for insurance.

7
8 SECTION 110. Arkansas Code § 4-28-217(a), concerning regulations by
9 state agencies applicable under the Arkansas Nonprofit Corporation Act, is
10 amended to read as follows:

11 4-28-217. ~~Regulations~~ Rules by state agencies applicable.

12 (a) If any nonprofit corporation established under the Arkansas
13 Nonprofit Corporation Act, §§ 4-28-201 – 4-28-206 and 4-28-209 – 4-28-224,
14 engages in any activity controlled or regulated by any officer, agency, or
15 department of this state, the activity shall be conducted in compliance with
16 the laws and such rules ~~and regulations~~ as may be promulgated by the officer,
17 agency, or department.

18
19 SECTION 111. Arkansas Code § 4-28-222(6), concerning involuntary
20 dissolution of a corporation incorporated under the provisions of the
21 Arkansas Nonprofit Corporation Act, is amended to read as follows:

22 (6) The corporation has violated the laws of this state or the
23 rules ~~and regulations~~ of any state regulatory board or commission having
24 jurisdiction of any activity of the corporation.

25
26 SECTION 112. Arkansas Code § 4-29-209 is amended to read as follows:

27 4-29-209. Employees.

28 Each individual employee licensed pursuant to the laws of this state to
29 engage in his or her profession who is employed by a corporation subject to
30 this subchapter shall remain subject to reprimand or discipline for his or
31 her conduct under the provisions of the laws or ~~regulations~~ rules governing
32 or applicable to his or her profession.

33
34 SECTION 113. Arkansas Code § 4-29-210(c)(2), concerning the issuance
35 and renewal of a certificate of registration under the Arkansas Professional
36 Corporation Act, is amended to read as follows:

1 (2) If it finds that the incorporators, officers, directors, and
2 shareholders are each licensed pursuant to the laws of Arkansas to engage in
3 the particular profession involved, and if no disciplinary action is pending
4 before it against any of them, and if it appears that the corporation will be
5 conducted in compliance with the law and the ~~regulations~~ rules of the board,
6 department, or agency, it shall issue, upon payment of a registration fee of
7 twenty-five dollars (\$25.00), a certificate of registration which shall
8 remain effective until January 1 following the date of the registration.

9
10 SECTION 114. Arkansas Code § 4-29-210(d), concerning the issuance and
11 renewal of a certificate of registration under the Arkansas Professional
12 Corporation Act, is amended to read as follows:

13 (d) Upon written application of the holder, accompanied by a fee of
14 ten dollars (\$10.00), the board, department, or agency which originally
15 issued the certificate of registration shall annually renew the certificate
16 of registration if it finds that the corporation has complied with its
17 ~~regulations~~ rules and the provisions of this subchapter.

18
19 SECTION 115. Arkansas Code § 4-29-210(f), concerning the issuance and
20 renewal of a certificate of registration under the Arkansas Professional
21 Corporation Act, is amended to read as follows:

22 (f) In the event of a change of location of the registered
23 establishment, the board, department, or agency, in accordance with its
24 ~~regulations~~ rules, shall amend the certificate of registration so that it
25 shall apply to the new location.

26
27 SECTION 116. Arkansas Code § 4-29-211(a)(4), concerning the suspension
28 or revocation of a certificate of registration under the Arkansas
29 Professional Corporation Act, is amended to read as follows:

30 (4) Upon finding that the holder of a certificate has failed to
31 comply with the provisions of this subchapter or the ~~regulations~~ rules
32 prescribed by the state board, department, or agency that issued it.

33
34 SECTION 117. Arkansas Code § 4-29-309(d), concerning the issuance and
35 renewal of a certificate of registration under the Medical Corporation Act,
36 is amended to read as follows:

1 (d) Upon written application of the holder, accompanied by a fee of
2 ten dollars (\$10.00), the board shall annually renew the certificate of
3 registration if the board finds that the corporation has complied with its
4 ~~regulations~~ rules and the provisions of this subchapter.

5
6 SECTION 118. Arkansas Code § 4-29-309(f), concerning the issuance and
7 renewal of a certificate of registration under the Medical Corporation Act,
8 is amended to read as follows:

9 (f) In the event of a change of location of the registered
10 establishment, the board, in accordance with its ~~regulations~~ rules, shall
11 amend the certificate of registration so that it shall apply to the new
12 location.

13
14 SECTION 119. Arkansas Code § 4-29-310(a)(4), concerning the suspension
15 or revocation of a certificate of registration under the Medical Corporation
16 Act, is amended to read as follows:

17 (4) Upon finding that the holder of a certificate has failed to
18 comply with the provisions of this subchapter or the ~~regulations~~ rules
19 prescribed by the board.

20
21 SECTION 120. Arkansas Code § 4-29-408(c)(2), concerning the issuance
22 and renewal of a certificate of registration under the Dental Corporation
23 Act, is amended to read as follows:

24 (2) If the board finds that the incorporators, officers,
25 directors, and shareholders are each licensed pursuant to the Arkansas Dental
26 Practice Act, § 17-82-101 et seq., and if no disciplinary action is pending
27 before the board against any of them, and if it appears that the corporation
28 will be conducted in compliance with law and the ~~regulations~~ rules of the
29 board, the board shall issue upon payment of a registration fee of twenty-
30 five dollars (\$25.00) a certificate of registration which shall remain
31 effective until January 1 following the date of the registration.

32
33 SECTION 121. Arkansas Code § 4-29-408(d), concerning the issuance and
34 renewal of a certificate of registration under the Dental Corporation Act, is
35 amended to read as follows:

36 (d) Upon written application of the holder, accompanied by a fee of

1 ten dollars (\$10.00), the board shall annually renew the certificate of
2 registration if the board finds that the corporation has complied with its
3 ~~regulations~~ rules and the provisions of this subchapter.

4
5 SECTION 122. Arkansas Code § 4-29-408(f), concerning the issuance and
6 renewal of a certificate of registration under the Dental Corporation Act, is
7 amended to read as follows:

8 (f) In the event of a change of location of the registered
9 establishment, the board, in accordance with its ~~regulations~~ rules, shall
10 amend the certificate of registration so that it shall apply to the new
11 location.

12
13 SECTION 123. Arkansas Code § 4-29-409(a)(4), concerning the suspension
14 or revocation of a certificate of registration under the Dental Corporation
15 Act, is amended to read as follows:

16 (4) Upon finding that the holder of a certificate has failed to
17 comply with the provisions of this subchapter or the ~~regulations~~ rules
18 prescribed by the board.

19
20 SECTION 124. Arkansas Code § 4-30-207(a), concerning penalty
21 exceptions for banks declared investment companies, is amended to read as
22 follows:

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

33
34 SECTION 125. Arkansas Code § 4-32-802(a)(4)(D), concerning events of
35 dissociation from a limited liability company, is amended to read as follows:

36 (D) Files a petition or answer seeking for the member any

1 reorganization, arrangement, composition, readjustment, liquidation,
2 dissolution, or similar relief under any statute, law, or ~~regulation~~ rule;

3
4 SECTION 126. Arkansas Code § 4-32-802(a)(5)(A), concerning events of
5 dissociation from a limited liability company, is amended to read as follows:

6 (A) Within one hundred twenty (120) days after the
7 commencement of any proceeding against the member seeking reorganization,
8 arrangement, composition, readjustment, liquidation, dissolution, or similar
9 relief under any statute, law, or ~~regulation~~ rule, the proceeding has not
10 been dismissed; or

11
12 SECTION 127. Arkansas Code § 4-71-210(a), concerning classification of
13 goods and services for registration and protection of trademarks and labels,
14 is amended to read as follows:

15 (a) The Secretary of State shall by ~~regulation~~ rule establish a
16 classification of goods and services for convenience of administration of
17 this subchapter, but not to limit or extend the applicant's or registrant's
18 rights, and a single application for registration of a mark may include any
19 or all goods upon which, or services with which, the mark is actually being
20 used indicating the appropriate class or classes of goods or services.

21
22 SECTION 128. Arkansas Code § 4-71-217(a), concerning fees of the
23 Secretary of State for the registration and protection of trademarks and
24 labels, is amended to read as follows:

25 (a) The Secretary of State shall by ~~regulation~~ rule prescribe the fees
26 payable for the various applications and recording fees and for related
27 services.

28
29 SECTION 129. Arkansas Code § 4-88-105(d)(5), concerning the Consumer
30 Protection Division within the office of the Attorney General, is amended to
31 read as follows:

32 (5) To investigate violations of laws enacted and rules ~~and~~
33 ~~regulations~~ promulgated for the purpose of consumer protection, and to study
34 the operation of such laws, and rules, ~~and regulations~~ and to recommend to
35 the General Assembly needed changes in law in the consumer's interest; and

36

1 SECTION 130. Arkansas Code § 4-88-304(a)(1), concerning penalties,
2 remedies and enforcement of rules protecting consumers from price gouging and
3 unfair pricing practices during and after a state of emergency, is amended to
4 read as follows:

5 (a)(1) When a person violates this subchapter or a ~~regulation~~ rule
6 prescribed under this subchapter, the violation shall constitute an unfair or
7 deceptive act or practice as defined by this chapter.

8
9 SECTION 131. Arkansas Code § 4-88-403(a), concerning penalties,
10 remedies and enforcement for "slamming" in the telecommunications industry
11 under the Deceptive Trade Practices Act, is amended to read as follows:

12 (a) When a person violates this subchapter or a ~~regulation~~ rule
13 prescribed under this subchapter, the violation shall constitute an unfair or
14 deceptive act or practice as defined by the Deceptive Trade Practices Act, §
15 4-88-101 et seq.

16
17 SECTION 132. Arkansas Code § 4-90-201 is amended to read as follows:
18 4-90-201. Legislative intent and purpose.

19 The General Assembly recognizes that a motor vehicle is a major
20 consumer acquisition and that buyers of motor vehicles rely heavily on the
21 odometer reading as an index of the condition and value of a vehicle. The
22 General Assembly further recognizes that buyers are entitled to rely on the
23 odometer reading as an accurate indication of the mileage of the motor
24 vehicle and that an accurate indication of the mileage assists a buyer in
25 deciding on the safety and reliability of the vehicle. The purposes of this
26 subchapter are to prohibit tampering with motor vehicle odometers and to
27 provide safeguards to protect purchasers in the sale of motor vehicles with
28 altered or reset odometers. It is the intent of the General Assembly that
29 this subchapter incorporate certain provisions of newly codified federal law
30 to supplement existing Arkansas law. To that end, any state rule or federal
31 rule or regulation in effect under a law replaced by this subchapter
32 continues in effect under the corresponding provision enacted by this
33 subchapter until repealed, amended, or superseded. In addition, where no
34 substantive change in law has occurred, an action taken or an offense
35 committed under a law replaced by a section of this subchapter is deemed to
36 have been taken or committed under the corresponding provision enacted by

1 this subchapter.

2
3 SECTION 133. Arkansas Code § 4-90-203(a)(1)(A), concerning penalties
4 and enforcement for violations of odometer regulations under the Deceptive
5 Trade Practices Act, is amended to read as follows:

6 (a)(1)(A) When a person violates this subchapter or a ~~regulation~~ rule
7 prescribed under this subchapter, the violation shall constitute an unfair or
8 deceptive act or practice as defined by the Deceptive Trade Practices Act, §
9 4-88-101 et seq.

10
11 SECTION 134. Arkansas Code § 4-90-203(b)(2), concerning penalties and
12 enforcement for violations of odometer regulations under the Deceptive Trade
13 Practices Act, is amended to read as follows:

14 (2) If the person is a corporation, the penalties of this
15 subsection also apply to a director, officer, or individual agent of a
16 corporation who knowingly and willfully authorizes, orders, or performs an
17 act in violation of this subchapter or a ~~regulation~~ rule prescribed or order
18 issued under this subchapter, without regard to penalties imposed on the
19 corporation.

20
21 SECTION 135. Arkansas Code § 4-90-206(a)(2), concerning disclosure
22 requirements on the transfer of a motor vehicle, is amended to read as
23 follows:

24 (2) A person making a written disclosure required by a
25 ~~regulation~~ rule prescribed under subdivision (a)(1) of this section may not
26 make a false statement in the disclosure.

27
28 SECTION 136. Arkansas Code § 4-90-207(a)(1), concerning civil actions
29 by private persons for violations of the odometer regulations under the
30 Deceptive Trade Practices Act, is amended to read as follows:

31 (a)(1) A person who violates this subchapter or a ~~regulation~~ rule
32 prescribed under this subchapter with intent to defraud is liable for three
33 (3) times the actual damages or one thousand five hundred dollars (\$1,500),
34 whichever is greater.

35
36 SECTION 137. Arkansas Code § 4-90-510(b), concerning investigations

1 and enforcement of motor vehicle service contracts and theft protection
2 programs, is amended to read as follows:

3 (b) The commissioner shall have and may exercise all of the powers
4 conferred by §§ 23-61-103, 23-61-108 – 23-61-110, 23-61-201(a)(1), 23-61-203
5 – 23-61-206, and 23-61-301 et seq. in the conduct of such investigations and
6 in the enforcement of this subchapter and any rules ~~and regulations~~
7 promulgated by the commissioner.

8
9 SECTION 138. Arkansas Code § 4-97-106 is amended to read as follows:
10 4-97-106. Public health – Enforcement.

11 The State Board of Health may propose, adopt, promulgate, and enforce,
12 in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
13 seq., such additional rules, ~~regulations~~, and standards as may be necessary
14 to carry out the intent of this chapter.

15
16 SECTION 139. Arkansas Code § 4-97-107(d), concerning the unlawful
17 disposition of animals, is amended to read as follows:

18 (d) A violation of this chapter or a ~~regulation~~ rule promulgated
19 hereunder shall constitute a Class A misdemeanor.

20
21 SECTION 140. Arkansas Code § 4-99-105(10)(E), concerning filing
22 information for regulation of telephonic sellers, is amended to read as
23 follows:

24 (E) All state rules, federal rules or regulations, terms,
25 and conditions a prospective purchaser must meet in order to receive the
26 item; and

27
28 SECTION 141. Arkansas Code § 4-99-108(a)(3), concerning information to
29 be provided each prospective purchaser by a telephonic seller, is amended to
30 read as follows:

31 (3) All state rules, federal rules or regulations, terms, and
32 conditions a prospective purchaser must meet in order to receive the item;
33

34 SECTION 142. Arkansas Code § 4-99-303(a), concerning penalties,
35 remedies and enforcement for violations of caller identification blocking by
36 telephonic sellers as an unfair or deceptive act or practice, is amended to

1 read as follows:

2 (a) When a person violates this subchapter or a ~~regulation~~ rule
3 prescribed under this subchapter, the violation shall constitute an unfair or
4 deceptive act or practice as defined in § 4-88-101 et seq. pertaining to
5 deceptive trade practices.

6

7 SECTION 143. Arkansas Code § 4-108-202(a), concerning the scope of the
8 uniform requirements for engine fuels, petroleum products and automotive
9 lubricants, is amended to read as follows:

10 (a) This subchapter establishes a sampling, testing, and enforcement
11 program, requires registration of engine fuels, and empowers the state to
12 promulgate ~~regulations~~ rules as needed to carry out the provisions of this
13 subchapter.

14

15 SECTION 144. Arkansas Code § 4-108-204(b)(2), concerning the adoption
16 of standards and administration of quality specifications for fuel and
17 lubricants, is amended to read as follows:

18 (2) The board is empowered to write rules ~~and regulations~~ on the
19 advertising, posting of prices, labeling, standards for, and identity of
20 fuels, petroleum products, and automotive lubricants and is authorized to
21 establish a testing laboratory.

22

23 SECTION 145. Arkansas Code § 4-108-209 is amended to read as follows:
24 4-108-209. Criminal penalties.

25 Any person who intentionally violates any provision of this subchapter
26 or ~~regulations~~ rules promulgated thereto shall be guilty of a Class A
27 misdemeanor.

28

29 SECTION 146. Arkansas Code § 4-108-212 is amended to read as follows:
30 4-108-212. ~~Regulations~~ Rules.

31 (a) The State Plant Board may by ~~regulation~~ rule adopted pursuant to
32 the Arkansas Administrative Procedure Act, § 25-15-201 et seq., adopt as a
33 ~~regulation~~ rule of the Arkansas Bureau of Standards specifications,
34 tolerances, and regulations for engine fuels, petroleum products and
35 automotive lubricants set out in National Institute of Standards and
36 Technology Handbook 130, or in any similar publication issued by the National

1 Institute of Standards and Technology.

2 (b) In drafting the ~~regulations~~ rules, the bureau shall consider
3 whether the specifications, tolerances, and regulations published by the
4 National Institute of Standards and Technology are consistent with the needs
5 of Arkansas businesses and consumers and may modify, amend, or delete
6 suggested language found in the National Institute of Standards and
7 Technology handbooks.

8
9 SECTION 147. Arkansas Code § 4-108-213 is amended to read as follows:

10 4-108-213. ~~Regulations~~ Rules to be unaffected by repeal of prior
11 enabling statute.

12 The adoption of this subchapter or any of its provisions shall not
13 affect any ~~regulations~~ rules promulgated pursuant to the authority of any
14 earlier enabling statute unless inconsistent with this subchapter or modified
15 or revoked by the State Plant Board.

16
17 SECTION 148. Arkansas Code § 5-1-109(b)(3)(B)(ii), concerning the
18 statute of limitations under the Arkansas Criminal Code, is amended to read
19 as follows:

20 (ii) For a nine-point or greater violation of
21 an Arkansas State Game and Fish Commission regulation or rule, the period of
22 limitation is three (3) years; and

23
24 SECTION 149. Arkansas Code § 5-28-101(11)(B)(iv), concerning the
25 definition of "neglect" in the case of the abuse of adults, is amended to
26 read as follows:

27 (iv) Provide a good or service necessary to avoid
28 physical harm, mental anguish, or mental illness as defined in ~~regulations~~
29 rules promulgated by the Office of Long-Term Care of the Division of Medical
30 Services of the Department of Human Services to an adult long-term care
31 facility resident;

32
33 SECTION 150. Arkansas Code § 5-54-101(11)(A), concerning the
34 definition of "prohibited article" as related to obstructing governmental
35 operations, is amended to read as follows:

36 (A) An intoxicating beverage other than sacramental wine

1 labeled as sacramental wine and supplied by a religious official who supplies
2 the sacramental wine to an inmate in the Department of Correction or
3 Department of Community Correction for the sole purpose of an approved
4 religious service, pursuant to rules ~~and regulations~~ promulgated by the Board
5 of Corrections;

6
7 SECTION 151. Arkansas Code § 5-54-119(b)(2), concerning furnishing,
8 possessing, or using prohibited articles in a correctional facility, the
9 Arkansas State Hospital, or a youth services program, is amended to read as
10 follows:

11 (2) This section does not apply to a religious official who
12 supplies sacramental wine labeled as sacramental wine to an inmate in the
13 Department of Correction for the sole purpose of an approved religious
14 service, pursuant to rules ~~and regulations~~ promulgated by the Board of
15 Corrections.

16
17 SECTION 152. Arkansas Code § 5-55-111(10), concerning criminal acts
18 constituting Medicaid fraud, is amended to read as follows:

19 (10) Purposely makes or causes to be made any false statement or
20 representation of a material fact in any application for a benefit or payment
21 in violation of the rules, ~~regulations~~, and provider agreements issued by the
22 Arkansas Medicaid Program or its fiscal agents;

23
24 SECTION 153. Arkansas Code § 5-55-201(a) and (b), concerning traffic
25 in illegal food coupons or vouchers, are amended to read as follows:

26 (a)(1) Any individual, partnership, corporation, or other legal entity
27 that issues food coupons in a manner not authorized by federal law and
28 regulations or state law and ~~regulations~~ rules or that uses, transfers,
29 acquires, possesses, or presents any food coupons for payment not authorized
30 by federal and state law or federal regulations and state ~~regulations~~ rules
31 is guilty of a Class D felony.

32 (2) However, if the food coupons are of a value of less than one
33 hundred dollars (\$100), the individual, partnership, corporation, or other
34 legal entity is guilty of a Class A misdemeanor.

35 (b) Any individual, partnership, corporation, or other legal entity
36 that issues a voucher used in the federal Special Supplemental Nutrition

1 Program for Women, Infants and Children (WIC) in a manner not authorized by
2 federal law and regulations or state law and ~~regulations~~ rules or that uses,
3 transfers, acquires, possesses, or presents any voucher used in the federal
4 Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
5 for payment not authorized by federal and state law or federal regulations
6 and state ~~regulations~~ rules is guilty of a Class A misdemeanor.

7
8 SECTION 154. Arkansas Code § 5-55-202 is amended to read as follows:

9 5-55-202. Illegal use, transfer, acquisition, or possession of
10 vouchers.

11 Any person who knowingly uses, transfers, acquires, or possesses
12 vouchers in any manner not authorized by the federal Special Supplemental
13 Nutrition Program for Women, Infants and Children (WIC) authorized by the
14 Child Nutrition Act of 1966, 42 U.S.C. § 1771 et seq., as amended, or federal
15 regulations and state ~~regulations~~ rules issued pursuant to the Child
16 Nutrition Act of 1966, 42 U.S.C. § 1771 et seq., if the vouchers are of a
17 value of less than one hundred dollars (\$100), is guilty of a Class A
18 misdemeanor.

19
20 SECTION 155. Arkansas Code § 5-55-203 is amended to read as follows:

21 5-55-203. Illegal presentation of food coupons or vouchers for
22 payment.

23 (a)(1) Any person who presents or causes to be presented food coupons
24 for payment or redemption of the value of one hundred dollars (\$100) or more
25 knowing the food coupons to have been received, transferred, or used in any
26 manner in violation of a provision of the Food Stamp Act of 1977, 7 U.S.C. §
27 2011 et seq., or the federal regulations or state ~~regulations~~ rules issued
28 pursuant to the Food Stamp Act of 1977, 7 U.S.C. § 2011 et seq., is guilty of
29 a Class D felony.

30 (2) However, if the food coupons are of a value of less than one
31 hundred dollars (\$100), the person is guilty of a Class A misdemeanor.

32 (b) Any person who presents or causes to be presented vouchers for
33 payment or redemption of the value of one hundred dollars (\$100) or more
34 knowing the vouchers to have been received, transferred, or used in any
35 manner in violation of a provision of the federal Special Supplemental
36 Nutrition Program for Women, Infants and Children (WIC) authorized by the

1 Child Nutrition Act of 1966, 42 U.S.C. § 1771 et seq., as amended, or the
2 federal regulations or state ~~regulations~~ rules issued pursuant to the Child
3 Nutrition Act of 1966, 42 U.S.C. § 1771 et seq., is guilty of a Class A
4 misdemeanor.

5
6 SECTION 156. Arkansas Code § 5-62-105(a)(9), concerning exemptions
7 from criminal offenses against public health, safety or welfare related to
8 animals, is amended to read as follows:

9 (9) Engaging in the taking of game or fish through hunting,
10 trapping, or fishing, or engaging in any other activity authorized by
11 Arkansas Constitution, Amendment 35, by § 15-41-101 et seq., or by any
12 Arkansas State Game and Fish Commission regulation or rule promulgated under
13 either Arkansas Constitution, Amendment 35, or statute;

14
15 SECTION 157. Arkansas Code § 5-64-415(a)(1), concerning the definition
16 of "drug precursor" under the Uniform Controlled Substances Act, is amended
17 to read as follows:

18 (1) "Drug precursor" means any substance, material, compound,
19 mixture, or preparation listed in rules ~~and regulations~~ promulgated or
20 adopted pursuant to this section or any of their salts or isomers.

21
22 SECTION 158. Arkansas Code § 5-64-415(b)(1)(A), concerning the
23 authority to control drug precursors under the Uniform Controlled Substances
24 Act, is amended to read as follows:

25 (b) Authority to Control Drug Precursors by Rule ~~and Regulation~~.

26 (1)(A) The Department of Health shall promulgate by rule ~~and~~
27 ~~regulation~~ a list of drug precursors, comprised of any substance, material,
28 compound, mixture, or preparation or any of their salts or isomers that are
29 drug precursors.

30
31 SECTION 159. Arkansas Code § 5-64-415(c)(1)(A), concerning the
32 authority to control drug precursors under the Uniform Controlled Substances
33 Act, is amended to read as follows:

34 (1)(A) The Department of Health may promulgate ~~regulations~~ rules
35 and charge reasonable fees of not more than twenty-five dollars (\$25.00)
36 relating to the licensing and control of the manufacture, possession,

1 transfer, and transportation of a drug precursor.

2
3 SECTION 160. Arkansas Code § 5-64-415(d), concerning the authority to
4 control drug precursors under the Uniform Controlled Substances Act, is
5 amended to read as follows:

6 (d) Waiver. The Department of Health may waive by ~~regulation~~ rule the
7 requirement for licensing of certain manufacturers if the waiver is
8 consistent with the public health and safety.

9
10 SECTION 161. Arkansas Code § 5-64-415(g)(1)(G), concerning the
11 authority to control drug precursors under the Uniform Controlled Substances
12 Act, is amended to read as follows:

13 (G) Manufacture, possess, transfer, or transport a drug
14 precursor without the appropriate license or in violation of any rule ~~or~~
15 ~~regulation~~ of the Department of Health.

16
17 SECTION 162. Arkansas Code § 5-64-415(i)(3), concerning the authority
18 to control drug precursors under the Uniform Controlled Substances Act, is
19 amended to read as follows:

20 (3) Any manufacturer, wholesaler, retailer, or other person
21 subject to any other reporting requirement in this section that receives from
22 a source outside of this state any drug precursor specified in rules ~~and~~
23 ~~regulations~~ promulgated pursuant to this section shall submit a report of the
24 transaction to the Department of Health in accordance with rules adopted by
25 the Department of Health.

26
27 SECTION 163. Arkansas Code § 5-64-415(k), concerning the authority to
28 control drug precursors under the Uniform Controlled Substances Act, is
29 amended to read as follows:

30 (k) In addition to rules ~~and regulations~~ authorized by a provision of
31 this section, the Department of Health may promulgate necessary rules ~~and~~
32 ~~regulations~~ to carry out the provisions of this section.

33
34 SECTION 164. Arkansas Code § 5-64-505(f)(6), concerning the
35 disposition of property subject to forfeiture under the Uniform Controlled
36 Substances Act, is amended to read as follows:

1 (6) The Arkansas Drug Director shall establish through rules ~~and~~
2 ~~regulations~~ a standardized confiscation report form to be used by all law
3 enforcement agencies with specific instructions and guidelines concerning the
4 nature and dollar value of all property, including firearms, to be included
5 in the confiscation report and forwarded to the office of the local
6 prosecuting attorney and the Arkansas Drug Director under this subsection.

7
8 SECTION 165. Arkansas Code § 5-64-505(i)(3)(D)(i), concerning the
9 disposition of property subject to forfeiture under the Uniform Controlled
10 Substances Act, is amended to read as follows:

11 (D)(i) The Arkansas Drug Director shall establish through
12 rules ~~and regulations~~ a procedure for proper investment, use, and disposition
13 of state moneys deposited into the Special State Assets Forfeiture Fund in
14 accordance with the intent and purposes of this chapter.

15
16 SECTION 166. Arkansas Code § 5-64-702 is amended to read as follows:

17 5-64-702. Promulgation of rules ~~and regulations~~.

18 (a) The Department of Health may promulgate rules ~~and regulations~~
19 necessary for the enforcement of this chapter.

20 (b) The rules ~~and regulations~~ described in subsection (a) of this
21 section shall be promulgated pursuant to the Arkansas Administrative
22 Procedure Act, § 25-15-201 et seq.

23
24 SECTION 167. Arkansas Code § 5-64-1301 is amended to read as follows:

25 5-64-1301. Possession of anhydrous ammonia in unlawful container.

26 Any person who knowingly possesses anhydrous ammonia in a container
27 that does not comply with the ~~regulations~~ rules of the Boiler Inspection
28 Division of the Department of Labor for the containment of anhydrous ammonia
29 is guilty of a Class B felony.

30
31 SECTION 168. Arkansas Code § 5-65-201 is amended to read as follows:

32 5-65-201. Rules ~~and regulations~~.

33 The Department of Health may promulgate rules ~~and regulations~~
34 reasonably necessary to carry out the purposes of this subchapter.

35
36 SECTION 169. Arkansas Code § 5-67-104(a), concerning violation of

1 posted bridge prohibitions, is amended to read as follows:

2 (a) It is unlawful for any person owning or operating a motor vehicle
3 that in any way exceeds or violates any properly posted limitation,
4 regulation, rule, or restriction governing the use of a bridge structure to
5 use the bridge structure so long as the use violates any posted prohibition.
6

7 SECTION 170. Arkansas Code § 5-69-103(a)(2), concerning criminal
8 offenses related to pipelines and pipeline facilities, is amended to read as
9 follows:

10 (2) An order, safety standard, or rule, ~~or regulation~~ of the
11 Arkansas Public Service Commission pursuant to § 23-15-205;
12
13

14 SECTION 171. Arkansas Code § 5-73-130(c)(2), concerning the
15 disposition, seizure, and forfeiture of a firearm or motor vehicle, is
16 amended to read as follows:

17 (2) A regulation or rule of the Arkansas State Game and Fish
18 Commission.
19

20 SECTION 172. Arkansas Code § 5-73-317 is amended to read as follows:

21 5-73-317. Rules ~~and regulations~~.

22 The Director of the Department of Arkansas State Police may promulgate
23 rules ~~and regulations~~ to permit the efficient administration of this
24 subchapter.
25

26 SECTION 173. Arkansas Code § 5-73-319(b), concerning the transfer of a
27 license to carry a concealed handgun to Arkansas, is amended to read as
28 follows:

29 (b) After July 31, 2007, the newly transferred license is valid for a
30 period of five (5) years from the date of issuance and binds the holder to
31 all Arkansas laws and ~~regulations~~ rules regarding the carrying of the
32 concealed handgun.
33

34 SECTION 174. Arkansas Code § 5-75-107(c)(1), concerning blood alcohol
35 testing devices, is amended to read as follows:

36 (c)(1) The State Board of Health may adopt appropriate rules ~~and~~

1 ~~regulations~~ to carry out the intent and purposes of this section, and only an
2 instrument approved by the board as meeting the requirements of this section
3 and the ~~regulations~~ rules of the board shall be used for making a breath
4 analysis for determining breath alcohol concentration.

5
6 SECTION 175. Arkansas Code § 5-77-203 is amended to read as follows:

7 5-77-203. ~~Regulations~~ Rules.

8 The Department of ~~the~~ Arkansas State Police shall promulgate
9 ~~regulations~~ rules to implement this subchapter, including ~~regulations~~ rules
10 that define the type of identification necessary to legally demonstrate that
11 a person is a law enforcement officer or a county coroner.

12
13 SECTION 176. Arkansas Code § 6-3-105(d)(1), concerning the powers and
14 duties of the Arkansas Educational Television Commission, is amended to read
15 as follows:

16 (d)(1) The Arkansas Educational Television Commission may designate
17 the location of stations to utilize such channels and make rules ~~and~~
18 ~~regulations~~ governing the operation of these stations and the programs
19 televised over these channels.

20
21 SECTION 177. Arkansas Code § 6-3-112(d), concerning authorization for
22 lease of facilities of the Arkansas Educational Television Commission, is
23 amended to read as follows:

24 (d) The commission is authorized to promulgate such ~~regulations~~ rules
25 as it deems necessary for the implementation of this section.

26
27 SECTION 178. Arkansas Code § 6-10-108(d)(1), concerning the definition
28 of a "twelve-month school year" under the elementary and secondary education
29 school laws, is amended to read as follows:

30 (d)(1) The State Board of Education is authorized to establish
31 appropriate standards, guidelines, and rules, ~~and regulations~~ for the
32 determination of average daily membership of school districts and for the
33 distribution of state foundation funding and other forms of state aid and
34 financial assistance to each local school district that elects to operate the
35 public schools of the school district on a twelve-month basis, in order to
36 provide the school district with an equitable share of the state foundation

1 funds designated to equate a twelve-month school operation by the school
2 district to the educational opportunities provided by a school district
3 offering nine (9) months of public school instruction.

4
5 SECTION 179. Arkansas Code § 6-10-110(c), concerning the Department of
6 Education fire marshal program under the elementary and secondary education
7 school laws, is amended to read as follows:

8 (c) The State Board of Education shall promulgate reasonable and
9 necessary rules ~~and regulations~~ for the establishment of minimum requirements
10 to be met by the various school districts of this state for a school fire
11 marshal program.

12
13 SECTION 180. Arkansas Code § 6-10-111(f), concerning the equity
14 assistance center under the elementary and secondary education school laws,
15 is amended to read as follows:

16 (f) The department is authorized to develop forms and promulgate
17 appropriate rules, ~~regulations~~, and procedures as may be required to
18 implement the provisions of this section.

19
20 SECTION 181. Arkansas Code § 6-10-117(d)(1), concerning a four-day
21 school week under the elementary and secondary education school laws, is
22 amended to read as follows:

23 (d)(1) The State Board of Education shall establish appropriate
24 standards, guidelines, and rules, ~~and regulations~~ for the determination of
25 average daily membership of school districts and for the distribution of
26 state aid to each local school district that elects to operate any or all of
27 the public schools of its school district on a four-day school-week basis, to
28 provide the school district with an equitable share of aid funds designated
29 to equate a four-day school-week operation by the school district to the
30 educational opportunities provided by a school district offering a five-day
31 school week.

32
33 SECTION 182. Arkansas Code § 6-10-118(c), concerning information about
34 the availability of the ARKids First Program under the elementary and
35 secondary education school laws, is amended to read as follows:

36 (c) The State Board of Education shall promulgate rules ~~and~~

1 ~~regulations~~ to implement this informational program.

2
3 SECTION 183. Arkansas Code § 6-11-105(d), concerning the powers and
4 duties of the State Board of Education under the elementary and secondary
5 education school laws, is amended to read as follows:

6 (d) The state board shall adopt rules ~~and regulations~~ for its meetings
7 and proceedings as it deems advisable.

8
9 SECTION 184. Arkansas Code § 6-11-113(a)(3), concerning the acceptance
10 and distribution of federal aid under the elementary and secondary education
11 school laws, is amended to read as follows:

12 (3) The state board is empowered to promulgate such ~~regulations~~
13 rules and enforce such federal regulations as are necessary on the part of
14 the state to meet any and all requirements of the United States Government in
15 the distribution of federal aid.

16
17 SECTION 185. Arkansas Code § 6-11-125(b), concerning legislative
18 intent regarding information technology under the elementary and secondary
19 education school laws, is amended to read as follows:

20 (b) The State Board of Education, acting through the department, shall
21 use every means available to eliminate the amount of paperwork required by
22 state law and ~~regulations~~ rules to be reported from each local school
23 district by utilizing to the fullest extent possible, beginning no later than
24 July 1, 1998, the information technology network linking local school
25 districts and the department.

26
27 SECTION 186. Arkansas Code § 6-11-205(a)(3), concerning acceptance and
28 distribution of federal aid under the elementary and secondary education
29 school laws, is amended to read as follows:

30 (3) The board may promulgate ~~regulations~~ rules as are necessary
31 on the part of the state to meet any requirement of the federal government in
32 the distribution of federal aid.

33
34 SECTION 187. Arkansas Code § 6-11-207 is amended to read as follows:

35 6-11-207. Power to make plans coordinating state and federal laws.

36 The State Board of Career Education may make plans, and rules, ~~and~~

1 ~~regulations~~ as are necessary in order for this state to meet the requirements
2 of any law enacted by Congress for vocational-technical education or any
3 supplementary federal regulations pertaining to that legislation.
4

5 SECTION 188. Arkansas Code § 6-13-629(a)(3)(A)(i)(b), concerning
6 reimbursement of a local school district board of directors for training and
7 instruction under the elementary and secondary education school laws, is
8 amended to read as follows:

9 (b) Other financial laws, rules, or federal
10 regulations designated by the Department of Education;
11

12 SECTION 189. Arkansas Code § 6-13-631(i), concerning the effect of the
13 minority population on election of members of the board of directors under
14 the elementary and secondary education school laws, is amended to read as
15 follows:

16 (i) The State Board of Education is hereby authorized to adopt rules
17 ~~and regulations~~ necessary for the implementation of this section.
18

19 SECTION 190. Arkansas Code § 6-13-701(e)(8), concerning the powers and
20 duties of the school district treasurer under the elementary and secondary
21 education school laws, is amended to read as follows:

22 (8) To perform all duties now imposed by law upon the
23 treasurer of a school district and to be subject to all regulations or rules.
24

25 SECTION 191. Arkansas Code § 6-13-904(b), concerning agents for school
26 districts under the Public School Educational Cooperative Act of 1981, is
27 amended to read as follows:

28 (b) The educational cooperatives will have the power to contract and
29 handle funds for the member school districts under conditions specified in
30 the agreement between the member school districts and federal law and
31 regulations and state law and ~~regulation~~ rule.
32

33 SECTION 192. Arkansas Code § 6-13-906(a)(1) and (2), concerning rules
34 and reports of educational cooperatives under the Public School Educational
35 Cooperative Act of 1981, are amended to read as follows:

36 (1) Abide by all rules ~~and regulations~~ of the Department of

1 Education which apply to school districts generally; and

2 (2) Make all reports as required by law and ~~regulation~~ rule
3 which apply to school districts generally to the department.

4
5 SECTION 193. Arkansas Code § 6-13-1010(a)(5), concerning a director of
6 an education service cooperative under the Education Service Cooperative Act
7 of 1985, is amended to read as follows:

8 (5) Perform other duties as required by the education service
9 cooperative's governing body and the policies, and rules, ~~and regulations~~ of
10 the State Board of Education.

11
12 SECTION 194. Arkansas Code § 6-13-1011(a)(1), concerning the personnel
13 of education service cooperatives under the Education Service Cooperative Act
14 of 1985, is amended to read as follows:

15 (a)(1) Personnel of education service cooperatives shall be employed
16 in accordance with laws, rules, ~~regulations~~, and procedures applicable to the
17 school districts of this state.

18
19 SECTION 195. Arkansas Code § 6-13-1013(a), concerning policies and
20 rules for the governing of education service cooperatives under the Education
21 Service Cooperative Act of 1985, is amended to read as follows:

22 (a) The State Board of Education shall develop such policies, and
23 rules, ~~and regulations~~ as may be needed for the proper administration of this
24 subchapter consistent with the need to support and assist education service
25 cooperatives in the delivery of services to school districts and with prudent
26 use of available human and financial resources.

27
28 SECTION 196. Arkansas Code § 6-13-1027(a)(1), concerning the
29 definition of "fiscal integrity" for education service cooperatives under the
30 Education Service Cooperative Act of 1985, is amended to read as follows:

31 (1) "Fiscal integrity" means the education service cooperative's
32 ability to comply completely, accurately, and timely with financial
33 management, accounting, auditing, and reporting procedures required by state
34 law and rule or federal law and regulations; and

35
36 SECTION 197. Arkansas Code § 6-13-1027(b)(3), concerning fiscal

1 distress of education service cooperatives under the Education Service
2 Cooperative Act of 1985, is amended to read as follows:

3 (3) A material violation of local, state, or federal law, state
4 rule, or federal regulations relating to:

5 (A) Fire, health, or safety codes;

6 (B) Construction codes;

7 (C) Audit requirements; or

8 (D) Procurement, bidding, and purchasing requirements;

9
10 SECTION 198. Arkansas Code § 6-13-1031(e), concerning fiscal distress
11 appeals of education service cooperatives under the Education Service
12 Cooperative Act of 1985, is amended to read as follows:

13 (e) Notwithstanding any appeal rights in this section, no appeal shall
14 stay the state board's or the Department of Education's authority to take
15 action to enforce the education service cooperative's compliance with
16 financial management, accounting, auditing, and reporting procedures required
17 by state law or rule or federal law and regulations.

18
19 SECTION 199. Arkansas Code § 6-13-1409(a)(3), concerning the State
20 Board of Education under the elementary and secondary education school laws,
21 is amended to read as follows:

22 (3) To enact rules ~~and regulations~~ regarding the consolidation
23 and annexation of school districts under this title.

24
25 SECTION 200. Arkansas Code § 6-13-1505(f)(3), concerning the creation
26 of a school district under the elementary and secondary education school
27 laws, is amended to read as follows:

28 (3) To enact rules ~~and regulations~~ regarding the creation of
29 school districts by detachment under this subchapter.

30
31 SECTION 201. Arkansas Code § 6-15-102(f)(1), concerning the Division
32 of Public School Accountability under the elementary and secondary education
33 school laws, is amended to read as follows:

34 (1) To monitor schools for compliance with:

35 (A) State rules and federal regulations;

36 (B) Legislative acts and court-ordered mandates;

1 (C) All standards of learning and accreditation as
2 established by the state board; and

3 (D) All rules ~~and regulations~~ as established by the state
4 board;

5
6 SECTION 202. Arkansas Code § 6-15-202(a), concerning development of
7 accreditation rules and standards under The Quality Education Act of 2003, is
8 amended to read as follows:

9 (a)(1) The State Board of Education is authorized and directed to
10 develop comprehensive ~~regulations~~ rules, criteria, and standards to be used
11 by the state board and the Department of Education in the accreditation of
12 school programs in elementary and secondary public schools in this state.

13 (2) In its ~~regulations~~ rules, criteria, and standards
14 promulgated under this subchapter, the state board shall include a provision
15 regarding the attainment of unitary status for school districts that have not
16 been released from court supervision over desegregation obligations.

17
18 SECTION 203. Arkansas Code § 6-15-202(c), concerning development of
19 accreditation rules and standards under The Quality Education Act of 2003, is
20 amended to read as follows:

21 (c) The state board shall promulgate rules ~~and regulations~~ setting
22 forth:

23 (1) The process for identifying schools and school districts
24 that fail to meet the standards;

25 (2) Enforcement measures the state board may apply to bring a
26 school or school district into compliance with the standards, including, but
27 not limited to, annexation, consolidation, or reconstitution of the school
28 district in accordance with § 6-13-1401 et seq. and this subchapter; and

29 (3) The appeal process available to a school district under this
30 subchapter.

31
32 SECTION 204. Arkansas Code § 6-15-202(d), concerning development of
33 accreditation rules and standards under The Quality Education Act of 2003, is
34 amended to read as follows:

35 (d) After the ~~regulations~~ rules are adopted and implemented by the
36 state board, standards and procedures shall regularly be reviewed by the

1 House Committee on Education and the Senate Committee on Education at least
2 one (1) time every two (2) years, and recommendations and advice may be filed
3 by the House Committee on Education and the Senate Committee on Education
4 with the state board for its consideration.
5

6 SECTION 205. Arkansas Code § 6-15-206(b)(2), concerning subsequent
7 failure to meet standards for accreditation under The Quality Education Act
8 of 2003, is amended to read as follows:

9 (2) The department shall prepare and promulgate ~~regulations~~
10 rules and guidelines for the maximum times allowable for correction of any
11 violations of standards, provided no probationary status violation may exist
12 for more than two (2) consecutive school years.
13

14 SECTION 206. The introductory language of Arkansas Code § 6-15-209,
15 concerning the responsibilities of the State Board of Education, is amended
16 to read as follows:

17 The State Board of Education shall promulgate rules ~~and regulations~~ as
18 necessary to set forth the:
19

20 SECTION 207. Arkansas Code § 6-15-502 is amended to read as follows:

21 6-15-502. Rules, ~~regulations~~, and procedures for monitoring and
22 enforcing provisions.

23 (a) The provisions of § 6-18-201(a) shall be self-executing, and the
24 State Board of Education shall have no authority to promulgate rules,
25 ~~regulations~~, or guidelines for the enforcement or administration thereof.

26 (b) The state board is empowered to make such reasonable rules ~~and~~
27 ~~regulations~~ required for the proper administration of this subchapter which
28 are not inconsistent with the intent of this subchapter.
29

30 SECTION 208. Arkansas Code § 6-15-509(b)(3), concerning participation
31 of home-schooled students in interscholastic activities and the definition of
32 "interscholastic activity" under the elementary and secondary education
33 school laws, is amended to read as follows:

34 (3) "Interscholastic activity" means an activity between schools
35 subject to ~~regulations~~ rules of the Arkansas Activities Association that is:

36 (A) Outside the regular curriculum of a school district,

1 including without limitation an athletic activity, a fine arts program, or a
2 special interest club or group; and

3 (B) Taught by an individual with a minimum of a high
4 school diploma;

5
6 SECTION 209. Arkansas Code § 6-15-510(a)(3), concerning participation
7 in interscholastic activities at private schools and the definition of
8 "interscholastic activity" under the elementary and secondary education
9 school laws, is amended to read as follows:

10 (3) "Interscholastic activity" means an activity between schools
11 subject to ~~regulations~~ rules of the Arkansas Activities Association that is:

12 (A) Outside the regular curriculum of the school,
13 including without limitation an athletic activity, a fine arts program, or a
14 special interest club or group; and

15 (B) Taught by an individual with a minimum of a high
16 school diploma; and

17
18 SECTION 210. Arkansas Code § 6-15-1004(e)(5), concerning the
19 definition of "long-term substitute" under the Arkansas Public Education Act
20 of 1997, is amended to read as follows:

21 (5) The state board shall develop rules ~~and regulations~~ for
22 granting a long-term substitute waiver.

23
24 SECTION 211. Arkansas Code § 6-15-1011 is amended to read as follows:

25 6-15-1011. Rules ~~and regulations~~.

26 The State Board of Education shall promulgate rules ~~and regulations~~
27 necessary for the implementation of this subchapter.

28
29 SECTION 212. Arkansas Code § 6-15-1101(c), concerning seals and stamps
30 added to high school diplomas, is amended to read as follows:

31 (c) The state board is authorized to promulgate rules ~~and regulations~~
32 for the implementation of this section.

33
34 SECTION 213. Arkansas Code § 6-15-1301(c)(2), concerning the creation,
35 powers, and duties of the Safe Schools Committee under the elementary and
36 secondary education school laws, is amended to read as follows:

1 (2) To recommend to the State Board of Education any necessary
2 rules ~~and regulations~~ for ensuring a safe school environment; and

3
4 SECTION 214. Arkansas Code § 6-15-1506 is amended to read as follows:
5 6-15-1506. Rules ~~and regulations~~.

6 ~~Before December 31, 2003, the~~ The State Board of Education shall
7 promulgate appropriate rules ~~and regulations~~ necessary to carry out this
8 subchapter.

9
10 SECTION 215. Arkansas Code § 6-16-102(b), concerning school days under
11 the elementary and secondary education school laws, is amended to read as
12 follows:

13 (b) Notwithstanding subsection (a) of this section, the State Board of
14 Education shall promulgate ~~regulations~~ rules to prescribe the credit to be
15 given students for attending school for only a portion of a school day
16 because the school is closed due to emergency circumstances which would be
17 hazardous to the health of the students. The state board shall also identify
18 the emergency circumstances.

19
20 SECTION 216. Arkansas Code § 6-16-120(d), concerning academic credit
21 for community service under the elementary and secondary education school
22 laws, is amended to read as follows:

23 (d) The state board is hereby authorized to promulgate rules ~~and~~
24 ~~regulations~~ necessary for the implementation of this section.

25
26 SECTION 217. Arkansas Code § 6-16-133(d), concerning World War II
27 veteran diplomas under the elementary and secondary education school laws, is
28 amended to read as follows:

29 (d)(1) The State Board of Education shall adopt rules ~~and regulations~~
30 to implement the provisions of this section.

31 (2) The state board shall consult with the Department of
32 Veterans Affairs in developing rules ~~and regulations~~ to implement the
33 provisions of this section.

34
35 SECTION 218. Arkansas Code § 6-16-134(d), concerning veterans'
36 diplomas under the elementary and secondary education school laws, is amended

1 to read as follows:

2 (d)(1) The State Board of Education shall adopt rules ~~and regulations~~
3 to implement the provisions of this section.

4 (2) The state board shall consult with the Department of
5 Veterans Affairs in developing rules ~~and regulations~~ to implement the
6 provisions of this section.

7
8 SECTION 219. Arkansas Code § 6-16-302(c), concerning the
9 administration of federal funds by the State Board of Education or State
10 Board of Career Education under the Early Childhood and Adult Education Act
11 of 1969, is amended to read as follows:

12 (c) The state agency or authority shall disburse any and all federal
13 funds in accordance with federal and state statutes and any implementing
14 federal regulations or state rules pertaining thereto.

15
16 SECTION 220. Arkansas Code § 6-16-306(a), concerning vocational-
17 technical high schools under the Early Childhood and Adult Education Act of
18 1969, is amended to read as follows:

19 (a) Nothing in this subchapter shall be construed as prohibiting a
20 school district from operating a designated, approved area vocational-
21 technical high school in keeping with federal or state legislation and Career
22 Education and Workforce Development Board ~~regulations~~ rules pertaining
23 thereto.

24
25 SECTION 221. Arkansas Code § 6-16-313(a), concerning minimum standards
26 for early childhood and kindergarten programs under the Early Childhood and
27 Adult Education Act of 1969, is amended to read as follows:

28 (a) The State Board of Education shall promulgate and adopt such rules
29 ~~and regulations~~ as it deems appropriate providing minimum standards,
30 including program standards and teacher licensure standards, for the conduct
31 of public school kindergarten programs.

32
33 SECTION 222. Arkansas Code § 6-16-804(e), concerning the establishment
34 of the Arkansas Advanced Placement and International Baccalaureate Diploma
35 Incentive Program,, is amended to read as follows:

36 (e) The state board is authorized to promulgate rules ~~and regulations~~

1 necessary to implement this subchapter.

2
3 SECTION 223. Arkansas Code § 6-17-113(e), concerning the duty to
4 report and investigate student criminal acts under the elementary and
5 secondary education school laws, is amended to read as follows:

6 (e) The State Board of Education shall promulgate rules ~~and~~
7 ~~regulations~~ to ensure uniform compliance with the requirements of this
8 section and shall consult with the office of the Attorney General concerning
9 the development of these rules ~~and regulations~~.

10
11 SECTION 224. Arkansas Code § 6-17-204(c)(1) and (2), concerning
12 incorporation of personnel policies into teachers' contracts under the
13 elementary and secondary education school laws, are amended to read as
14 follows:

15 (c)(1) Notwithstanding subsection (b) of this section, a change or
16 addition to the personnel policies that is necessary to ensure compliance
17 with a state rule or federal regulation, a state law enacted during a
18 legislative session, or a federal law that is adopted by the school district
19 board of directors each year by the later of June 30 or ninety (90) days
20 after the effective date of a change to a state rule or federal regulation, a
21 state law enacted during a legislative session, or a federal law giving rise
22 to the specific policy change or addition shall be considered a part of
23 licensed personnel contracts on July 1 of the same calendar year or upon the
24 date of adoption if adopted after June 30.

25 (2) Any changes or additions to the personnel policies adopted
26 by the school district board of directors between May 1 and June 30 each year
27 that are not required to ensure compliance with state law or rule or federal
28 law or regulation shall be considered a part of licensed personnel contracts
29 on July 1 of the same calendar year if:

30 (A) A notice of the change is sent no later than five (5)
31 working days after final board action by first class letter to the address on
32 record in the personnel file of each affected employee; and

33 (B) The notice of change includes:

34 (i)(a) The new or modified policy.

35 (b) A modified policy shall be provided in a
36 form that clearly shows additions underlined and deletions stricken; and

1 (ii)(a) A provision that states that due to the
 2 policy change, each continuing employee under contract shall have the power
 3 to unilaterally exercise the power of rescission within a period of thirty
 4 (30) days after the school district board of directors takes final action by
 5 providing to the school district board of directors a notice of rescission in
 6 the form of a letter of resignation during the period of thirty (30) days.

7 (b) For continuing contract employees covered
 8 under The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., the power
 9 of rescission in this section shall be in addition to the power of rescission
 10 provided under § 6-17-1506.

11
 12 SECTION 225. Arkansas Code § 6-17-208(a)(2)(A), concerning the
 13 definition of "grievance" under the elementary and secondary education school
 14 laws, is amended to read as follows:

15 (2)(A) "Grievance" means any concern related to personnel
 16 policy, salary, federal laws and regulations, ~~or~~ state laws and ~~regulations~~
 17 rules, or terms or conditions of employment raised by an employee.

18
 19 SECTION 226. Arkansas Code § 6-17-308(a), concerning moving expenses
 20 of teachers in particular regions under the elementary and secondary
 21 education school laws, is amended to read as follows:

22 (a) The State Board of Education shall prescribe rules ~~and regulations~~
 23 that allow for reimbursement to state-licensed teachers for the expense of
 24 moving when the employment necessitates the relocation of the teacher to a
 25 different geographical area from that in which the teacher resided before
 26 entering into a contract.

27
 28 SECTION 227. Arkansas Code § 6-17-308(d)(2)(E), concerning moving
 29 expenses of teachers in particular regions under the elementary and secondary
 30 education school laws, is amended to read as follows:

31 (E) Other expenses associated with the relocation in
 32 accordance with the department's established rules ~~and regulations~~.

33
 34 SECTION 228. Arkansas Code § 6-17-309(b)(2), concerning waiver of
 35 licensure for teachers under the elementary and secondary education school
 36 laws, is amended to read as follows:

1 (2) The state board shall develop rules ~~and regulations~~ for
2 granting a waiver.

3
4 SECTION 229. Arkansas Code § 6-17-413(a)(2)(A), concerning National
5 Board for Professional Teaching Standards certification funding bonuses under
6 the elementary and secondary education school laws, is amended to read as
7 follows:

8 (2)(A) The State Board of Education shall promulgate rules ~~and~~
9 ~~regulations~~ for the selection process of teacher participants in the program
10 of the national board.

11
12 SECTION 230. Arkansas Code § 6-17-413(a)(4), concerning National Board
13 for Professional Teaching Standards certification funding bonuses under the
14 elementary and secondary education school laws, is amended to read as
15 follows:

16 (4) The State Board of Education is authorized to promulgate
17 rules ~~and regulations~~ to establish a support program for teachers selected to
18 participate in the program of the national board.

19
20 SECTION 231. Arkansas Code § 6-17-602 is amended to read as follows:

21 6-17-602. Application for new licensure.

22 Any teacher, administrator, or other licensed person who is not
23 eligible for renewal of the license due to failure to comply with this
24 subchapter is eligible to apply for new licensure under initial licensure
25 ~~regulations~~ rules or other ~~regulations~~ rules promulgated by the State Board
26 of Education.

27
28 SECTION 232. Arkansas Code § 6-17-1113(e)(2), concerning the School
29 Worker Defense Program under the elementary and secondary education school
30 laws, is amended to read as follows:

31 (2) The department shall adopt appropriate rules ~~and regulations~~
32 necessary to carry out the purposes of this section.

33
34 SECTION 233. Arkansas Code § 6-17-1118(e)(1), concerning the School
35 Worker Defense Program Advisory Board under the elementary and secondary
36 education school laws, is amended to read as follows:

1 (e)(1) The Department of Education may promulgate rules ~~and~~
2 ~~regulations~~ as necessary for the proper administration of this section to
3 establish an advisory board.
4

5 SECTION 234. Arkansas Code § 6-17-1402(a), concerning the Workers'
6 Compensation Commission's authority for personal injuries and death of
7 officers and employees of public schools under the elementary and secondary
8 education school laws, is amended to read as follows:

9 (a) The Workers' Compensation Commission is authorized to adopt rules
10 ~~and regulations~~ and to prescribe forms it deems necessary or desirable to
11 properly carry out the purpose and intent of this subchapter.
12

13 SECTION 235. Arkansas Code § 6-17-1402(c), concerning the Workers'
14 Compensation Commission's authority for personal injuries and death of
15 officers and employees of public schools under the elementary and secondary
16 education school laws, is amended to read as follows:

17 (c) The method and procedure of filing claims and the determination of
18 awards pursuant to such claims shall be the same as provided by law and rules
19 ~~and regulations~~ of the commission with respect to claims filed by employees
20 of private employers.
21

22 SECTION 236. Arkansas Code § 6-17-1413(b)(3)(A)(i)(a), concerning the
23 Workers' Compensation Commission's coverage carriers for personal injuries
24 and death of officers and employees of public schools under the elementary
25 and secondary education school laws, is amended to read as follows:

26 (3)(A)(i)(a) Any self-funding group of participating school
27 districts shall be subject to the ~~regulations~~ rules of the Workers'
28 Compensation Commission applicable to self-insured groups or providers.
29

30 SECTION 237. Arkansas Code § 6-17-1603(a), concerning the yearly
31 incentive bonus for principals receiving master school principal status under
32 the elementary and secondary education school laws, is amended to read as
33 follows:

34 (a) The Department of Education shall promulgate rules ~~and regulations~~
35 for the nine thousand dollar (\$9,000) yearly incentive bonus provided under
36 this section for principals receiving master school principal status.

1
2 SECTION 238. Arkansas Code § 6-17-1604(a), concerning the high-need
3 school salary bonus and hold-back longevity bonus for principals of high-need
4 public schools under the elementary and secondary education school laws, is
5 amended to read as follows:

6 (a) The State Board of Education shall promulgate rules ~~and~~
7 ~~regulations~~ for an additional high-need school salary bonus, including a
8 hold-back longevity bonus, for each principal receiving master school
9 principal status and serving as a principal of a high-need public school.

10
11 SECTION 239. Arkansas Code § 6-17-2204 is amended to read as follows:
12 6-17-2204. Rules ~~and regulations~~.

13 The State Board of Education is authorized to promulgate rules ~~and~~
14 ~~regulations~~ to establish a method of determining whether a classified
15 employee shall be considered to work twenty (20) or more hours per week.

16
17 SECTION 240. Arkansas Code § 6-17-2304(c), concerning incorporation of
18 personnel policies into school district employee contracts under the
19 elementary and secondary education school laws, is amended to read as
20 follows:

21 (c) Notwithstanding subsection (b) of this section, a change or
22 addition to the classified personnel policies that is necessary to ensure
23 compliance with state rule or federal regulation, a state law enacted during
24 a legislative session, or a federal law that is adopted by the board of
25 directors of a school district each year by the later of June 30 or ninety
26 (90) days after the effective date of the state rule or federal regulation, a
27 state law enacted during a legislative session, or a federal law giving rise
28 to the specific policy change or addition shall be considered a part of the
29 classified personnel contracts on July 1 of the same calendar year or upon
30 the date of adoption if adopted after June 30.

31
32 SECTION 241. Arkansas Code § 6-18-103(c), concerning Military
33 Selective Service Act registration under the elementary and secondary
34 education school laws, is amended to read as follows:

35 (c) The Department of Education shall issue rules ~~and regulations~~ to
36 ensure compliance with the provisions of this section and compliance with all

1 federal regulations.

2
3 SECTION 242. Arkansas Code § 6-18-105(c)(2), concerning skills and
4 knowledge for preparation of kindergarten children under the elementary and
5 secondary education school laws, is amended to read as follows:

6 (2) By December 31, 2003, the Department of Human Services shall
7 adopt rules ~~and regulations~~ requiring child care facilities licensed by the
8 division each year to distribute the list to the parent of each three-year-
9 old child, four-year-old child, and five-year-old child attending the child
10 care facility.

11
12 SECTION 243. Arkansas Code § 6-18-108(c), concerning continuity of
13 education for public school choice students under the elementary and
14 secondary education school laws, is amended to read as follows:

15 (c) A present or future sibling of a student who continues enrollment
16 in the nonresident district under this section may enroll in or continue
17 enrollment in the nonresident district until the sibling completes his or her
18 secondary education, if the district has the capacity to accept the sibling
19 without adding teachers, staff, or classrooms, or exceed the ~~regulations~~
20 rules and standards established in law.

21
22 SECTION 244. Arkansas Code § 6-18-204(c)(2), concerning conditions of
23 student attendance in another district under the elementary and secondary
24 education school laws, is amended to read as follows:

25 (2) The resident district of a student taking advantage of the
26 provisions of this subsection shall pay tuition to the district or education
27 service cooperative that is the administrative agency for the compact program
28 in the amount agreed upon in the compact or as required by state ~~regulation~~
29 rule.

30
31 SECTION 245. Arkansas Code § 6-18-213(g), concerning attendance
32 records and reports generally under the elementary and secondary education
33 school laws, is amended to read as follows:

34 (g) The state board shall promulgate rules, ~~regulations,~~ and
35 procedures as may be required to implement the intent of this section.

36

1 SECTION 246. Arkansas Code § 6-18-214(e) and (f), concerning records
2 of students leaving school without graduating under the elementary and
3 secondary education school laws, are amended to read as follows:

4 (e) The State Board of Education shall develop such forms and shall
5 promulgate such rules, ~~regulations~~, and procedures as may be required to
6 implement the intent of this section.

7 (f) To provide for more accurate, comparable, and timely dropout and
8 school-leaver statistics and to facilitate inclusion in the national
9 education data system, the forms, rules, ~~regulations~~, and procedures shall be
10 developed and implemented in such a way as to allow for conformity with
11 existing or revised collection processes for the data by the National Center
12 for Education Statistics.

13
14 SECTION 247. Arkansas Code § 6-18-222(b)(3), concerning the penalty
15 for unexcused absences and revocation of driving privilege under the
16 elementary and secondary education school laws, is amended to read as
17 follows:

18 (3) The department shall have the power to promulgate rules ~~and~~
19 ~~regulations~~ to carry out the intent of this section and shall distribute to
20 each public, private, and parochial school and each adult education program a
21 copy of all rules ~~and regulations~~ adopted under this section.

22
23 SECTION 248. Arkansas Code § 6-18-223(a)(1), concerning public school
24 student credit for college courses under the elementary and secondary
25 education school laws, is amended to read as follows:

26 (a)(1) A public school student who is enrolled in a public school in
27 Arkansas and who has successfully completed the eighth grade shall be
28 eligible to enroll in a publicly supported community college or four-year
29 college or university in accordance with rules ~~and regulations~~ adopted by
30 each institution in consultation with the Arkansas Higher Education
31 Coordinating Board.

32
33 SECTION 249. Arkansas Code § 6-18-223(b), concerning public school
34 student credit for college courses under the elementary and secondary
35 education school laws, is amended to read as follows:

36 (b) The State Board of Education is authorized to adopt rules ~~and~~

1 ~~regulations~~ as may be necessary for implementation of this requirement.

2
3 SECTION 250. Arkansas Code § 6-18-227(d)(2)(A)(ii), concerning the
4 enactment of the Arkansas Opportunity Public School Choice Act of 2004, is
5 amended to read as follows:

6 (ii) A lack of capacity may be claimed by a school
7 district only if the school district has reached the maximum student-to-
8 teacher ratio allowed under federal law, state law, the rules for standards
9 of accreditation, state rules, or other applicable federal regulations.

10
11 SECTION 251. Arkansas Code § 6-18-504(a), concerning compliance with
12 statutes regarding student discipline policies under the elementary and
13 secondary education school laws, is amended to read as follows:

14 (a) The Department of Education shall monitor compliance with the
15 requirements of §§ 6-18-502 and 6-18-503, and the State Board of Education
16 shall adopt rules ~~and regulations~~ for the administration of the requirements
17 thereof.

18
19 SECTION 252. Arkansas Code § 6-18-701(a), concerning physical
20 examinations under the elementary and secondary education school laws, is
21 amended to read as follows:

22 (a) It shall be lawful for the board of directors of any school
23 district in this state to appoint and provide for the payment of one (1) or
24 more physicians or nurses and to assign any person so employed to the public
25 schools of the district for the purpose of making such physical examinations
26 of the pupils of the schools as may be prescribed in the rules ~~and~~
27 ~~regulations~~ of the State Board of Education.

28
29 SECTION 253. Arkansas Code § 6-18-702(b)(2)(B) and (C), concerning
30 immunization under the elementary and secondary education school laws, are
31 amended to read as follows:

32 (B) The division may promulgate appropriate rules ~~and~~
33 ~~regulations~~, to be approved by the Arkansas Early Childhood Commission, for
34 the enforcement of this section.

35 (C) The owners or managers of those facilities and any
36 parent or guardian violating the ~~regulations~~ rules shall be subject to the

1 penalties provided in the Child Care Facility Licensing Act, § 20-78-201 et
2 seq.

3
4 SECTION 254. Arkansas Code § 6-18-702(c)(1)(A)(ii), concerning
5 immunization under the elementary and secondary education school laws, is
6 amended to read as follows:

7 (ii) The division may promulgate appropriate rules
8 ~~and regulations~~ for the enforcement of this section.

9
10 SECTION 255. Arkansas Code § 6-18-702(c)(1)(B), concerning
11 immunization under the elementary and secondary education school laws, is
12 amended to read as follows:

13 (B) The owners or managers of those facilities and any
14 parent or guardian violating the ~~regulations~~ rules shall be subject to the
15 penalties provided in the Child Care Facility Licensing Act, § 20-78-201 et
16 seq.

17
18 SECTION 256. Arkansas Code § 6-18-702(c)(2), concerning immunization
19 under the elementary and secondary education school laws, is amended to read
20 as follows:

21 (2)(A) Regarding kindergarten through grade twelve (K-12), the
22 State Board of Education, after having consulted with the State Board of
23 Health, shall promulgate appropriate rules ~~and regulations~~ for the
24 enforcement of this section by school district boards of directors,
25 superintendents, and principals.

26 (B) Any school official, parent, or guardian violating the
27 ~~regulations~~ rules shall be subject to the penalties imposed in this section.

28
29 SECTION 257. Arkansas Code § 6-18-702(d)(1)(A), concerning
30 immunization under the elementary and secondary education school laws, is
31 amended to read as follows:

32 (d)(1)(A) The State Board of Health shall promulgate rules ~~and~~
33 ~~regulations~~ to ensure that all exemptions provided by this section shall have
34 a minimal effect on the health and safety of all children attending day care
35 or kindergarten through grade twelve (K-12).

36

1 SECTION 258. Arkansas Code § 6-18-702(d)(4)(B) and (C), concerning
2 immunization under the elementary and secondary education school laws, are
3 amended to read as follows:

4 (B) The parents or legal guardian of the child shall
5 complete an annual application process developed in the rules ~~and regulations~~
6 of the Department of Health for medical, religious, and philosophical
7 exemptions.

8 (C) The rules ~~and regulations~~ developed by the Department
9 of Health for medical, religious, and philosophical exemptions shall include,
10 but not be limited to:

11 (i) A notarized statement requesting a religious,
12 philosophical, or medical exemption from the Department of Health by the
13 parents or legal guardian of the child regarding the objection;

14 (ii) Completion of an educational component
15 developed by the Department of Health that includes information on the risks
16 and benefits of vaccination;

17 (iii) An informed consent from the parents or
18 guardian that shall include a signed statement of refusal to vaccinate based
19 on the Department of Health's refusal-to-vaccinate form; and

20 (iv) A signed statement of understanding that:

21 (a) At the discretion of the Department of
22 Health, the unimmunized child or individual may be removed from day care or
23 school during an outbreak if the child or individual is not fully vaccinated;
24 and

25 (b) The child or individual shall not return
26 to school until the outbreak has been resolved and the Department of Health
27 approves the return to school.

28
29 SECTION 259. Arkansas Code § 6-18-702(e), concerning immunization
30 under the elementary and secondary education school laws, is amended to read
31 as follows:

32 (e) Any person found guilty of violating this section or the
33 ~~regulations~~ rules promulgated by the State Board of Education or the division
34 for the enforcement of this section shall be guilty of a violation and upon
35 conviction shall be fined not less than twenty-five dollars (\$25.00) nor more
36 than one hundred dollars (\$100) for each offense.

1
2 SECTION 260. Arkansas Code § 6-18-705(c), concerning the elementary
3 and secondary education breakfast program under the elementary and secondary
4 education school laws, is amended to read as follows:

5 (c) The Department of Education may promulgate rules ~~and regulations~~
6 necessary for implementation of this section in compliance with federal
7 regulations and guidelines.

8
9 SECTION 261. Arkansas Code § 6-18-901(d)(2), concerning elementary and
10 secondary education maintenance of permanent student records under the
11 elementary and secondary education school laws, is amended to read as
12 follows:

13 (2) Upon request by the Division of Youth Services of the
14 Department of Human Services, a copy of the education record, as defined by
15 ~~regulations~~ rules promulgated by the Department of Education, shall be
16 transmitted to the division within ten (10) school days.

17
18 SECTION 262. Arkansas Code § 6-18-1302(1)(E), concerning the
19 definition of "personal identifying information" under the Parental
20 Authorization of Questionnaires Act, is amended to read as follows:

21 (E) Any information, the disclosure of which is regulated
22 or prohibited by any other state law, state rule, ~~or~~ federal law, or federal
23 regulation;

24
25 SECTION 263. Arkansas Code § 6-18-1302(4)(B)(i), concerning the
26 definition of "questionnaire or survey" under the Parental Authorization of
27 Questionnaires Act, is amended to read as follows:

28 (i) Tests mandated by state law, state rule, ~~or~~
29 federal law, or federal regulation; or

30
31 SECTION 264. Arkansas Code § 6-18-1503(a), concerning standardized
32 forms for eye and vision screening under the elementary and secondary
33 education school laws, is amended to read as follows:

34 (a) Standardized forms for eye and vision screening reports shall be
35 developed by the Department of Education in conjunction with the Arkansas
36 Commission on Eye and Vision Care of School-Age Children and adopted by the

1 department in ~~regulations~~ rules promulgated under the Arkansas Administrative
2 Procedure Act, § 25-15-201 et seq.

3
4 SECTION 265. Arkansas Code § 6-18-1504 is amended to read as follows:
5 6-18-1504. Training.

6 The Department of Education, in conjunction with the Arkansas
7 Commission on Eye and Vision Care of School-Age Children, shall adopt
8 ~~regulations~~ rules that establish standards for training school nurses to
9 perform eye and vision screenings.

10
11 SECTION 266. Arkansas Code § 6-18-1904(c)(2), concerning general
12 provisions for the transfer of a student under the Public School Choice Act
13 of 2015, is amended to read as follows:

14 (2) A present or future sibling of a student who continues
15 enrollment in the nonresident district under this subsection and applies for
16 a school choice transfer under § 6-18-1905 may enroll in the nonresident
17 district if the district has the capacity to accept the sibling without
18 adding teachers, staff, or classrooms or exceeding the regulation, rules, or
19 ~~and~~ standards established by law.

20
21 SECTION 267. Arkansas Code § 6-19-104 is amended to read as follows:
22 6-19-104. Bus drivers generally.

23 Drivers or operators of school buses shall comply with all laws, rules,
24 and regulations pertaining to school bus drivers or operators not in conflict
25 with the provisions of §§ 6-19-101, 6-19-103, 6-19-105 [repealed], and 6-19-
26 106.

27
28 SECTION 268. Arkansas Code § 6-19-111 is amended to read as follows:
29 6-19-111. Bus ~~regulations~~ rules – Design and operation.

30 (a) The Commission for Arkansas Public School Academic Facilities and
31 Transportation shall adopt and enforce ~~regulations~~ rules to govern the design
32 and operation of all school buses used for the transportation of school
33 children when the buses are owned and operated by a school district or
34 privately owned and operated under contract with a school district in this
35 state.

36 (b) Such ~~regulations~~ rules shall by reference be made a part of any

1 contract with a school district.

2 (c) Every school district, its officers and employees, and every
3 person employed under contract by a school district shall be subject to the
4 ~~regulations~~ rules.

5 (d) Any officer or employee of any school district who violates any of
6 the ~~regulations~~ rules or fails to include an obligation to comply with the
7 ~~regulations~~ rules in any contract executed by him or her on behalf of a
8 school district shall be guilty of misconduct and subject to removal from
9 office or employment.

10 (e) Any person operating a school bus under contract with a school
11 district who fails to comply with any such ~~regulations~~ rules shall be guilty
12 of breach of contract, and the contract shall be cancelled after notice by
13 the responsible officers of the school district.

14
15 SECTION 269. Arkansas Code § 6-19-114(a), concerning the purchase of
16 school buses under the Public School Choice Act of 2015, is amended to read
17 as follows:

18 (a) School buses purchased with loans from the Revolving Loan Fund
19 must meet the prescribed minimum standards, laws, rules, and regulations for
20 school buses and must be owned and operated by the district purchasing them.

21
22 SECTION 270. Arkansas Code § 6-19-116(b), concerning the use of bus
23 mirrors, is amended to read as follows:

24 (b) The Division of Public School Academic Facilities and
25 Transportation is authorized to adopt appropriate rules ~~and regulations~~ as it
26 deems necessary to carry out the intent and purposes of this section.

27
28 SECTION 271. Arkansas Code § 6-20-104(c), concerning reimbursement for
29 educational services provided in juvenile detention facilities, is amended to
30 read as follows:

31 (c) The department shall issue ~~regulations~~ rules for the effective
32 implementation of this section, including:

33 (1) The classification of juvenile detention centers as approved
34 residential treatment facilities;

35 (2) The designation of the juvenile detention facility and the
36 district where the juvenile detention facility is located as responsible for

1 educating the student consistent with federal and state laws for any period
2 of time the student is being held in the facility; and

3 (3) The designation of the resident district of a student who is
4 being held in a juvenile detention facility as responsible for the timely
5 transfer of a student's educational records to the district where the
6 juvenile detention facility is located upon notification by the court of the
7 student's placement in a juvenile detention facility.

8
9 SECTION 272. Arkansas Code § 6-20-106 is amended to read as follows:
10 6-20-106. Amendment 74 rules ~~and regulations~~.

11 Due to pending public school finance litigation, before any rules ~~and~~
12 ~~regulations~~ pursuant to the implementation of Arkansas Constitution,
13 Amendment 74, are reviewed by the Administrative Rules ~~and Regulations~~
14 Subcommittee of the Legislative Council and adopted by the Department of
15 Education, such proposed rules ~~and regulations~~ shall be reviewed by the
16 Litigation Reports Oversight Subcommittee of the Legislative Council.

17
18 SECTION 273. Arkansas Code § 6-20-402(c)(2), concerning limitation on
19 current indebtedness and postdated warrants and installment contracts of
20 public school districts under the elementary and secondary education school
21 laws, is amended to read as follows:

22 (2) The state board may promulgate rules ~~and regulations~~ as
23 necessary to implement subdivision (c)(1) of this section.

24
25 SECTION 274. Arkansas Code § 6-20-502(2), concerning the definition of
26 "child with disabilities" or "student with disabilities" as it relates to
27 funds for children with disabilities and foster children under the elementary
28 and secondary education school laws, is amended to read as follows:

29 (2) "Child with disabilities" or "student with disabilities"
30 means a person eligible to attend the public schools in this state who is
31 identified as disabled in accordance with ~~regulations~~ rules promulgated by
32 the State Board of Education under the Children With Disabilities Act of
33 1973, § 6-41-201 et seq.;

34
35 SECTION 275. Arkansas Code § 6-20-502(6), concerning the definition of
36 "sending district" as it relates to funds for children with disabilities and

1 foster children, is amended to read as follows:

2 (6) "Sending district" means the school district that is defined
3 by laws or ~~regulations~~ rules as being the school district of residence of the
4 school-age child; and

5
6 SECTION 276. Arkansas Code § 6-20-503 is amended to read as follows:

7 6-20-503. Rules ~~and regulations~~.

8 The State Board of Education shall adopt reasonable rules ~~and~~
9 ~~regulations~~ for the administration and enforcement of the provisions of this
10 subchapter and for the carrying out of the purposes and intent of this
11 subchapter that reasonable procedures be established to assure that funds
12 provided for the education of children living in foster homes and of children
13 with disabilities, as defined in this subchapter, in this state shall be
14 equitably and fairly shared by the school districts having the lawful
15 responsibility for the education of such children in this state.

16
17 SECTION 277. Arkansas Code § 6-20-505(b)(1), concerning a receiving
18 district's request for funds received on behalf of children with disabilities
19 under the elementary and secondary education school laws, is amended to read
20 as follows:

21 (1) The child is a child with disabilities as defined in this
22 subchapter and the applicable rules ~~and regulations~~ promulgated by the State
23 Board of Education, as provided in this subchapter;

24
25 SECTION 278. Arkansas Code § 6-20-505(b)(4), concerning a receiving
26 district's request for funds received on behalf of children with disabilities
27 under the elementary and secondary education school laws, is amended to read
28 as follows:

29 (4) The request for attendance at the receiving district is not
30 based upon any racial or other reason that might be contrary to the laws and
31 regulations of the United States or of this state or the rules ~~and~~
32 ~~regulations~~ promulgated by the state board under the provisions of this
33 subchapter.

34
35 SECTION 279. Arkansas Code § 6-20-507(b)(1)(D), concerning children
36 with disabilities and hearings before a hearing officer under the elementary

1 and secondary education school laws, is amended to read as follows:

2 (D) The request for attendance at the receiving district
3 is not based upon any racial or other reason that might be contrary to the
4 laws, rules, and regulations of the United States or of this state or the
5 rules ~~and regulations~~ promulgated by the state board under the provisions of
6 this subchapter.

7
8 SECTION 280. Arkansas Code § 6-20-601(b)(3), concerning qualifications
9 for receiving local school district isolated funding under the elementary and
10 secondary education school laws, is amended to read as follows:

11 (3) The school district and each school within the school
12 district meets the minimum standards for accreditation of public schools
13 prescribed by law and ~~regulation~~ rule.

14
15 SECTION 281. Arkansas Code § 6-20-702(a), concerning the
16 administration by the State Board of Education of school lunch programs under
17 the elementary and secondary education school laws, is amended to read as
18 follows:

19 (a) The State Board of Education may enter into such agreements with
20 any agency of the federal government, with any school district, or with any
21 other agency or person and may prescribe such ~~regulations~~ rules, employ such
22 personnel, and take such other action as it may deem necessary to provide for
23 the establishment, maintenance, operation, and expansion of any school lunch
24 program and to direct the disbursement of federal and state funds, in
25 accordance with any applicable provisions of federal or state law.

26
27 SECTION 282. Arkansas Code § 6-20-704(a), concerning the regulation
28 and supervision of accounts, records, and operations of school lunch programs
29 by the State Board of Education under the elementary and secondary education
30 school laws, is amended to read as follows:

31 (a) The State Board of Education shall prescribe ~~regulations~~ rules for
32 the keeping of accounts and records and the making of reports by or under the
33 supervision of school districts.

34
35 SECTION 283. Arkansas Code § 6-20-811(f), concerning the State Board
36 of Education, the Revolving Loan Program, the delivery of obligations, and

1 the drawing, and receipt of warrants under the elementary and secondary
2 education school laws, is amended to read as follows:

3 (f) The state board shall have authority to adopt rules ~~and~~
4 ~~regulations~~ necessary to implement this section.

5
6 SECTION 284. Arkansas Code § 6-20-814(c), concerning the a school
7 district's default or threatened default of payment from the Revolving Loan
8 Program under the elementary and secondary education school laws, is amended
9 to read as follows:

10 (c) Under such rules ~~and regulations~~ as shall be established by the
11 Chief Fiscal Officer of the State, all maturities of principal and interest,
12 as and when due, may be withheld from any such apportionments when mutually
13 agreeable to the commissioner and the board of directors of the debtor school
14 district.

15
16 SECTION 285. Arkansas Code § 6-20-1204(g), concerning the form of
17 school bonds under the elementary and secondary education school laws, is
18 amended to read as follows:

19 (g) The State Board of Education may promulgate the rules ~~and~~
20 ~~regulations~~ necessary to administer this section.

21
22 SECTION 286. Arkansas Code § 6-20-1205(b) and (c), concerning the
23 submission of a statement prior to issuing bonds by a school district board
24 under the elementary and secondary education school laws, are amended to read
25 as follows:

26 (b) In addition to other reasons for disapproval of a bond issue
27 provided under law or by ~~regulation~~ rule, neither the state board nor the
28 commissioner shall approve the sale of bonds for the purposes described in §
29 6-20-1201 if that sale would cause an increase in the millage levy without a
30 vote of the electors of that school district.

31 (c) The Department of Education is authorized to adopt procedural
32 rules ~~and regulations~~ to enforce the provisions of this section.

33
34 SECTION 287. Arkansas Code § 6-20-1216(a), concerning the authority to
35 use refunding bonds by a school district under the elementary and secondary
36 education school laws, is amended to read as follows:

1 (a) Any school district of Arkansas shall have the right, subject to
2 procedural rules ~~and regulations~~ adopted by the Department of Education, to
3 refund its bonds outstanding at any time. Any department rule ~~or regulation~~
4 that would prevent or delay a school district from refunding outstanding
5 bonds may be waived by the Commissioner of Education or the commissioner's
6 designee provided that the commissioner or the commissioner's designee
7 determines that it is in the best interest of the school district to proceed
8 with the refunding immediately.

9
10 SECTION 288. Arkansas Code § 6-20-1223(a)(3), concerning refunding
11 bonds of school districts and issuance without election under the elementary
12 and secondary education school laws, is amended to read as follows:

13 (3) The issue has been approved by the Commissioner of Education
14 or the commissioner's designee subject to Department of Education rules ~~and~~
15 ~~regulations~~.

16
17 SECTION 289. Arkansas Code § 6-20-1503(1), concerning the State
18 Insurance Department's powers and duties regarding insurance for public
19 elementary and secondary schools under the Public Elementary and Secondary
20 School Insurance Act, is amended to read as follows:

21 (1) Adopt such rules ~~and regulations~~ as may be necessary to
22 provide for the insuring of public elementary and secondary school, education
23 service cooperative, and open-enrollment public charter school property
24 within the State of Arkansas;

25
26 SECTION 290. Arkansas Code § 6-20-1507(d), concerning the premium rate
27 and payment for the Public Elementary and Secondary School Insurance Program
28 under the Public Elementary and Secondary School Insurance Act, is amended to
29 read as follows:

30 (d) Rules ~~and regulations~~ of the department shall include such items
31 as payment of premiums and other pertinent items with reference to the
32 premium rate, but the rules ~~and regulations~~ shall not be more stringent than
33 practices of commercial companies writing similar insurance in Arkansas.

34
35 SECTION 291. Arkansas Code § 6-20-1801(a)(1), concerning the filing of
36 audit reports under the elementary and secondary education school laws, is

1 amended to read as follows:

2 (a)(1) Unless a shorter period is prescribed by law or ~~regulation~~
3 rule, all school districts' annual audits not conducted by Arkansas
4 Legislative Audit shall be completed and filed with the Department of
5 Education and Arkansas Legislative Audit within nine (9) months following the
6 end of each fiscal year.

7
8 SECTION 292. Arkansas Code § 6-20-1803(b), concerning questionable
9 audit reports received by the Department of Education under the elementary
10 and secondary education school laws, is amended to read as follows:

11 (b) The board shall review all audit reports and working papers filed
12 with the board under this subchapter. The board shall determine whether the
13 report is in general conformity with applicable professional standards and
14 state laws and ~~regulations~~ rules and shall take appropriate action.

15
16 SECTION 293. Arkansas Code § 6-20-1804(c)(2), concerning the
17 Department of Education list of ineligible accountants under the elementary
18 and secondary education school laws, is amended to read as follows:

19 (2) If the Quality Review Committee of the Arkansas State Board
20 of Public Accountancy reports to the department and the Legislative Joint
21 Auditing Committee that a school district audit report shows evidence of lack
22 of general conformity with applicable professional standards or state laws
23 and ~~regulations~~ rules or evidence that the report is substandard or seriously
24 questionable; or

25
26 SECTION 294. Arkansas Code § 6-20-1805(a) and (b), concerning State
27 Board of Education training requirements for bookkeepers under the elementary
28 and secondary education school laws, are amended to read as follows:

29 (a) The State Board of Education shall establish by rules ~~or~~
30 ~~regulations~~ appropriate training and continuing education requirements for
31 individuals whose job responsibilities include preparing a budget or
32 classifying, recording, or reporting receipts or expenditures of a school or
33 school district.

34 (b) The state board shall establish rules ~~or regulations~~ to assure the
35 proficiency of school employees or other individuals to properly classify,
36 record, and report the fiscal transactions of schools or school districts.

1
2 SECTION 295. Arkansas Code § 6-20-1903(5), concerning the definition
3 of "fiscal integrity" within the Arkansas Fiscal Assessment and
4 Accountability Program under the elementary and secondary education school
5 laws, is amended to read as follows:

6 (5) "Fiscal integrity" means to comply with financial
7 management, accounting, auditing, and reporting procedures and facilities
8 management procedures as required by state laws and rules and federal laws
9 and regulations in a forthright and timely manner;

10
11 SECTION 296. Arkansas Code § 6-20-1911 is amended to read as follows:
12 6-20-1911. Rules ~~and regulations~~.

13 (a) The Department of Education shall promulgate rules ~~and regulations~~
14 as necessary to identify, evaluate, assist, and address school districts in
15 fiscal distress.

16 (b) The department may promulgate rules ~~and regulations~~ as necessary
17 to administer this subchapter.

18
19 SECTION 297. Arkansas Code § 6-20-2204(f), concerning required
20 training in the Arkansas Educational Financial Accounting and Reporting Act
21 of 2004, is amended to read as follows:

22 (f) The state board is authorized to promulgate rules ~~and regulations~~
23 consistent with the provisions of this section.

24
25 SECTION 298. Arkansas Code § 6-20-2304(a), concerning access to
26 information on legislation related to the Public School Funding Act of 2003,
27 is amended to read as follows:

28 (a) The State Board of Education shall have the authority, acting
29 pursuant to its rulemaking powers, to adopt ~~regulations~~ rules for the
30 implementation of the provisions of this subchapter.

31
32 SECTION 299. Arkansas Code § 6-20-2305(f)(3), concerning school
33 funding under the Public School Funding Act of 2003, is amended to read as
34 follows:

35 (3) The school district shall maintain proper financial records
36 in accordance with the state's school accounting manual and ~~regulations~~ rules

1 promulgated by the State Board of Education;

2
3 SECTION 300. Arkansas Code § 6-20-2305(f)(5)(B), concerning school
4 funding under the Public School Funding Act of 2003, is amended to read as
5 follows:

6 (B) The records shall be kept according to law and
7 ~~regulations~~ rules on paper or electronic forms either furnished or approved
8 by the Department of Education.

9
10 SECTION 301. Arkansas Code § 6-21-110(e), concerning rules governing
11 disposition of school property under the elementary and secondary education
12 school laws, is amended to read as follows:

13 (e) The State Board of Education shall establish rules ~~and regulations~~
14 consistent with the provisions of this section regarding the disposition of
15 public property by public educational entities.

16
17 SECTION 302. Arkansas Code § 6-21-404(a)(1), concerning the duties of
18 the State Board of Education under the Free Textbook Act of 1975, is amended
19 to read as follows:

20 (1) Make rules ~~and regulations~~ to implement this subchapter;

21
22 SECTION 303. Arkansas Code § 6-21-409(a), concerning the State Board
23 of Education assessment of damages for a publisher's failure to comply under
24 the Free Textbook Act of 1975, is amended to read as follows:

25 (a) The State Board of Education is authorized to assess any publisher
26 any amount of damages to the State of Arkansas for failure to comply with the
27 terms of this subchapter or any published ~~regulation~~ rule of the state board,
28 provided that the publisher has been given a hearing before the state board
29 regarding the assessment of damages.

30
31 SECTION 304. Arkansas Code § 6-21-702(b), concerning the purpose of
32 the School Motor Vehicle Insurance Act, is amended to read as follows:

33 (b) The State Insurance Department shall adopt such rules ~~and~~
34 ~~regulations~~ as may be necessary to provide for the insuring of motor vehicles
35 owned by participating public school districts within the State of Arkansas.

36

1 SECTION 305. Arkansas Code § 6-21-709(e), concerning payment of
2 claims, subrogation, premium rate, and excess insurance under the Public
3 School Motor Vehicle Insurance Act, is amended to read as follows:

4 (e) The department's rules ~~and regulations~~ shall include such items as
5 payment of premium and other pertinent items with reference to the premium
6 rate, but its requirements shall not be more stringent than practices of
7 commercial companies writing similar insurance in Arkansas.

8
9 SECTION 306. Arkansas Code § 6-21-811(g)(5), concerning the academic
10 facilities distress program under the Arkansas Public School Academic
11 Facilities Program Act, is amended to read as follows:

12 (5) Waive the application of Arkansas law or the corresponding
13 State Board of Education rules ~~and regulations~~, with the exception of:

14 (A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et
15 seq.; and

16 (B) The Public School Employee Fair Hearing Act, § 6-17-
17 1701 et seq.;

18
19 SECTION 307. Arkansas Code § 6-22-103(2) and (3), concerning the
20 definitions of "interscholastic activity" and "registered volunteer" under
21 the Arkansas Registered Volunteers Program Act, are amended to read as
22 follows:

23 (2) "Interscholastic activity" means any interschool activity
24 that is outside the regular curriculum, including, but not limited to, sports
25 and special interest clubs or groups which are subject to ~~regulations~~ rules
26 of the Arkansas Activities Association;

27 (3) "Registered volunteer" means any volunteer who, subject to
28 Arkansas Activities Association ~~regulations and rules~~ and rules set by the
29 local school district, is given written authorization by the school district
30 to lead extracurricular activities or to assist a staff member who is a
31 licensed employee of the school district in extracurricular activities or
32 interscholastic activities; and

33
34 SECTION 308. Arkansas Code § 6-23-105(a)(3), concerning the basis and
35 procedure for public charter school probation or charter modification,
36 revocation, or denial of renewal under the Arkansas Quality Charter Schools

1 Act of 2013, is amended to read as follows:

2 (3) Failed to comply with this chapter or other applicable law
3 or ~~regulation~~ rule; or

4
5 SECTION 309. Arkansas Code § 6-23-201(b)(6), concerning the
6 application for conversion to public charter school status under the Arkansas
7 Quality Charter Schools Act of 2013, is amended to read as follows:

8 (6) List the specific provisions of this title and the specific
9 rules ~~and regulations~~ promulgated by the state board from which the
10 conversion public charter school will be exempt.

11
12 SECTION 310. Arkansas Code § 6-23-206 is amended to read as follows:
13 6-23-206. Rules ~~and regulations~~.

14 The State Board of Education is authorized and directed to establish
15 rules ~~and regulations~~ for conversion public charter schools.

16
17 SECTION 311. Arkansas Code § 6-23-302(c)(4), concerning the
18 application for open-enrollment public charter school under the Arkansas
19 Quality Charter Schools Act of 2013, is amended to read as follows:

20 (4) List the specific provisions of this title and the specific
21 rules ~~and regulations~~ promulgated by the state board from which the open-
22 enrollment public charter school seeks to be exempted;

23
24 SECTION 312. Arkansas Code § 6-23-309 is amended to read as follows:
25 6-23-309. Rules ~~and regulations~~.

26 The State Board of Education is authorized to promulgate rules ~~and~~
27 ~~regulations~~ for the creation of open-enrollment public charter schools.

28
29 SECTION 313. The introductory language of Arkansas Code § 6-23-401(b),
30 concerning the authority under a charter for open-enrollment public charter
31 schools under the Arkansas Quality Charter Schools Act of 2013, is amended to
32 read as follows:

33 (b) An open-enrollment public charter school is subject to any
34 prohibition, restriction, or requirement imposed by this title and any rule
35 ~~and regulation~~ promulgated by the State Board of Education under this title
36 relating to:

1
2 SECTION 314. Arkansas Code § 6-23-507 is amended to read as follows:
3 6-23-507. Rules ~~and regulations~~.

4 The State Board of Education shall have the authority to promulgate
5 rules ~~and regulations~~ in accordance with other state and federal statutes
6 and regulations to implement this subchapter and § 6-23-402.

7
8 SECTION 315. Arkansas Code § 6-24-104(b), concerning ethical
9 guidelines and prohibitions under the elementary and secondary education
10 school laws, is amended to read as follows:

11 (b) While serving as a board member, administrator, or employee, an
12 individual shall not accept employment, contract, or engage in any public or
13 professional activity that a reasonable person would expect might require or
14 induce him or her to disclose any information acquired by the member by
15 reason of his or her official position that is declared by law or ~~regulation~~
16 rule to be confidential.

17
18 SECTION 316. Arkansas Code § 6-24-112(d), concerning gratuities and
19 kickbacks under the elementary and secondary education school laws, is
20 amended to read as follows:

21 (d) The State Board of Education shall issue specific rules ~~and~~
22 ~~regulations~~ regarding educational or work-related travel, conventions,
23 seminars, and other benefits provided by vendors.

24
25 SECTION 317. Arkansas Code § 6-24-119 is amended to read as follows:
26 6-24-119. Rules ~~and regulations~~.

27 In order to administer the provisions of this chapter, the State Board
28 of Education shall adopt rules ~~and regulations~~ consistent with the provisions
29 and intent of this chapter.

30
31 SECTION 318. Arkansas Code § 6-41-207(c), concerning the duties of the
32 State Board of Education under the Children with Disabilities Act of 1973, is
33 amended to read as follows:

34 (c) The board shall make the necessary rules ~~and regulations~~ in
35 keeping with the provisions of this subchapter and shall employ the necessary
36 personnel for the proper administration of this subchapter if funds are made

1 available for this purpose.

2

3 SECTION 319. Arkansas Code § 6-41-207(e), concerning the duties of the
4 State Board of Education under the Children with Disabilities Act of 1973, is
5 amended to read as follows:

6 (e) The board, in keeping with federal requirements, is designated as
7 the agency having general educational supervision over public agencies which
8 provide educational services to children with disabilities as defined in this
9 subchapter to ensure that each public agency complies with state rules and
10 federal regulations pursuant to the education of children with disabilities.

11

12 SECTION 320. Arkansas Code § 6-41-207(f)(1), concerning the duties of
13 the State Board of Education under the Children with Disabilities Act of
14 1973, is amended to read as follows:

15 (f)(1) The board, in compliance with federal enforcement requirements,
16 is authorized to disallow the generation of all state aid to children with
17 disabilities to any local school district or education service cooperative
18 that fails to comply with state rules and federal regulations, as determined
19 by independent hearing officers, agency hearing decisions, agency complaint
20 investigation decisions, agency compliance monitoring reports, or agency
21 jurisdictional decisions.

22

23 SECTION 321. Arkansas Code § 6-41-211(g)(2), concerning the Advisory
24 Council for the Education of Children with Disabilities under the Children
25 with Disabilities Act of 1973, is amended to read as follows:

26 (2) Comment publicly on any rules ~~or regulations~~ proposed by the
27 state regarding the education of children with disabilities;

28

29 SECTION 322. Arkansas Code § 6-41-215(b), concerning tests and
30 examinations and evaluation of children under the Children with Disabilities
31 Act of 1973, is amended to read as follows:

32 (b) The tests and examinations shall be administered in accordance
33 with rules ~~and regulations~~ of the State Board of Education.

34

35 SECTION 323. Arkansas Code § 6-41-216(c)(1), concerning tests and
36 evaluations, hearings and the change of a child's status under the Children

1 with Disabilities Act of 1973, is amended to read as follows:

2 (c)(1) The board shall prescribe rules ~~and regulations~~ governing
3 hearings and appeals.

4
5 SECTION 324. Arkansas Code § 6-41-903(b)(7), concerning the Succeed
6 Scholarship Program and private school eligibility under the special
7 educational programs laws, is amended to read as follows:

8 (7) Complies with all state laws and ~~regulations~~ rules governing
9 private schools; and

10
11 SECTION 325. Arkansas Code § 6-42-102 is amended to read as follows:
12 6-42-102. Rules ~~and regulations~~ – Reports.

13 The State Board of Education shall have the authority to promulgate
14 such rules ~~and regulations~~ and require such reports as it deems advisable.

15
16 SECTION 326. Arkansas Code § 6-42-104(h)(1), concerning the Advisory
17 Council for the Education of Gifted and Talented Children under the special
18 educational programs laws, is amended to read as follows:

19 (1) Have an opportunity to comment on rules ~~and regulations~~
20 proposed for issuance pursuant to this subchapter;

21
22 SECTION 327. Arkansas Code § 6-42-106(a)(1), concerning the funding
23 and eligibility of gifted and talented programs under the special educational
24 programs laws, is amended to read as follows:

25 (a)(1) Appropriations made by the General Assembly to the Public
26 School Fund for the purposes of this subchapter shall be disbursed by the
27 Department of Education in accordance with ~~regulations~~ rules promulgated by
28 the State Board of Education.

29
30 SECTION 328. Arkansas Code § 6-43-106(e), concerning out-of\ - state
31 facilities for deaf and blind children under the special educational programs
32 laws, is amended to read as follows:

33 (e) The school is authorized to promulgate such rules ~~and regulations~~
34 as it deems necessary and proper for carrying out the purposes and intent of
35 this section.

36

1 SECTION 329. Arkansas Code § 6-43-108(a)(1), concerning the removal of
2 pupils from the Arkansas School for the Blind and the Arkansas School for the
3 Deaf under the special educational programs laws, is amended to read as
4 follows:

5 (a)(1) Whenever it shall be deemed necessary by the proper officers of
6 either of the schools, in accordance with the bylaws and ~~regulations~~ rules
7 thereof, to have pupils removed, either temporarily on account of ill health
8 or the vacation of the school, or permanently on account of having completed
9 their course of instruction or having been found disqualified, from any
10 cause, for a longer continuance in the school, the parents, or guardians, if
11 they have any, of such pupils shall promptly remove them upon the requirement
12 of the officers.

13
14 SECTION 330. Arkansas Code § 6-43-203 is amended to read as follows:

15 6-43-203. ~~Regulations~~ Rules.

16 The Board of Trustees of the Arkansas School for the Blind shall make
17 all ~~regulations~~ rules necessary for the government of the institution not
18 otherwise provided by law, and it shall incorporate the ~~regulations~~ rules in
19 the next report it makes after the promulgation of the ~~regulations~~ rules to
20 the General Assembly.

21
22 SECTION 331. Arkansas Code § 6-43-317(a)(2), concerning boarding and
23 lodging of students of the Arkansas School for the Deaf under the special
24 educational programs laws, is amended to read as follows:

25 (2) He or she shall receive into the school other hearing-
26 impaired persons according to such ~~regulations~~ rules as the Board of Trustees
27 of the Arkansas School for the Deaf may prescribe.

28
29 SECTION 332. Arkansas Code § 6-45-105(b), concerning establishment of
30 the Arkansas Better Chance Program under the Arkansas Better Change Program
31 Act, is amended to read as follows:

32 (b) The programmatic standards and other rules ~~and regulations~~
33 necessary for the implementation of the Arkansas Better Chance Program shall
34 be adopted by the State Board of Education in accordance with the provisions
35 of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

36

1 SECTION 333. Arkansas Code § 6-46-302(a), concerning administration
2 and rules of the Arkansas High Technology Training Center under the special
3 educational programs laws, is amended to read as follows:

4 (a) The Department of Career Education shall supervise the Arkansas
5 High Technology Training Center and is hereby authorized and empowered to
6 promulgate rules ~~and regulations~~ that may be necessary to carry out the
7 provisions of this chapter.

8
9 SECTION 334. Arkansas Code § 6-47-201(b), concerning administration in
10 elementary schools of distance learning under the special educational
11 programs laws, is amended to read as follows:

12 (b) The department shall promulgate rules ~~and regulations~~ establishing
13 appropriate adult supervision.

14
15 SECTION 335. Arkansas Code § 6-47-405 is amended to read as follows:
16 6-47-405. Rules ~~and regulations~~.

17 The State Board of Education shall promulgate rules ~~and regulations~~
18 necessary for the implementation of this subchapter.

19
20 SECTION 336. Arkansas Code § 6-50-203(1), concerning administration of
21 the Arkansas Technical Careers Student Loan Forgiveness Program under the
22 vocational and technical education laws, is amended to read as follows:

23 (1) To adopt rules ~~and regulations~~ for the administration of the
24 program consistent with the provisions of this subchapter;

25
26 SECTION 337. Arkansas Code § 6-50-206(a)(3), concerning the initial
27 certification of eligibility for the Arkansas Technical Careers Student Loan
28 Forgiveness Program by the State Board of Career Education under the
29 vocational and technical education laws, is amended to read as follows:

30 (3) Have a grade point average as required in the rules ~~and~~
31 ~~regulations~~ for administration of this loan forgiveness program for the
32 specified technical field; and

33
34 SECTION 338. Arkansas Code § 6-50-207(b)(1), concerning the amount of
35 loan forgiveness under the Arkansas Technical Careers Student Loan
36 Forgiveness Program under the vocational and technical education laws, is

1 amended to read as follows:

2 (1) Four (4) years for a bachelor's degree or its equivalent as
3 determined by rules ~~and regulations~~;

4
5 SECTION 339. Arkansas Code § 6-50-207(c), concerning the amount of
6 loan forgiveness under the Arkansas Technical Careers Student Loan
7 Forgiveness Program under the vocational and technical education laws, is
8 amended to read as follows:

9 (c) With input from the Department of Higher Education and other
10 appropriate entities, the State Board of Career Education shall establish
11 through rules ~~and regulations~~ loan forgiveness amounts for approved technical
12 education programs for students enrolled on a less than full-time basis.

13
14 SECTION 340. Arkansas Code § 6-50-505(a), concerning waiver of
15 regulations, articulation agreements and duties of State Board of Career
16 Education under the Arkansas Youth Apprenticeship/Work-Based Learning Act of
17 1991, is amended to read as follows:

18 (a) The State Board of Career Education may provide waivers of
19 ~~regulations~~ rules adopted by the Department of Career Education when waivers
20 are necessary to accomplish the purposes of this subchapter so long as the
21 waivers will not weaken the quality of the educational opportunities
22 provided.

23
24 SECTION 341. Arkansas Code § 6-50-505(c), concerning waiver of
25 regulations, articulation agreements and duties of State Board of Career
26 Education under the Arkansas Youth Apprenticeship/Work-Based Learning Act of
27 1991, is amended to read as follows:

28 (c) The board is authorized to promulgate rules ~~and regulations~~ for
29 the implementation of the program established by this subchapter.

30
31 SECTION 342. Arkansas Code § 6-50-704(b)(8), concerning rules and
32 regulations for the Arkansas Existing Workforce Training Act of 1995, is
33 amended to read as follows:

34 (8) Neither grant funds nor tax credits shall be used to support
35 any training that is mandated by any state law, state rule, ~~or~~ federal law,
36 or federal regulation.

1
2 SECTION 343. Arkansas Code § 6-51-203(d), concerning determining
3 vocational and technical school location and establishing courses of
4 instruction under the vocational and technical education laws, is amended to
5 read as follows:

6 (d) The Arkansas Higher Education Coordinating Board and the State
7 Board of Career Education shall promulgate rules ~~and regulations~~ for
8 implementation of the provisions of this section in accordance with the
9 accreditation standards of the receiving institutions.

10
11 SECTION 344. Arkansas Code § 6-51-205(c), concerning board
12 responsibility for vocational and technical school operation, personnel and
13 equipment under the vocational and technical education laws, is amended to
14 read as follows:

15 (c) All laws governing the employment of personnel of the department,
16 including such matters as leave ~~regulations~~ rules and teacher retirement
17 membership, shall apply to employees of all vocational-technical and adult
18 education schools.

19
20 SECTION 345. Arkansas Code § 6-51-209(b), concerning accident
21 insurance for students under the vocational and technical education laws, is
22 amended to read as follows:

23 (b) Such purchases shall follow regular state purchasing procedures
24 and ~~regulations~~ rules.

25
26 SECTION 346. Arkansas Code § 6-51-213(b)(7), concerning administration
27 of certain federal and state vocational education laws, is amended to read as
28 follows:

29 (7) Establish and determine by general ~~regulations~~ rules the
30 qualifications to be possessed by persons engaged in the training of
31 vocational teachers.

32
33 SECTION 347. Arkansas Code § 6-51-213(c)(2), concerning administration
34 of certain federal and state vocational education laws, is amended to read as
35 follows:

36 (2) The director shall also carry into effect rules ~~and~~

1 ~~regulations~~ as the board may require.

2
3 SECTION 348. Arkansas Code § 6-51-305(a)(1), concerning financing of
4 vocational centers under the vocational and technical education laws, is
5 amended to read as follows:

6 (a)(1) Vocational centers shall be financed with a combination of
7 training fees from schools sending students and vocational center aid from
8 the Public School Fund according to rules ~~and regulations~~ promulgated by the
9 State Board of Career Education.

10
11 SECTION 349. Arkansas Code § 6-51-401(g), concerning the course of
12 instruction for the plumbing program set up by the Department of Career
13 Education under the vocational and technical education laws, is amended to
14 read as follows:

15 (g) The course of instruction shall be in compliance with the
16 appropriate rules ~~and regulations~~ and shall provide the level of instruction
17 provided by rules of the board in cooperation with local plumbing training
18 committees.

19
20 SECTION 350. Arkansas Code § 6-51-505 is amended to read as follows:

21 6-51-505. Applicability of state purchasing law ~~and regulations~~.

22 All building materials, supplies, and fixtures used in the construction
23 of a dwelling unit or other building project as authorized in this subchapter
24 shall be purchased by the school:

25 (1) If the school is a technical institute, in accordance with
26 the state purchasing law ~~and regulations~~ rules; and

27 (2) If the school is a secondary area technical center, in
28 accordance with the purchasing laws and ~~regulations~~ rules governing its
29 administrative sponsor.

30
31 SECTION 351. Arkansas Code § 6-51-701(d), concerning establishment of
32 the Associate of Applied Science Degree in Nursing Program under the
33 vocational and technical education laws, is amended to read as follows:

34 (d)(1) The State Board of Career Education is authorized to promulgate
35 rules ~~and regulations~~ necessary to implement this subchapter.

36 (2) The rules ~~and regulations~~ shall comply with the Arkansas

1 Administrative Procedure Act, § 25-15-201 et seq.

2
3 SECTION 352. Arkansas Code § 6-51-904(c), concerning duties of the
4 local board for technical institutes for postsecondary vocational and
5 technical education under the vocational and technical education laws, is
6 amended to read as follows:

7 (c) The local board may make rules ~~and regulations~~ not inconsistent
8 with the provisions of this subchapter or inconsistent with the rules ~~and~~
9 ~~regulations~~ of the state board as are necessary for the proper administration
10 and operation of the institution.

11
12 SECTION 353. Arkansas Code § 6-53-210(b), concerning transfers to
13 system after July 1, 1991, under the Two-Year Postsecondary Education
14 Reorganization Act of 1991, is amended to read as follows:

15 (b) Upon completion of the transfer to the system, the institution
16 shall be subject to the same laws, procedures, and rules, ~~and regulations~~ as
17 all other institutions under the jurisdiction of the board.

18
19 SECTION 354. Arkansas Code § 6-53-302(h), concerning local
20 administration of technical colleges under the Two-Year Postsecondary
21 Education Reorganization Act of 1991, is amended to read as follows:

22 (h) The local board may make rules ~~and regulations~~ not inconsistent
23 with the provisions of this chapter or inconsistent with the rules ~~and~~
24 ~~regulations~~ of the state board as are necessary for the proper administration
25 and operation of the technical college.

26
27 SECTION 355. Arkansas Code § 6-53-503(a), concerning applications for
28 grants for tech-prep education under the Two-Year Postsecondary Education
29 Reorganization Act of 1991, is amended to read as follows:

30 (a) Each consortium that desires to receive a grant under this
31 subchapter shall submit an application to the director or the state board, as
32 appropriate, at such time and in such manner as the state board shall
33 prescribe through rule ~~or regulation~~.

34
35 SECTION 356. Arkansas Code § 6-55-106(b), concerning the permit
36 surcharge to fund The Arkansas Construction Industry Craft Training Program

1 under the Arkansas Construction Industry Craft Training Act, is amended to
2 read as follows:

3 (b) The office of the political subdivision issuing the permit shall
4 be responsible for collecting the surcharge and remitting it monthly to the
5 Department of Finance and Administration under such rules ~~and regulations~~ as
6 the Chief Fiscal Officer of the State may prescribe for the collection,
7 enforcement, and administration of the proceeds of the surcharge and shall
8 retain five percent (5%) of each permit surcharge collected for the cost of
9 administration.

10

11 SECTION 357. Arkansas Code § 6-55-107(b)(3), concerning the Arkansas
12 Construction Industry Craft Training Trust Fund under The Arkansas
13 Construction Industry Craft Training Act and apprenticeship program
14 requirements, is amended to read as follows:

15 (3) A training strategy with requirements that are clearly
16 delineated in federal ~~and state~~ laws and regulations, and state laws and
17 rules;

18

19 SECTION 358. Arkansas Code § 6-58-104(b)(2), concerning the effect of
20 the merger on employees of Quapaw Technical Institute or Garland County
21 Community College under the vocational and technical education laws, is
22 amended to read as follows:

23 (2) The Board of Trustees of National Park College shall
24 promulgate rules ~~and regulations~~ establishing the procedure for employees to
25 exercise benefit options under this subsection.

26

27 SECTION 359. Arkansas Code § 6-59-104(b)(2), concerning effect of
28 merger of Cotton Boll Technical Institute and Arkansas Northeastern College
29 on employees under the vocational and technical education laws, is amended to
30 read as follows:

31 (2) The Board of Trustees of Arkansas Northeastern College shall
32 promulgate rules ~~and regulations~~ establishing the procedure for employees to
33 exercise equal benefit options under this subsection.

34

35 SECTION 360. Arkansas Code § 6-60-102(e), concerning consolidations
36 and mergers of public higher education resources under the postsecondary and

1 higher education laws, is amended to read as follows:

2 (e) The board, in consultation with the public colleges and
3 universities, is authorized to develop policies, and rules, ~~and regulations~~
4 to implement the provisions of this section.

5
6 SECTION 361. Arkansas Code § 6-60-104(e), concerning social media
7 accounts of current and prospective students or employees under the
8 postsecondary and higher education laws, is amended to read as follows:

9 (e) Nothing in this section prevents an institution of higher
10 education from complying with the requirements of federal laws or
11 regulations, or state laws, or rules, ~~or regulations~~.

12
13 SECTION 362. Arkansas Code § 6-60-201(a), concerning regulation of
14 admission and enrollment of out-of-state students under the postsecondary and
15 higher education laws, is amended to read as follows:

16 (a) The board of trustees of each educational institution of higher
17 learning supported, in whole or in part, by the State of Arkansas, shall have
18 the right to adopt rules ~~and regulations~~ for the admission and enrollment of
19 students in the respective institutions of higher learning under the control
20 of such board, expressly including the right to refuse admission and
21 enrollment to any person who comes to the State of Arkansas solely for the
22 purpose of securing admission, enrollment, and educational advantages at the
23 expense of the State of Arkansas.

24
25 SECTION 363. Arkansas Code § 6-60-211(b), concerning tuition waivers
26 and assistance for Arkansas National Guard soldiers and airmen under the
27 postsecondary and higher education laws, is amended to read as follows:

28 (b)(1) The Adjutant General of Arkansas shall establish and publish
29 ~~regulations~~ rules for the eligibility and implementation of tuition
30 assistance programs sponsored by the armed services.

31 (2) The Adjutant General's ~~regulations~~ rules shall conform to
32 the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

33 (3) The Adjutant General shall provide each postsecondary
34 institution of higher learning located in the State of Arkansas a copy of the
35 ~~regulations~~ rules within thirty (30) days after publication.

36

1 SECTION 364. Arkansas Code § 6-60-503(a), concerning enforcement rules
2 regarding immunization under the postsecondary and higher education laws, is
3 amended to read as follows:

4 (a) The State Board of Health is empowered to promulgate rules ~~and~~
5 ~~regulations~~ for the proper enforcement of the provisions of this subchapter,
6 including, but not limited to, the authority to examine records and conduct
7 investigations to assure compliance.

8
9 SECTION 365. Arkansas Code § 6-60-504(b)(2)(A) and (B), concerning
10 physical disabilities and religious objections under the postsecondary and
11 higher education laws, are amended to read as follows:

12 (2)(A) The individual shall complete an annual application
13 process developed in the rules ~~and regulations~~ of the department for medical,
14 religious, and philosophical exemptions.

15 (B) The rules ~~and regulations~~ developed by the department
16 for medical, religious, and philosophical exemptions shall include, but not
17 be limited to:

18 (i) A notarized statement requesting a religious,
19 philosophical, or medical exemption from the department by the individual
20 regarding the objection;

21 (ii) Completion of an educational component
22 developed by the department that includes information on the risks and
23 benefits of vaccination;

24 (iii) An informed consent from the individual that
25 shall include a signed statement of refusal to vaccinate based on the
26 department's refusal-to-vaccinate form; and

27 (iv) A signed statement of understanding that:

28 (a) At the discretion of the department, the
29 unimmunized child or individual may be removed from day care or school during
30 an outbreak if the child or individual is not fully vaccinated; and

31 (b) The child or individual shall not return
32 to school until the outbreak has been resolved and the department approves
33 the return to school.

34
35 SECTION 366. Arkansas Code § 6-61-220(d), concerning retention and
36 graduation rate information for the Arkansas Higher Education Coordinating

1 Board under the postsecondary and higher education laws, is amended to read
2 as follows:

3 (d) The board is hereby authorized to promulgate rules ~~and regulations~~
4 consistent with the intent and purpose of this section.

5
6 SECTION 367. Arkansas Code § 6-61-222(a)(4), concerning uniform
7 reporting standards of the Arkansas Higher Education Coordinating Board under
8 the postsecondary and higher education laws, is amended to read as follows:

9 (4) The board is authorized to promulgate any rules ~~or~~
10 ~~regulations~~ necessary for the implementation of this section and shall report
11 to the House Committee on Education and the Senate Committee on Education the
12 failure of an institution to comply with the provisions of this section.

13
14 SECTION 368. Arkansas Code § 6-61-301(d)(5), concerning incorporation
15 of postsecondary institutions under the postsecondary and higher education
16 laws, is amended to read as follows:

17 (5) The Arkansas Higher Education Coordinating Board shall have
18 the power, after giving thirty (30) days' notice in writing to the trustees
19 to show cause why such action should not be taken, to revoke any
20 certification issued by the Arkansas Higher Education Coordinating Board
21 whenever the Arkansas Higher Education Coordinating Board shall find, after
22 proper investigation, that the institution is conferring degrees or diplomas
23 without requiring sufficient work therefor or is in violation of any of the
24 provisions of the laws of this state or the ~~regulations~~ rules of the Arkansas
25 Higher Education Coordinating Board relative thereto.

26
27 SECTION 369. Arkansas Code § 6-61-303(b), concerning expansion of
28 institutions of postsecondary institutions under the postsecondary and higher
29 education laws, is amended to read as follows:

30 (b)(1) The board is authorized to promulgate and adopt reasonable
31 rules, ~~regulations~~, criteria, guidelines, and standards to be followed by the
32 respective state-supported institutions of higher learning and to be applied
33 by the board with respect to the planning, establishment, location, or
34 development of any branch campus of the existing state-supported institutions
35 of higher learning or community colleges.

36 (2) The standards, rules, ~~regulations~~, criteria, and guidelines

1 shall be developed and approved after public hearings held by the board in
2 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
3 seq.

4 (3) Upon the development and adoption thereof, the standards,
5 rules, ~~regulations~~, criteria, and guidelines shall be followed by the board
6 in reviewing, rejecting, or approving the establishment and location of all
7 future branch campuses of existing state-supported institutions of higher
8 learning or community colleges.

9
10 SECTION 370. Arkansas Code § 6-61-303(c)(2), concerning expansion of
11 institutions of postsecondary institutions under the postsecondary and higher
12 education laws, is amended to read as follows:

13 (2) The board shall review the application in accordance with
14 the standards, rules ~~and regulations~~, criteria, and guidelines promulgated by
15 the board and may grant the application only if the establishment of a branch
16 campus is within these guidelines and standards.

17
18 SECTION 371. Arkansas Code § 6-61-401(b)(2), concerning the State
19 Student Incentive Grant Program under the postsecondary and higher education
20 laws, is amended to read as follows:

21 (2) Specifically, but without limiting any other authority,
22 powers, or duties as assigned in this section, the board is authorized,
23 empowered, and directed to operate the State Student Incentive Grant Program
24 and to make and cancel grants to individual students according to rules ~~and~~
25 ~~regulations~~ of the board.

26
27 SECTION 372. Arkansas Code § 6-61-521(13), concerning the powers and
28 duties of local boards of community colleges under the postsecondary and
29 higher education laws, is amended to read as follows:

30 (13) To make rules ~~and regulations~~ not inconsistent with the
31 provisions of this section, §§ 6-61-101 – 6-61-103, 6-61-201 – 6-61-209, 6-
32 61-212 – 6-61-216, 6-61-301 – 6-61-305, 6-61-401, 6-61-402, 6-61-501 – 6-61-
33 520, 6-61-522 – 6-61-524, and 6-61-601 – 6-61-603 or with the rules ~~and~~
34 ~~regulations~~ of the Arkansas Higher Education Coordinating Board as are
35 necessary for the proper administration and operation of the community
36 college; and

1
2 SECTION 373. Arkansas Code § 6-62-105(d), concerning private borrowing
3 by institutions of higher education under the postsecondary and higher
4 education laws, is amended to read as follows:

5 (d) The Chief Fiscal Officer of the State shall promulgate rules ~~and~~
6 ~~regulations~~ necessary for the implementation of this section.

7
8 SECTION 374. Arkansas Code § 6-62-311 is amended to read as follows:

9 6-62-311. Rents, tolls, fees, etc. – Rules ~~and regulations~~ authorized.

10 The board of trustees is further authorized and empowered to fix the
11 rents, tolls, fees, other charges, activity fees, and gate receipts of
12 athletic contests and to make and to enforce the rules ~~and regulations~~ with
13 reference to or in connection with any building or structure authorized to be
14 constructed, reconstructed, enlarged, repaired, or equipped and with
15 reference to the use thereof as the board may deem desirable for the welfare
16 of the institution or its student body.

17
18 SECTION 375. Arkansas Code § 6-62-312(c)(2), concerning valid
19 outstanding obligations, refinancing or refunding cancellation of financing
20 for state-supported institutions of higher education under the postsecondary
21 and higher education laws, is amended to read as follows:

22 (2) If the obligations to be refunded are redeemable before
23 maturity and have been duly called for payment in accordance with their
24 terms, the refunding obligations may be executed and deposited with an escrow
25 agent designated by the board, which escrow agent shall be a bank or trust
26 company whose trust funds are secured in the manner provided by the ~~national~~
27 federal laws or regulations, or state banking laws and ~~regulations~~ rules
28 thereunder, under an agreement with the escrow agent to deliver them to the
29 purchaser on payment of the purchase price in full and in cash at least five
30 (5) days before the redemption date of the obligations called and to remit
31 promptly the proceeds to the paying agent of the outstanding obligations for
32 payment thereof, provided that the board shall deposit with the escrow agent
33 for delivery also to the paying agent any additional funds required to make
34 payment in full of the principal of and interest on and paying agent's fees
35 of the bonds so called for redemption. When the outstanding bonds have been
36 paid, they shall be cancelled and destroyed.

1
2 SECTION 376. Arkansas Code § 6-62-705(b), concerning power and duties
3 of the Arkansas Development Finance Authority and the Arkansas Higher
4 Education Coordinating Board under the Arkansas College Savings Bond Act of
5 1989, is amended to read as follows:

6 (b) The state board and the authority are authorized to promulgate
7 rules ~~and regulations~~ with respect to their powers and duties pursuant to
8 this subchapter.

9
10 SECTION 377. Arkansas Code § 6-62-726(a), concerning rules for the
11 appropriation for college savings bonds under the Arkansas College Savings
12 Bond Act of 1989, is amended to read as follows:

13 (a) The Department of Higher Education or other agency to which the
14 appropriation for college savings bonds is provided shall adopt rules ~~and~~
15 ~~regulations~~ for the allocation of the funds reappropriated for the
16 development of projects at state institutions of higher education and the
17 payment of project costs and expenses of the issuance of the bonds under this
18 subchapter in order to ensure that funds are allocated and expended in a
19 manner consistent with the applicable provisions of the Internal Revenue
20 Code, 26 U.S.C. § 1 et seq.

21
22 SECTION 378. Arkansas Code § 6-62-806(a), concerning rules for
23 nondiscriminatory application in athletic programs under the postsecondary
24 and higher education laws, is amended to read as follows:

25 (a) The Arkansas Higher Education Coordinating Board is authorized to
26 promulgate any rules ~~or regulations~~ necessary for the implementation of this
27 subchapter.

28
29 SECTION 379. Arkansas Code § 6-62-1003(b)(3), concerning private,
30 municipal or self-funded coverage for workers' compensation insurance under
31 the postsecondary and higher education laws, is amended to read as follows:

32 (3) Any self-funding group of participating public institutions
33 of higher education shall be subject to the ~~regulations~~ rules of the
34 commission applicable to self-insured groups or providers;

35
36 SECTION 380. Arkansas Code § 6-63-602(f), concerning the

1 administration of the catastrophic leave bank program under the postsecondary
2 and higher education laws, is amended to read as follows:

3 (f) The Director of the Department of Finance and Administration or
4 his or her designee shall promulgate necessary rules ~~and regulations~~ as
5 deemed necessary to carry out the provisions of this section.

6
7 SECTION 381. Arkansas Code § 6-64-104(b), concerning radio broadcasts
8 of football and basketball games of the University of Arkansas under the
9 postsecondary and higher education laws, is amended to read as follows:

10 (b) However, no discrimination shall be made against any licensed
11 radio broadcasting station in this state with respect to the access to and
12 the rights to radio broadcast football or basketball games in accordance with
13 a schedule of fees, standards, rules, and regulations promulgated by the
14 department making these broadcasts accessible and available to each Arkansas
15 radio broadcasting station that desires to broadcast these games.

16
17 SECTION 382. Arkansas Code § 6-64-203 is amended to read as follows:

18 6-64-203. Rules ~~and regulations~~.

19 The Board of Trustees of the University of Arkansas shall have power to
20 prescribe all rules ~~and regulations~~ for the government and discipline of the
21 University of Arkansas, subject to the provisions of this subchapter and such
22 other acts of the General Assembly as may be prescribed.

23
24 SECTION 383. Arkansas Code § 6-64-405(d), concerning University of
25 Arkansas College of Medicine Admissions Board under the postsecondary and
26 higher education laws, is amended to read as follows:

27 (d) The University of Arkansas College of Medicine Admissions Board
28 shall promulgate reasonable rules ~~and regulations~~ necessary to the fair and
29 competitive selection of freshmen medical students with due consideration
30 being given scholastic standings, recommendations of the premedical advisory
31 committees of the various schools where the applicants pursue their
32 premedical studies, their performance on the Medical College Admission Test,
33 and any other procedures that can be developed that would deal fairly with
34 the applicant group as a whole.

35
36 SECTION 384. Arkansas Code § 6-64-411(b), concerning establishment of

1 the School of Dental Hygiene under the postsecondary and higher education
2 laws, is amended to read as follows:

3 (b) The board shall establish rules ~~and regulations~~ governing
4 admissions to the University of Arkansas School of Dental Hygiene, programs
5 of instruction therein, and the qualifications and requirements for a degree
6 or certificate. However, rules ~~and regulations~~ for admissions, courses or
7 programs of clinical instruction, and degrees or certificates for graduation
8 therefrom shall be in accordance with the standards established by the
9 recognized national accreditation association of dental hygiene schools or
10 programs.

11
12
13 SECTION 385. Arkansas Code § 6-65-106 is amended to read as follows:

14 6-65-106. Labor at schools performed by students.

15 All work in, on, and about schools, or on the farms, or on or in the
16 barns connected with the schools, whether it is farming, building, care of
17 stock, or whatever kind of work, shall be performed by students of each
18 school under such ~~regulations~~ rules for the proper divisions and alterations
19 in the work as may be provided by the trustees.

20
21 SECTION 386. Arkansas Code § 6-65-213 is amended to read as follows:

22 6-65-213. ASU-Beebe – Labor performed by students.

23 All work in, on, or about Arkansas State University-Beebe, or on the
24 farm, or on or in the barns or poultry yards connected with the university,
25 whether it is farming, building, care of stock, or work of whatsoever kind,
26 shall be performed by students of the university under such ~~regulations~~ rules
27 as the Board of Trustees of Arkansas State University may provide.

28
29 SECTION 387. Arkansas Code § 6-65-221 is amended to read as follows:

30 6-65-221. Arkansas State Technical Institute – Operations generally.

31 The chief administrative officer of the Arkansas State Technical
32 Institute shall be responsible to the Chancellor of Arkansas State
33 University-Beebe and the President of Arkansas State University and Board of
34 Trustees of Arkansas State University for the operation of the institute
35 within the rules, ~~regulations,~~ and procedures adopted by the board.

36

1 SECTION 388. Arkansas Code § 6-65-222 is amended to read as follows:
2 6-65-222. Arkansas State Technical Institute – Admissions, advanced
3 placement, etc.

4 The Board of Trustees of Arkansas State University, upon the
5 recommendation of the advisory council established in § 6-65-219 [repealed],
6 shall adopt rules, ~~regulations~~, procedures, and requirements for admission
7 to, and advanced placement and continuation in, the Arkansas State Technical
8 Institute.

9
10 SECTION 389. Arkansas Code § 6-65-303(b), concerning the Hot Springs
11 Branch of the Arkansas Tech University under the postsecondary and higher
12 education laws, is amended to read as follows:

13 (b) The board is authorized to establish appropriate rules ~~and~~
14 ~~regulations~~ for the operation of that campus.

15
16 SECTION 390. Arkansas Code § 6-65-404(b), concerning SAU-Tech under
17 the postsecondary and higher education laws, is amended to read as follows:

18 (b) The board, through the president, is authorized to establish
19 appropriate rules ~~and regulations~~ for the operation of SAU-Tech.

20
21 SECTION 391. Arkansas Code § 6-66-102(d)(4), concerning the powers and
22 duties of the Board of Trustees of Henderson State University under the
23 postsecondary and higher education laws, is amended to read as follows:

24 (4) Admission requirements shall be established by the board in
25 accordance with policies adopted by the board and consistent with the laws
26 and ~~regulations~~ rules of this state.

27
28 SECTION 392. Arkansas Code § 6-67-103(d)(4), concerning powers and
29 duties of the Board of Trustees of the University of Central Arkansas under
30 the postsecondary and higher education laws, is amended to read as follows:

31 (4) Admission requirements shall be established by the board, in
32 accordance with policies adopted by the board, consistent with the laws and
33 ~~regulations~~ rules of this state.

34
35 SECTION 393. Arkansas Code § 6-67-106 is amended to read as follows:
36 6-67-106. Model school.

1 The Board of Trustees of the University of Central Arkansas may provide
2 for the establishment of a model school for practice in connection with the
3 University of Central Arkansas and shall make the necessary ~~regulations~~ rules
4 for the government and support of the model school.

5
6 SECTION 394. Arkansas Code § 6-81-406 is amended to read as follows:

7 6-81-406. ~~Regulations~~ Rules as to repayment.

8 The Board of Trustees of the University of Arkansas shall establish
9 ~~regulations~~ rules regarding the manner and time of the repayment of the note.

10
11 SECTION 395. Arkansas Code § 6-81-603(a), concerning the
12 administration of the Teacher Opportunity Program under the postsecondary and
13 higher education laws, is amended to read as follows:

14 (a) The Teacher Opportunity Program shall be administered by the
15 Department of Higher Education, which shall have the authority to establish
16 necessary rules, ~~regulations~~, procedures, and selection criteria for the
17 administration of the program and to designate necessary forms and schedules.

18
19 SECTION 396. Arkansas Code § 6-81-1101(e)(3), concerning tuition
20 assistance for certain professional schools under the postsecondary and
21 higher education laws, is amended to read as follows:

22 (3) The department shall promulgate such rules ~~and regulations~~
23 as are necessary to implement the provisions of this section.

24
25 SECTION 397. The introductory language of Arkansas Code § 6-81-
26 1202(b)(1), concerning the Graduate Nurse Educator Loan and Scholarship Board
27 under the postsecondary and higher education laws, is amended to read as
28 follows:

29 (1) Promulgate reasonable rules ~~and regulations~~ as may be
30 necessary to execute the provisions of this subchapter, including ~~regulations~~
31 rules addressing:

32
33 SECTION 398. Arkansas Code § 6-81-1301(h)(2), concerning the
34 establishment of the University Assisted Teacher Recruitment and Retention
35 Grant Program within the Department of Higher Education under the
36 postsecondary and higher education laws, is amended to read as follows:

1 (2) The Department of Higher Education shall promulgate rules
2 ~~and regulations~~ necessary for the administration of the relocation expense
3 reimbursement component of the program.
4

5 SECTION 399. Arkansas Code § 6-82-103(b), concerning out-of-state
6 tuition waivers under the postsecondary and higher education laws, is amended
7 to read as follows:

8 (b) The part that is waived shall not be considered as an expenditure
9 by any ~~regulation~~ rule of the Arkansas Higher Education Coordinating Board.
10

11 SECTION 400. Arkansas Code § 6-82-105(2), concerning the authority of
12 the Department of Higher Education to administer all state college financial
13 assistance programs provided by legislation or by law under the postsecondary
14 and higher education laws, is amended to read as follows:

15 (2) Establish and consult, as necessary, an advisory committee
16 representing the private and public sectors of postsecondary education in
17 determining guidelines and ~~regulations~~ rules for administration of the
18 student financial aid programs, including, but not limited to, rules
19 determining academic ability, financial need, and residency;
20

21 SECTION 401. The introductory language of Arkansas Code § 6-82-307,
22 concerning the responsibilities of an applicant, is amended to read as
23 follows:

24 6-82-307. Applicant's responsibilities.

25 Each applicant shall, in accordance with the provisions of this
26 subchapter and the rules ~~and regulations~~ of the Department of Higher
27 Education:
28

29 SECTION 402. Arkansas Code § 6-82-308(b)(2), concerning the number of
30 scholarships awarded relative to the number of Arkansas Academic Challenge
31 Scholarship recipients under the postsecondary and higher education laws, is
32 amended to read as follows:

33 (2) Should a shortfall of funds be projected, the Department of
34 Higher Education shall promulgate rules for the priority funding of these
35 scholarships and submit these proposed rules to the Arkansas Higher Education
36 Coordinating Board for a public hearing and to the Administrative Rules ~~and~~

1 ~~Regulations~~ Subcommittee of the Legislative Council for review before
2 implementing the rules.

3
4 SECTION 403. Arkansas Code § 6-82-403(2), concerning the
5 administration of the Arkansas High Technology Scholarship Program under the
6 postsecondary and higher education laws, is amended to read as follows:

7 (2) To establish and consult as necessary with an advisory
8 committee representing the public and private sectors of postsecondary
9 education and secondary schools in determining guidelines and ~~regulations~~
10 rules for the administration of this program;

11
12 SECTION 404. The introductory language of Arkansas Code § 6-82-405,
13 concerning the responsibilities of an applicant, is amended to read as
14 follows:

15 6-82-405. Applicant's responsibilities.

16 Each applicant shall, in accordance with the provisions of this
17 subchapter and the rules ~~and regulations~~ of the Department of Career
18 Education:

19
20 SECTION 405. Arkansas Code § 6-82-502 is amended to read as follows:

21 6-82-502. Rules ~~and regulations~~.

22 The Arkansas Higher Education Coordinating Board is directed and
23 empowered to promulgate rules ~~and regulations~~ as necessary to administer
24 benefits awarded under this subchapter by the Arkansas State Claims
25 Commission.

26
27 SECTION 406. Arkansas Code § 6-82-601(c), concerning tuition waivers
28 for dependents of certain veterans under the postsecondary and higher
29 education laws, is amended to read as follows:

30 (c) The Arkansas Higher Education Coordinating Board and the State
31 Board of Education are directed, authorized, and empowered to promulgate and
32 adopt such rules ~~and regulations~~ as are necessary to implement the provisions
33 of this section.

34
35 SECTION 407. Arkansas Code § 6-82-1204(b), concerning administration
36 of the Arkansas Police Corps Planning Commission under the postsecondary and

1 higher education laws, is amended to read as follows:

2 (b) The commission shall have authority to promulgate rules ~~and~~
3 ~~regulations~~ necessary for the administration and operation of any such
4 program in the State of Arkansas.

5
6 SECTION 408. Arkansas Code § 6-82-1206(b)(1), concerning
7 administration of the Arkansas Police Corps Program under the postsecondary
8 and higher education laws, is amended to read as follows:

9 (b) The department may promulgate rules ~~and regulations~~ necessary for
10 the administration and operation of any such programs in the State of
11 Arkansas, including the creation of the Police Corps Advisory Group, which
12 shall:

13
14 SECTION 409. Arkansas Code § 6-82-1503(c)(1), concerning eligibility
15 and amount of scholarship under the Critical Needs Minority Teacher
16 Scholarship Program under the postsecondary and higher education laws, is
17 amended to read as follows:

18 (c)(1) The university is authorized to develop selection criteria
19 through program rules ~~and regulations~~ which combine an applicant's American
20 College Test or equivalent score and grade point average in the core
21 curriculum into a selection index.

22
23 SECTION 410. Arkansas Code § 6-82-1503(e)(3), concerning eligibility
24 and amount of scholarship under the Critical Needs Minority Teacher
25 Scholarship Program under the postsecondary and higher education laws, is
26 amended to read as follows:

27 (3) The maximum number of awards that may be made to students
28 attending school on a part-time basis and the maximum time period for part-
29 time students to complete the number of academic hours necessary to obtain a
30 baccalaureate degree in education shall be established by rules ~~and~~
31 ~~regulations~~ jointly promulgated by the university and the Department of
32 Higher Education.

33
34 SECTION 411. Arkansas Code § 6-82-1505(a), concerning the rules and
35 administration of the Critical Needs Minority Teacher Scholarship Program
36 under the postsecondary and higher education laws, is amended to read as

1 follows:

2 (a) The University of Arkansas at Pine Bluff and the Department of
3 Higher Education shall jointly promulgate rules ~~and regulations~~ necessary for
4 the proper administration of the Critical Needs Minority Teacher Scholarship
5 Program.

6

7 SECTION 412. Arkansas Code § 6-84-102 is amended to read as follows:
8 6-84-102. Purpose.

9 It is the intent and purpose of this chapter to create and establish
10 the Arkansas Tax-Deferred Tuition Savings Program pursuant to 26 U.S.C. §
11 529, as in effect on January 1, 2017, to be administered by the Section 529
12 Plan Review Committee through the adoption of rules ~~and regulations~~ for the
13 administration of the program.

14

15 SECTION 413. Arkansas Code § 6-84-105(b), concerning the
16 administration of the Arkansas Tax-Deferred Tuition Savings Program under the
17 postsecondary and higher education laws, is amended to read as follows:

18 (b) The committee shall adopt such rules ~~and regulations~~ as it deems
19 necessary and proper to administer this chapter and to ensure the compliance
20 of the Arkansas Tax-Deferred Tuition Savings Program with 26 U.S.C. § 529, as
21 in effect on January 1, 2017.

22

23 SECTION 414. Arkansas Code § 6-84-105(c)(2), concerning the
24 administration of the Arkansas Tax-Deferred Tuition Savings Program under the
25 postsecondary and higher education laws, is amended to read as follows:

26 (2) To adopt rules ~~and regulations~~ for the general
27 administration of the program;

28

29 SECTION 415. Arkansas Code § 6-84-109(a), concerning account
30 withdrawals from the Arkansas Tax-Deferred Tuition Savings Program under the
31 postsecondary and higher education laws, is amended to read as follows:

32 (a) Withdrawal from an account may be made on thirty (30) days'
33 written notice by the account owner to the Section 529 Plan Review Committee
34 or on shorter notice as the committee may by ~~regulation~~ rule provide.

35

36 SECTION 416. Arkansas Code § 7-4-112(b), concerning compensation of

1 election officials, is amended to read as follows:

2 (b) In addition, each election official carrying election materials to
3 and from the polling sites shall be allowed mileage at such rate as may be
4 appropriated but not to exceed the rate prescribed for state employees in
5 state travel ~~regulations~~ rules.

6
7 SECTION 417. Arkansas Code § 7-5-406(b)(1), concerning absentee voting
8 for members of uniformed services and other citizens residing outside the
9 United States, is amended to read as follows:

10 (b)(1) The ballot or ballots shall be transmitted according to state
11 laws or rules and federal laws, rules, and regulations.

12
13 SECTION 418. Arkansas Code § 7-5-406(b)(3)(B), concerning absentee
14 voting for members of uniformed services and other citizens residing outside
15 the United States, is amended to read as follows:

16 (B) Promptly notify each county clerk and each county
17 board of election commissioners of changes in relevant laws, rules, federal
18 regulations, or procedures.

19
20 SECTION 419. Arkansas Code § 7-5-406(b)(4), concerning absentee voting
21 for members of uniformed services and other citizens residing outside the
22 United States, is amended to read as follows:

23 (4) Notwithstanding any other provisions in this title, if
24 selected by any grantor, this state or any county in this state may
25 participate in a Federal Voting Assistance Program project which allows
26 members of the uniformed services and voters overseas to register to vote and
27 to vote in elections electronically, according to state laws and rules, and
28 federal laws, rules, and regulations, if funds are available.

29
30 SECTION 420. Arkansas Code § 7-5-805(b)(6), concerning the contest of
31 state legislative offices, is amended to read as follows:

32 (6) The commission is authorized to promulgate any rules ~~and~~
33 ~~regulations~~ necessary to carry out the provisions set forth herein regarding
34 contests for the seats in the House of Representatives.

35
36 SECTION 421. The introductory language of Arkansas Code § 7-6-222(a),

1 concerning campaign finance and tax credits for certain individual political
2 contributions resulting from Initiated Act 1 of 1996, is amended to read as
3 follows:

4 (a) Pursuant to ~~regulations~~ rules to be adopted by the Department of
5 Finance and Administration, a credit against individual Arkansas income taxes
6 shall be allowed for money contributions made by the taxpayer in a taxable
7 year to one (1) or more of the following:

8
9 SECTION 422. Arkansas Code § 8-1-102(7), concerning the definition of
10 "modification fee" for permits authorized by the Arkansas Pollution Control
11 and Ecology Commission, is amended to read as follows:

12 (7) "Modification fee" means the fee required to be submitted by
13 this chapter for modification of any existing or future permit required by
14 the statutes enumerated in subdivision (6) of this section, either at the
15 request of the permittee or as required by the laws of the State of Arkansas
16 or the rules ~~and regulations~~ of the department.

17
18 SECTION 423. Arkansas Code § 8-1-103(1)(A), concerning the powers and
19 duties of the Arkansas Department of Environmental Quality and the Arkansas
20 Pollution Control and Ecology Commission, is amended to read as follows:

21 (1)(A) Following a public hearing and based upon a record
22 calculating the reasonable administrative costs of evaluating and taking
23 action on permit applications and of implementing and enforcing the terms and
24 conditions of permits and variances, the commission shall establish, by
25 ~~regulation~~ rule, reasonable fees for initial issuance, annual review, and
26 modification of water, air, or solid waste permits required by §§ 8-4-101 –
27 8-4-106, 8-4-201 – 8-4-229, 8-4-301 – 8-4-314, 8-6-201 – 8-6-212, 8-6-213
28 [repealed], 8-6-214, 8-6-215 – 8-6-217 [superseded], and 8-9-403. These fees
29 shall consist of initial fees, annual review fees, and modification fees, as
30 defined in § 8-1-102.

31
32 SECTION 424. Arkansas Code § 8-1-103(2)(A)-(C), concerning the powers
33 and duties of the Arkansas Department of Environmental Quality and the
34 Arkansas Pollution Control and Ecology Commission, are amended to read as
35 follows:

36 (2)(A) The ~~regulations~~ rules shall provide that the fees shall

1 be assessed on a per-facility basis for the following categories of permits:

- 2 (i) Air;
3 (ii) Water; and
4 (iii) Solid waste.

5 (B) All annual fees for air permits issued under the state
6 implementation plan or the ~~regulations~~ rules promulgated pursuant to the
7 Clean Air Act shall be assessed in accordance with the Clean Air Act.

8 (C) The ~~regulations~~ rules may include a provision for
9 appropriate adjustments in the fees to reflect carryover fee collections in
10 excess of the administrative costs of issuance, renewal, inspection,
11 modification, and monitoring associated with these permits.

12
13 SECTION 425. Arkansas Code § 8-1-103(3), concerning the powers and
14 duties of the Arkansas Department of Environmental Quality and the Arkansas
15 Pollution Control and Ecology Commission, is amended to read as follows:

16 (3) The department shall collect the permit fees as established
17 by the commission and shall deny the issuance of an initial permit, a renewal
18 permit, or a modification permit if and when any facility subject to control
19 by the department fails or refuses to pay the fees after reasonable notice as
20 established by the ~~regulations~~ rules promulgated under this chapter;

21
22 SECTION 426. Arkansas Code § 8-1-103(5), concerning the powers and
23 duties of the Arkansas Department of Environmental Quality and the Arkansas
24 Pollution Control and Ecology Commission, is amended to read as follows:

25 (5) The department is hereby authorized to promulgate such rules
26 ~~and regulations~~ necessary to administer the fees, rates, tolls, or charges
27 for services established by this section and is directed to prescribe and
28 collect such fees, rates, tolls, or charges for the services delivered by the
29 department in such manner as may be necessary to support the programs of the
30 department as directed by the Governor and the General Assembly.

31
32 SECTION 427. Arkansas Code § 8-1-104 is amended to read as follows:

33 8-1-104. Existing rules ~~and regulations~~.

34 All existing rules ~~and regulations~~ of the Arkansas Department of
35 Environmental Quality not inconsistent with the provisions of this chapter
36 relating to subjects embraced within this chapter shall remain in full force

1 and effect until expressly repealed, amended, or superseded if the rules ~~and~~
2 ~~regulations~~ do not conflict with the provisions of this chapter.

3
4 SECTION 428. Arkansas Code § 8-1-105(c), concerning the fee trust fund
5 of the Arkansas Department of Environmental Quality, is amended to read as
6 follows:

7 (c) The department is hereby authorized to promulgate such rules ~~and~~
8 ~~regulations~~ as are necessary to administer the fees, rates, tolls, or charges
9 for services established by this section and is directed to prescribe and
10 collect such fees, rates, tolls, or charges for the services delivered by the
11 department in such manner as may be necessary to support the programs of the
12 department as directed by the Governor and the General Assembly.

13
14 SECTION 429. Arkansas Code § 8-1-106(a)(1)(D), concerning the
15 definition of "affiliated person" under the rules adopted by the Arkansas
16 Pollution Control and Ecology Commission related to disclosure statements,
17 denials of application, and appeals, is amended to read as follows:

18 (D) Any person who is not now in compliance or has a
19 history of noncompliance with the environmental laws, rules, or regulations
20 of this state or any other jurisdiction and who through relationship by
21 affinity or consanguinity or through any other relationship could be
22 reasonably expected to significantly influence the applicant in a manner that
23 could adversely affect the environment;

24
25 SECTION 430. Arkansas Code § 8-1-106(a)(2)(D), concerning the
26 definition of "disclosure statement" under the rules adopted by the Arkansas
27 Pollution Control and Ecology Commission related to disclosure statements,
28 denials of application, and appeals, is amended to read as follows:

29 (D) A listing and explanation of any civil or criminal
30 legal actions by government agencies involving environmental protection laws,
31 rules, or regulations against the applicant and affiliated persons in the ten
32 (10) years immediately preceding the filing of the application, including
33 administrative enforcement actions resulting in the imposition of sanctions,
34 permit or license revocations or denials issued by any state or federal
35 authority, actions that have resulted in a finding or a settlement of a
36 violation, and actions that are pending;

1
2 SECTION 431. Arkansas Code § 8-1-106(b)(6), concerning the rules
3 adopted by the Arkansas Pollution Control and Ecology Commission related to
4 disclosure statements, denials of application, and appeals, is amended to
5 read as follows:

6 (6) The commission may adopt ~~regulations~~ rules exempting certain
7 permits, licenses, certifications, or operational authorizations from the
8 disclosure requirements and establish reasonable and appropriate disclosure
9 information, if any, required for specific types of permits, licenses,
10 certifications, or operational authorizations based on:

11 (A) The scope of a permit, license, certification, or
12 operational authorization; and

13 (B) The person or entity that would receive a permit,
14 license, certification, or operational authorization.

15
16 SECTION 432. Arkansas Code § 8-1-106(c), concerning the rules adopted
17 by the Arkansas Pollution Control and Ecology Commission related to
18 disclosure statements, denials of application, and appeals, is amended to
19 read as follows:

20 (c) The director may deny the issuance or transfer of any permit,
21 license, certification, or operational authority if he or she finds, based
22 upon the disclosure statement and other investigation which he or she deems
23 appropriate, that:

24 (1) The applicant has a history of noncompliance with the
25 environmental ~~laws,~~ rules, or regulations of this state or any other
26 jurisdiction;

27 (2) An applicant that owns or operates other facilities in the
28 state is not in substantial compliance with, or on a legally enforceable
29 schedule that will result in compliance with, the environmental laws or
30 ~~regulations~~ rules of this state; or

31 (3) A person with a history of noncompliance with the
32 environmental ~~laws,~~ rules, or regulations of this state or any other
33 jurisdiction is affiliated with the applicant to the extent of being capable
34 of significantly influencing the practices or operations of the applicant
35 that could have an impact upon the environment.

36

1 SECTION 433. Arkansas Code § 8-1-106(f), concerning the rules adopted
2 by the Arkansas Pollution Control and Ecology Commission related to
3 disclosure statements, denials of application, and appeals, is amended to
4 read as follows:

5 (f) The commission shall adopt ~~regulations~~ rules necessary to
6 implement this section.

7
8 SECTION 434. Arkansas Code § 8-1-107(b)(4)(A), concerning the
9 definition of "probable cause" during inspections and investigations under
10 the authority of the Arkansas Department of Environmental Quality, is amended
11 to read as follows:

12 (4)(A) "Probable cause" means showing that an administrative
13 search limited in scope is necessary to ensure compliance with or enforcement
14 of laws, rules, federal regulations, or orders charged to the department for
15 implementation.

16
17 SECTION 435. Arkansas Code § 8-1-107(d)(1), concerning administrative
18 warrants, inspections, and investigations under the authority of the Arkansas
19 Department of Environmental Quality, is amended to read as follows:

20 (1) Any judicial officer otherwise authorized to issue search
21 warrants within his or her jurisdiction may, upon proper oath or affirmation
22 showing probable cause as defined by this section, issue warrants for the
23 purpose of conducting administrative inspections authorized by any law, rule,
24 or federal regulation administered by the department;

25
26 SECTION 436. Arkansas Code § 8-1-202(b)(2)(B)(i), concerning the
27 powers of the Director of the Arkansas Department of Environmental Quality,
28 is amended to read as follows:

29 (B)(i) Initiation and settlement of civil or
30 administrative enforcement actions to compel compliance with laws, orders,
31 rules, and federal regulations charged to the responsibility of the
32 department.

33
34 SECTION 437. Arkansas Code § 8-1-203(b)(1)(A) and (B), concerning the
35 powers and responsibilities of the Arkansas Pollution Control and Ecology
36 Commission, are amended to read as follows:

1 (1)(A) Promulgation of rules ~~and regulations~~ implementing the
2 substantive statutes charged to the Arkansas Department of Environmental
3 Quality for administration.

4 (B) In promulgation of such rules ~~and regulations~~, prior
5 to the submittal to public comment and review of any rule, ~~regulation~~, or
6 change to any rule ~~or regulation~~ that is more stringent than the federal
7 requirements, the commission shall duly consider the economic impact and the
8 environmental benefit of such rule ~~or regulation~~ on the people of the State
9 of Arkansas, including those entities that will be subject to the ~~regulation~~
10 rule.

11
12 SECTION 438. Arkansas Code § 8-1-203(b)(1)(E), concerning the powers
13 and responsibilities of the Arkansas Pollution Control and Ecology
14 Commission, is amended to read as follows:

15 (E) Upon completion of the public comment period, the
16 commission shall compile a rulemaking record or response to comments
17 demonstrating a reasoned evaluation of the relative impact and benefits of
18 the more stringent ~~regulation~~ rule;

19
20 SECTION 439. Arkansas Code § 8-1-203(b)(2) and (3), concerning the
21 powers and responsibilities of the Arkansas Pollution Control and Ecology
22 Commission, are amended to read as follows:

23 (2) Promulgation of rules, ~~regulations~~, and procedures not
24 otherwise governed by applicable law that the commission deems necessary to
25 secure public participation in environmental decision-making processes;

26 (3) Promulgation of rules ~~and regulations~~ governing
27 administrative procedures for challenging or contesting department actions;

28
29 SECTION 440. Arkansas Code § 8-1-206(a)(1), concerning the definition
30 of "environmental laws" under the voluntary environmental stewardship
31 program, is amended to read as follows:

32 (1) "Environmental laws" means this title and any rules,
33 ~~regulations~~, permits, and orders adopted or issued under this title;

34
35 SECTION 441. Arkansas Code § 8-1-307(a)(3)(B), concerning disclosure
36 of environmental audit reports in civil or administrative proceedings, is

1 amended to read as follows:

2 (B) Any rule ~~or regulation~~ adopted by the Arkansas
3 Pollution Control and Ecology Commission; or

4

5 SECTION 442. Arkansas Code § 8-2-204(a)(2), concerning the powers and
6 duties of the Arkansas Department of Environmental Quality, is amended to
7 read as follows:

8 (2) To enforce the provisions of this subchapter and all laws,
9 rules, and federal regulations relating to the program and to environmental
10 testing;

11

12 SECTION 443. Arkansas Code § 8-2-204(b), concerning the powers and
13 duties of the Arkansas Pollution Control and Ecology Commission, is amended
14 to read as follows:

15 (b) The Arkansas Pollution Control and Ecology Commission shall have
16 the following powers and duties under this subchapter:

17 (1) To establish by ~~regulation~~ rule reasonable fees for the
18 accreditation procedures under this subchapter and to cover the expenses of
19 administering the program; and

20 (2) To promulgate necessary ~~regulations~~ rules to effect the
21 purpose and administration of the program, including without limitation,
22 provisions governing accreditation, modification, and renewal of
23 accreditation and reaccreditation after revocation.

24

25 SECTION 444. Arkansas Code § 8-2-205 is amended to read as follows:

26 8-2-205. Procedure for issuance of rules ~~or regulations~~, appeals,
27 hearings, etc.

28 (a) Any person that violates any provision of this chapter or of any
29 rule, ~~regulation~~, or order issued pursuant to this chapter or that commits an
30 unlawful act under this chapter shall be subject to the same penalty and
31 enforcement provisions as are contained in the Arkansas Water and Air
32 Pollution Control Act, § 8-4-101 et seq.

33 (b) Except as otherwise provided in this chapter, the procedure of the
34 Arkansas Pollution Control and Ecology Commission for issuance of any rules
35 ~~and regulations~~, conduct of hearings, notice, review of actions on
36 certificates, right of appeal, presumptions, finality of actions, and related

1 matters shall be as provided in Part I of the Arkansas Water and Air
2 Pollution Control Act, §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, including,
3 without limitation, §§ 8-4-202, 8-4-205 – 8-4-210, 8-4-212 – 8-4-214, and 8-
4 4-218 – 8-4-229.

5
6 SECTION 445. Arkansas Code § 8-3-201(b)(1), concerning the regulation
7 of emissions from existing fossil-fuel-fired electric generating units, is
8 amended to read as follows:

9 (1) Before the submission of a state plan to the United States
10 Environmental Protection Agency, the ~~regulations~~ rules of the Arkansas
11 Pollution Control and Ecology Commission that implement the state plan are
12 reviewed and approved by the General Assembly through the Legislative Council
13 consistent with Arkansas Constitution, Article 5, § 42, and any laws
14 promulgated pursuant to Arkansas Constitution, Article 5, § 42; and
15

16 SECTION 446. Arkansas Code § 8-3-205(a), concerning the assessment of
17 effects of implementing a state plan for regulating emissions from covered
18 electric generating units, is amended to read as follows:

19 (a) Before preparing a petition to initiate rulemaking for the
20 development of ~~regulations~~ rules implementing a state plan for regulating
21 carbon dioxide emissions from covered electric generating units, the Arkansas
22 Department of Environmental Quality shall prepare a report that takes into
23 account the factors specified in § 8-4-312 and the Clean Air Act, 42 U.S.C. §
24 7401 et seq., as applicable.
25

26 SECTION 447. Arkansas Code § 8-3-205(c), concerning the assessment of
27 effects of implementing a state plan for regulating emissions from covered
28 electric generating units, is amended to read as follows:

29 (c) The reports required by this section shall be included with any
30 petition filed by the department to initiate rulemaking for ~~regulations~~ rules
31 that implement a state plan for regulating carbon dioxide emissions from
32 covered electric generating units.
33

34 SECTION 448. Arkansas Code § 8-3-207(e), concerning the procedures for
35 approval of state plan for regulating emissions from covered electric
36 generating units, is amended to read as follows:

1 (e) This subchapter does not eliminate the requirement of legislative
2 approval of rules ~~and regulations~~ promulgated to implement or enforce the
3 state plan subsequently to gubernatorial action under subsection (d) of this
4 section.

5
6 SECTION 449. Arkansas Code § 8-4-103(a)(1)(A), concerning criminal,
7 civil, and administrative penalties for violations of rules or orders of the
8 Arkansas Pollution Control and Ecology Commission or the Arkansas Department
9 of Environmental Quality, is amended to read as follows:

10 (1)(A) Any person that violates any provision of this chapter,
11 that commits any unlawful act under it, or that violates any rule,
12 ~~regulation,~~ or order of the Arkansas Pollution Control and Ecology Commission
13 or the Arkansas Department of Environmental Quality shall be guilty of a
14 misdemeanor.

15
16 SECTION 450. Arkansas Code § 8-4-103(a)(2)(A)(i), concerning criminal,
17 civil, and administrative penalties for violations of rules or orders of the
18 Arkansas Pollution Control and Ecology Commission or the Arkansas Department
19 of Environmental Quality, is amended to read as follows:

20 (i) Violate any provision of this chapter, commit
21 any unlawful act under it, or violate any rule, ~~regulation,~~ or order of the
22 commission or department and leave the state or remove his or her person from
23 the jurisdiction of this state;

24
25 SECTION 451. Arkansas Code § 8-4-103(b)(1), concerning criminal,
26 civil, and administrative penalties for violations of rules or orders of the
27 Arkansas Pollution Control and Ecology Commission or the Arkansas Department
28 of Environmental Quality, is amended to read as follows:

29
30 (1) Restrain any violation of or compel compliance with the
31 provisions of this chapter and of any rules, ~~regulations,~~ orders, permits, or
32 plans issued pursuant to this chapter;

33
34 SECTION 452. Arkansas Code § 8-4-103(b)(4), concerning criminal,
35 civil, and administrative penalties for violations of rules or orders of the
36 Arkansas Pollution Control and Ecology Commission or the Arkansas Department

1 of Environmental Quality, is amended to read as follows:

2 (4) Assess civil penalties in an amount not to exceed ten
3 thousand dollars (\$10,000) per day for violations of this chapter and of any
4 rules, ~~regulations~~, permits, or plans issued pursuant to this chapter; or
5

6 SECTION 453. Arkansas Code § 8-4-103(c)(1)(A), concerning criminal,
7 civil, and administrative penalties for violations of rules or orders of the
8 Arkansas Pollution Control and Ecology Commission or the Arkansas Department
9 of Environmental Quality, is amended to read as follows:

10 (c)(1)(A) Any person that violates any provision of this chapter and
11 ~~regulations~~, rules, permits, or plans issued pursuant to this chapter may be
12 assessed an administrative civil penalty not to exceed ten thousand dollars
13 (\$10,000) per violation.
14

15 SECTION 454. Arkansas Code § 8-4-103(c)(2)(A), concerning criminal,
16 civil, and administrative penalties for violations of rules or orders of the
17 Arkansas Pollution Control and Ecology Commission or the Arkansas Department
18 of Environmental Quality, is amended to read as follows:

19 (2)(A) No civil penalty may be assessed until the person charged
20 with the violation has been given the opportunity for a hearing in accordance
21 with ~~regulations~~ rules adopted by the commission.
22

23 SECTION 455. Arkansas Code § 8-4-103(d)(1)(D), concerning criminal,
24 civil, and administrative penalties for violations of rules or orders of the
25 Arkansas Pollution Control and Ecology Commission or the Arkansas Department
26 of Environmental Quality, is amended to read as follows:

27 (D) If a civil penalty is being assessed for a violation
28 that occurs within the corporate limits of any municipality in Arkansas, a
29 copy of the public notice shall be delivered to the chief executive officer
30 of the municipality in which the alleged violation occurred, along with a
31 copy of any proposed order concerning the violation, and the municipality
32 shall be given a reasonable opportunity to comment on the proposed order
33 consistent with the public notice and comment requirements of this chapter
34 and ~~regulations~~ rules promulgated under this chapter.
35

36 SECTION 456. Arkansas Code § 8-4-107 is amended to read as follows:

1 8-4-107. Prosecution of public nuisance actions.

2 In any legal action arising from, relating to, or including violations
3 of laws or ~~regulations~~ rules charged to the enforcement authority of the
4 Arkansas Department of Environmental Quality that also alleges the existence
5 of a public nuisance at common law, the Attorney General or the department
6 may serve as the instrumentality of the state authorized to initiate and
7 prosecute such action.

8
9 SECTION 457. Arkansas Code § 8-4-201(b)(1)(A) and (B), concerning the
10 powers and duties of the Arkansas Department of Environmental Quality and the
11 Arkansas Pollution Control and Ecology Commission, are amended to read as
12 follows:

13 (1)(A) Promulgation of rules ~~and regulations~~, including water
14 quality standards and the classification of the waters of the state and
15 moratoriums or suspensions of the processing of types or categories of
16 permits, implementing the substantive statutes charged to the department for
17 administration.

18 (B) In promulgation of such rules ~~and regulations~~, prior
19 to the submittal to public comment and review of any rule, ~~regulation~~, or
20 change to any rule ~~or regulation~~ that is more stringent than federal
21 requirements, the commission shall duly consider the economic impact and the
22 environmental benefit of such rule ~~or regulation~~ on the people of the State
23 of Arkansas, including those entities that will be subject to the ~~regulation~~
24 rule.

25
26 SECTION 458. Arkansas Code § 8-4-201(b)(2) and (3), concerning the
27 powers and duties of the Arkansas Department of Environmental Quality and the
28 Arkansas Pollution Control and Ecology Commission, are amended to read as
29 follows:

30 (2) Promulgation of rules, ~~regulations~~, and procedures not
31 otherwise governed by applicable law that the commission deems necessary to
32 secure public participation in environmental decision-making processes;

33 (3) Promulgation of rules ~~and regulations~~ governing
34 administrative procedures for challenging or contesting department actions;

35
36 SECTION 459. Arkansas Code § 8-4-202(a) and (b), concerning the

1 authority of the Arkansas Pollution Control and Ecology Commission to adopt
2 rules to implement the powers and duties of the Arkansas Department of
3 Environmental Quality, are amended to read as follows:

4 (a) The Arkansas Pollution Control and Ecology Commission is given and
5 charged with the power and duty to adopt, modify, or repeal, after notice and
6 public hearings, rules ~~and regulations~~ implementing or effectuating the
7 powers and duties of the Arkansas Department of Environmental Quality and the
8 commission under this chapter.

9 (b) Without limiting the generality of this authority, these rules ~~and~~
10 ~~regulations~~ may, among other things, prescribe:

11 (1) Effluent standards specifying the maximum amounts or
12 concentrations and the physical, thermal, chemical, biological, and
13 radioactive nature of the contaminants that may be discharged into the waters
14 of this state or into publicly owned treatment facilities;

15 (2) Requirements and standards for equipment and procedures for
16 monitoring contaminant discharges at their sources, including publicly owned
17 treatment facilities and industrial discharges into such facilities, the
18 collection of samples, and the collection, reporting, and retention of data
19 resulting from such monitoring; and

20 (3) Water quality standards, performance standards, and
21 pretreatment standards.

22
23 SECTION 460. Arkansas Code § 8-4-202(c)(1), concerning the powers and
24 duties of the Arkansas Department of Environmental Quality and the Arkansas
25 Pollution Control and Ecology Commission, is amended to read as follows:

26 (c)(1) Any person shall have the right to petition the commission for
27 the issuance, amendment, or repeal of any rule ~~or regulation~~. Within sixty
28 (60) days from the date of the submission of a petition, the commission shall
29 either institute rulemaking proceedings or give the petitioner written notice
30 denying the petition, together with a written statement setting out the
31 reasons for denial.

32
33 SECTION 461. Arkansas Code § 8-4-202(d)(1)(A), concerning the powers
34 and duties of the Arkansas Department of Environmental Quality and the
35 Arkansas Pollution Control and Ecology Commission, is amended to read as
36 follows:

1 (d)(1)(A) Before the adoption, amendment, or repeal of any rule ~~or~~
2 ~~regulation~~ or before suspending the processing of a type or category of
3 permits or the declaration of a moratorium on a type or category of permits,
4 the commission shall give at least thirty (30) days' notice of its intended
5 action.

6
7 SECTION 462. Arkansas Code § 8-4-202(d)(2)(A)(ii), concerning the
8 powers and duties of the Arkansas Department of Environmental Quality and the
9 Arkansas Pollution Control and Ecology Commission, is amended to read as
10 follows:

11 (ii) Make oral statements concerning the proposed
12 rule, ~~regulation~~, suspension, or moratorium prior to a decision being
13 rendered by the commission.

14
15 SECTION 463. Arkansas Code § 8-4-202(d)(3), concerning the powers and
16 duties of the Arkansas Department of Environmental Quality and the Arkansas
17 Pollution Control and Ecology Commission, is amended to read as follows:

18 (3)(A) If, in response to comments, the commission amends a
19 proposed ~~regulation~~ rule to the extent that the rule would have an effect not
20 previously expressed in the notice required by subdivision (d)(1) of this
21 section, the commission shall provide another adequate public notice.

22 (B) Subdivision (d)(3)(A) of this section shall not,
23 however, require a second public notice if the final ~~regulation~~ rule is a
24 logical outgrowth of the ~~regulation~~ rule proposed in the prior notice.

25
26 SECTION 464. Arkansas Code § 8-4-202(d)(4)(A)(i) and (ii), concerning
27 the powers and duties of the Arkansas Department of Environmental Quality and
28 the Arkansas Pollution Control and Ecology Commission, are amended to read as
29 follows:

30 (A)(i) A copy of all notices described in subsection (d)
31 of this section and a concise general statement of the basis and purpose of
32 the proposed rule, which shall include a written explanation of the necessity
33 of the ~~regulation~~ rule and a demonstration that any technical ~~regulation~~ rule
34 or technical standard is based on generally accepted scientific knowledge and
35 engineering practices.

36 (ii) For any standard or ~~regulation~~ rule that is

1 identical to a regulation promulgated by the United States Environmental
2 Protection Agency, this portion of the record may be satisfied by reference
3 to the Code of Federal Regulations.

4
5 SECTION 465. Arkansas Code § 8-4-202(d)(5)(B), concerning the powers
6 and duties of the Arkansas Department of Environmental Quality and the
7 Arkansas Pollution Control and Ecology Commission, is amended to read as
8 follows:

9 (B) The record for review shall consist of a copy of the
10 ~~regulation~~ rule and the record of rulemaking described in subdivision (d)(4)
11 of this section.

12
13 SECTION 466. Arkansas Code § 8-4-202(e)(1) and (2), concerning the
14 powers and duties of the Arkansas Department of Environmental Quality and the
15 Arkansas Pollution Control and Ecology Commission, are amended to read as
16 follows:

17 (e)(1) If the commission determines that imminent peril to the public
18 health, safety, or welfare requires immediate change in the rules or
19 immediate suspension or moratorium on categories or types of permits, it may,
20 after documenting the facts and reasons, declare an emergency and implement
21 emergency rules, ~~regulations~~, suspensions, or moratoria.

22 (2) No rule, ~~regulation~~, suspension, or moratorium adopted under
23 an emergency declaration shall be effective for longer than one hundred
24 eighty (180) days.

25
26 SECTION 467. Arkansas Code § 8-4-203(b)(4)(B)(vi), concerning the
27 authority of the Arkansas Department of Environmental Quality to issue,
28 revoke, modify, or deny permits, is amended to read as follows:

29 (vi) The Arkansas Pollution Control and Ecology
30 Commission may promulgate ~~regulations~~ rules to implement this subsection.

31
32 SECTION 468. Arkansas Code § 8-4-203(e)(2)(B)(ii), concerning the
33 authority of the Arkansas Department of Environmental Quality to issue,
34 revoke, modify, or deny permits, is amended to read as follows:

35 (ii) For any standard or requirement that is
36 identical to an applicable federal regulation or state rule, this

1 demonstration may be satisfied by reference to the federal regulation or
2 state rule. In all other cases, the department must provide its own
3 justification with appropriate reference to the scientific and engineering
4 literature or written studies conducted by the department.

5
6 SECTION 469. Arkansas Code § 8-4-203(m)(3)(A)(ii), concerning the
7 authority of the Arkansas Department of Environmental Quality to issue,
8 revoke, modify, or deny permits, is amended to read as follows:

9 (ii) This requirement does not apply to general
10 permits or terms or conditions that adopt the language of state laws or rules
11 or federal statutes or regulations without substantive change.

12
13 SECTION 470. Arkansas Code § 8-4-203(m)(3)(C), concerning the
14 authority of the Arkansas Department of Environmental Quality to issue,
15 revoke, modify, or deny permits, is amended to read as follows:

16 (C) A general permit for which costs are specifically
17 prohibited from being considered by state law or rule or federal law or
18 regulation is exempt from the requirements of this subsection.

19
20 SECTION 471. Arkansas Code § 8-4-207(1)(A), concerning the powers and
21 duties of the Director of the Arkansas Department of Environmental Quality,
22 is amended to read as follows:

23 (1)(A) The director is authorized to require conditions in
24 permits issued under this chapter regarding the achievement of effluent
25 limitations based upon the application of such levels of treatment technology
26 and processes as are required under the federal act or any more stringent
27 effluent limitations necessary to meet water quality criteria or toxic
28 standards established pursuant to any state law or rule or federal law or
29 regulation. Such effluent limitations shall be achieved in the shortest
30 reasonable period of time consistent with state law and the federal act and
31 any regulations or guidelines promulgated thereunder.

32
33 SECTION 472. Arkansas Code § 8-4-207(3), concerning the powers and
34 duties of the Director of the Arkansas Department of Environmental Quality,
35 is amended to read as follows:

36 (3) Permits for publicly owned treatment works shall include as

1 a condition for the permit that the permittee provide information to the
2 director concerning new introductions of pollutants or substantial changes in
3 the volume or character of pollutants, whether sewage, industrial waste, or
4 other wastes are being introduced into such treatment works, and appropriate
5 measures to establish and ensure compliance by industrial users with any
6 system of user charges required under state law or federal law or any federal
7 regulations or guidelines promulgated thereunder;

8
9 SECTION 473. Arkansas Code § 8-4-207(5), concerning the powers and
10 duties of the Director of the Arkansas Department of Environmental Quality,
11 is amended to read as follows:

12 (5) The director and the commission shall ensure public notice,
13 public participation, and an opportunity for public hearing in respect to
14 National Pollutant Discharge Elimination System permit applications and
15 actions related to them in accordance with applicable state law and rules and
16 federal law, ~~and rules,~~ and regulations; and

17
18 SECTION 474. Arkansas Code § 8-4-213(a), concerning conclusiveness of
19 actions of the Arkansas Pollution Control and Ecology Commission, is amended
20 to read as follows:

21 (a) If no appeal is taken from an order, a rule, ~~a regulation,~~ or
22 other decision of the Arkansas Pollution Control and Ecology Commission as
23 provided in §§ 8-4-222 – 8-4-229, or if the action of the commission is
24 affirmed on appeal, then the action of the commission in the matter shall be
25 deemed conclusive, and the validity and reasonableness thereof shall not be
26 questioned in any other action or proceeding.

27
28 SECTION 475. Arkansas Code § 8-4-217(a)(3), concerning unlawful
29 actions under the Arkansas Water and Air Pollution Control Act, is amended to
30 read as follows:

31 (3) Violate any provisions of this chapter or of any rule, ~~regulation,~~
32 ~~regulation,~~ or order adopted by the Arkansas Pollution Control and Ecology
33 Commission under this chapter or of a permit issued under this chapter by the
34 Arkansas Department of Environmental Quality;

35
36 SECTION 476. Arkansas Code § 8-4-218(a), concerning violations of the

1 Arkansas Water and Air Pollution Control Act and notice of hearings, is
2 amended to read as follows:

3 (a) Whenever the Arkansas Department of Environmental Quality or its
4 successor determines that there are reasonable grounds to believe that there
5 has been a violation of any of the provisions of this chapter or any order,
6 ~~or rule, or regulation~~ of the Arkansas Pollution Control and Ecology
7 Commission, it may give written notice to the alleged violator specifying the
8 causes of complaint.

9

10 SECTION 477. Arkansas Code § 8-4-223(a)(1), concerning appeals under
11 the Arkansas Water and Air Pollution Control Act and notice of appeal, is
12 amended to read as follows:

13 (a)(1) Within thirty (30) days after service of a copy of the final
14 order, rule, ~~regulation~~, or other final determination of the Arkansas
15 Pollution Control and Ecology Commission, the appellant may file a notice of
16 appeal with the circuit court of the county in which the business, industry,
17 municipality, or thing involved is situated.

18

19 SECTION 478. Arkansas Code § 8-4-225 is amended to read as follows:
20 8-4-225. Appeals – Venue.

21 Except as provided in § 8-4-223(d), upon written consent of the parties
22 or for cause shown after hearing upon notice to all parties, the venue of an
23 appeal may be changed by order of the circuit court to the circuit court of a
24 county in which the order, rule, ~~regulation~~, or decision appealed from would
25 take effect.

26

27 SECTION 479. Arkansas Code § 8-4-226(a)(1), concerning appeals of
28 decisions under the Arkansas Water and Air Pollution Control Act, is amended
29 to read as follows:

30 (a)(1) Within thirty (30) days after service of the notice of appeal
31 on the Arkansas Pollution Control and Ecology Commission secretary, the
32 Arkansas Pollution Control and Ecology Commission shall file with the clerk
33 of the circuit court having jurisdiction of the appeal a response to the
34 notice of appeal and the record upon which the final order, rule, ~~regulation~~,
35 or other final determination complained of was entered.

36

1 SECTION 480. Arkansas Code § 8-4-226(a)(3)(A)(iii), concerning appeals
2 of decisions under the Arkansas Water and Air Pollution Control Act, is
3 amended to read as follows:

4 (iii) A copy of the final order, rule, ~~regulation,~~
5 or other final decision appealed from; and
6

7 SECTION 481. Arkansas Code § 8-4-229(a), concerning appeals of
8 decisions and presumptions under the Arkansas Water and Air Pollution Control
9 Act, is amended to read as follows:

10 (a) In any appeal or other proceeding involving any order, rule,
11 ~~regulation,~~ or other decision of the Arkansas Pollution Control and Ecology
12 Commission, the action of the commission shall be prima facie evidence
13 reasonable and valid, and it shall be presumed that all requirements of the
14 law pertaining to the taking thereof have been complied with.
15

16 SECTION 482. Arkansas Code § 8-4-231 is amended to read as follows:

17 8-4-231. Effectiveness of regulations, rules, or orders.

18 This act shall not be construed as impairing the continued
19 effectiveness of any regulations, rules, or orders promulgated or issued by
20 the Arkansas Pollution Control and Ecology Commission prior to March 31,
21 1999. Nor shall this act be construed as extinguishing or otherwise affecting
22 the unexpired terms of any current members of the commission.
23

24 SECTION 483. Arkansas Code § 8-4-232(b)(1), concerning nutrient water
25 quality trading programs under the Arkansas Water and Air Pollution Control
26 Act, is amended to read as follows:

27 (b)(1) The Arkansas Pollution Control and Ecology Commission may adopt
28 ~~regulations~~ rules that specify requirements, standards, and procedures
29 governing the establishment and implementation of nutrient water quality
30 trading programs, including without limitation program scope, eligibility,
31 and threshold treatment requirements.
32

33 SECTION 484. Arkansas Code § 8-4-232(c), concerning nutrient water
34 quality trading programs under the Arkansas Water and Air Pollution Control
35 Act, is amended to read as follows:

36 (c) Under ~~regulations~~ rules adopted by the commission under subsection

1 (b) of this section, the department may:

2 (1) Include terms and conditions in any appropriate permit that
3 allow the eligible permit holder to use water quality trading arrangements
4 such as water quality trading credits and water quality offsets as a means
5 for complying with appropriate nutrient effluent limitations or conditions
6 contained in the permit; and

7 (2) Issue permits to eligible compliance associations as a means
8 for multiple eligible permit holders to collectively satisfy their aggregate
9 permit limits for one (1) or more appropriate nutrient water quality
10 parameters.

11
12 SECTION 485. Arkansas Code § 8-4-233(g)(2), concerning creation of the
13 Nutrient Water Quality Trading Advisory Panel programs under the Arkansas
14 Water and Air Pollution Control Act, is amended to read as follows:

15 (2) Advise the Arkansas Pollution Control and Ecology Commission
16 and the Arkansas Natural Resources Commission regarding the promulgation of
17 ~~regulations~~ rules involving nutrient water quality trading programs.

18
19 SECTION 486. Arkansas Code § 8-4-233(h) and (i), concerning creation
20 of the Nutrient Water Quality Trading Advisory Panel programs under the
21 Arkansas Water and Air Pollution Control Act, are amended to read as follows:

22 (h) The Arkansas Pollution Control and Ecology Commission shall not
23 initiate a rulemaking proceeding to adopt a ~~regulation~~ rule that authorizes
24 or governs nutrient water quality trading unless:

25 (1) The proposed ~~regulation~~ rule has been recommended by the
26 advisory panel; or

27 (2) A copy of the proposed ~~regulation~~ rule has been delivered to
28 the advisory panel at least sixty (60) calendar days before the date the
29 request to initiate the rulemaking is filed with the Arkansas Pollution
30 Control and Ecology Commission.

31 (i) Subsection (h) of this section does not limit the authority of the
32 Arkansas Pollution Control and Ecology Commission to:

33 (1) Alter a proposed ~~regulation~~ rule at any time during the
34 rulemaking proceeding; or

35 (2) Initiate a rulemaking proceeding if:

36 (A) The members of the advisory panel have not been

1 appointed; or

2 (B) The advisory panel lacks an actively serving quorum.

3

4 SECTION 487. Arkansas Code § 8-4-234(f), concerning the authority of
5 the Director of the Arkansas Department of Environmental Quality to authorize
6 short-term activities that affect water quality standards, is amended to read
7 as follows:

8 (f) The commission may promulgate ~~regulations~~ rules for the
9 administration of this section.

10

11 SECTION 488. Arkansas Code § 8-4-307 is amended to read as follows:

12 8-4-307. Private rights unchanged.

13 (a) Persons other than the state or the Arkansas Department of
14 Environmental Quality shall not acquire actionable right by virtue of this
15 subchapter. The basis for proceedings that result from violation of any
16 standard, or rule, ~~or regulation~~ promulgated by the Arkansas Pollution
17 Control and Ecology Commission shall inure solely to and shall be for the
18 benefit of the people of the state generally, and it is not intended to
19 create in any way new rights or to enlarge existing rights or to abrogate
20 existing private rights.

21 (b) A determination by the department that air pollution or air
22 contamination exists or that any standard, or rule, ~~or regulation~~ has been
23 violated, whether or not a proceeding or action is brought by the state,
24 shall not create, by reason thereof, any presumption of law or finding of
25 fact that shall inure to or be for the benefit of any person other than the
26 state.

27

28 SECTION 489. Arkansas Code § 8-4-310(a)(2) and (3), concerning unlawful
29 actions under the Arkansas Water and Air Pollution Control Act, are amended
30 to read as follows:

31 (2) To construct, install, use, or operate any source capable of
32 emitting air contaminants without having first obtained a permit to do so, if
33 required by ~~the regulations~~ rule of the Arkansas Pollution Control and
34 Ecology Commission, or to do so contrary to the provisions of any permit
35 issued by the Arkansas Department of Environmental Quality or after any such
36 permit has been suspended or revoked; or

1 (3) To violate any rule, ~~regulation~~, or order of the commission
2 issued pursuant to this chapter.

3
4 SECTION 490. Arkansas Code § 8-4-311(a)(7), concerning the powers of
5 the Arkansas Department of Environmental Quality, is amended to read as
6 follows:

7 (7) Administer and enforce all laws and ~~regulations~~ rules
8 relating to pollution of the air;

9
10 SECTION 491. Arkansas Code § 8-4-311(a)(11), concerning the powers of
11 the Arkansas Department of Environmental Quality, is amended to read as
12 follows:

13 (11) Institute court proceedings to compel compliance with the
14 provisions of this chapter and rules, ~~regulations~~, and orders issued pursuant
15 to this chapter;

16
17 SECTION 492. Arkansas Code § 8-4-311(a)(13), concerning the powers of
18 the Arkansas Department of Environmental Quality, is amended to read as
19 follows:

20 (13) Develop and implement state implementation plans provided
21 that the commission shall retain all powers and duties regarding promulgation
22 of rules ~~and regulations~~ under this chapter.

23
24 SECTION 493. Arkansas Code § 8-4-311(b)(1)(A) and (B), concerning the
25 powers of the Arkansas Pollution Control and Ecology Commission, are amended
26 to read as follows:

27 (1)(A) Promulgate rules ~~and regulations~~ for implementing the
28 substantive statutes charged to the department for administration.

29 (B) In promulgation of such rules ~~and regulations~~, prior
30 to the submittal to public comment and review of any rule, ~~regulation~~, or
31 change to any rule ~~or regulation~~ that is more stringent than federal
32 requirements, the commission shall duly consider the economic impact and the
33 environmental benefit of such rule ~~or regulation~~ on the people of the State
34 of Arkansas, including those entities that will be subject to the ~~regulation~~
35 rule.

36

1 SECTION 494. Arkansas Code § 8-4-311(b)(1)(E), concerning the powers
2 of the Arkansas Pollution Control and Ecology Commission, is amended to read
3 as follows:

4 (E) Upon completion of the public comment period, the
5 commission shall compile a rulemaking record or response to comments
6 demonstrating a reasoned evaluation of the relative impact and benefits of
7 the more stringent ~~regulation~~ rule;

8
9 SECTION 495. Arkansas Code § 8-4-311(b)(2) and (3), concerning the
10 powers of the Arkansas Pollution Control and Ecology Commission, is amended
11 to read as follows:

12 (2) Promulgate rules, ~~regulations~~, and procedures not otherwise
13 governed by applicable law that the commission deems necessary to secure
14 public participation in environmental decision-making processes;

15 (3) Promulgate rules ~~and regulations~~ governing administrative
16 procedures for challenging or contesting department actions;

17
18 SECTION 496. Arkansas Code § 8-4-311(b)(9), concerning the powers of
19 the Arkansas Pollution Control and Ecology Commission, is amended to read as
20 follows:

21 (9) Adopt, after notice and public hearing, reasonable and
22 nondiscriminatory rules ~~and regulations~~ requiring the registration of and the
23 filing of reports by persons engaged in operations that may result in air
24 pollution;

25
26 SECTION 497. Arkansas Code § 8-4-311(b)(10)(A) and (B), concerning the
27 powers of the Arkansas Pollution Control and Ecology Commission, are amended
28 to read as follows:

29 (10)(A) Adopt, after notice and public hearing, reasonable and
30 nondiscriminatory rules ~~and regulations~~, including requiring a permit or
31 other regulatory authorization from the department, before any equipment
32 causing the issuance of air contaminants may be built, erected, altered,
33 replaced, used, or operated, except in the case of repairs or maintenance of
34 equipment for which a permit has been previously used, and revoke or modify
35 any permit issued under this chapter or deny any permit when it is necessary,
36 in the opinion of the department, to prevent, control, or abate air

1 pollution.

2 (B) A permit shall be issued for the operation or use of
3 any equipment or any facility in existence upon the effective date of any
4 rule ~~or regulation~~ requiring a permit if proper application is made for the
5 permit.

6

7 SECTION 498. Arkansas Code § 8-4-311(b)(10)(F)(i), concerning the
8 powers of the Arkansas Pollution Control and Ecology Commission, is amended
9 to read as follows:

10 (F)(i) An applicant or permit holder that has had a
11 complete application for a permit or for a modification of a permit pending
12 longer than the time specified in the state ~~regulations~~ rules promulgated
13 pursuant to Title V of the Clean Air Act Amendments of 1990, or any person
14 that participated in the public participation process, and any other person
15 that could obtain judicial review of such actions under state laws, may
16 petition the commission for relief from department inaction.

17

18 SECTION 499. Arkansas Code § 8-4-311(b)(11)(C), concerning the powers
19 of the Arkansas Pollution Control and Ecology Commission, is amended to read
20 as follows:

21 (C) Any ~~regulation~~ rule proposed pursuant to this
22 authorization shall be reported to the House Committee on Public Health,
23 Welfare, and Labor and the Senate Committee on Public Health, Welfare, and
24 Labor or appropriate subcommittees thereof prior to its final promulgation;
25 and

26

27 SECTION 500. Arkansas Code § 8-4-313(a)(1), concerning variances
28 allowed by the Arkansas Pollution Control and Ecology Commission, is amended
29 to read as follows:

30 (a)(1) The Arkansas Pollution Control and Ecology Commission may grant
31 specific variances from the particular requirements of any rule, ~~regulation,~~
32 or general order to such specific persons or class of persons or such
33 specific air contamination source, upon such conditions as it may deem
34 necessary to protect the public health and welfare, if it finds that strict
35 compliance with the rule, ~~regulation,~~ or general order is inappropriate
36 because of conditions beyond the control of the person granted the variance

1 or because of special circumstances that would render strict compliance
2 unreasonable, unduly burdensome, or impractical due to special physical
3 conditions or causes or because strict compliance would result in substantial
4 curtailment or closing down of a business, plant, or operation or because no
5 alternative facility or method of handling is yet available.

6
7 SECTION 501. Arkansas Code § 8-4-317(b)(1)(C)(ii), concerning state
8 implementation plans under the Arkansas Water and Air Pollution Control Act,
9 is amended to read as follows:

10 (ii) For any standard or requirement that is
11 identical to the applicable Arkansas Pollution Control and Ecology Commission
12 ~~regulation~~ rule or federal regulation, the demonstration required under
13 subdivision (b)(1)(C)(i) of this section may be satisfied by reference to the
14 rule or federal regulation. In all other cases, the department shall provide
15 its own justification with appropriate reference to the scientific and
16 engineering literature considered or the written studies conducted by the
17 department.

18
19 SECTION 502. Arkansas Code § 8-5-202(a), concerning penalties and
20 injunctions for violations of the laws governing wastewater treatment plants,
21 is amended to read as follows:

22 (a) A violation of any provision of this subchapter or of any rule ~~or~~
23 ~~regulation~~ issued pursuant to this subchapter shall constitute a misdemeanor
24 and upon conviction shall be punishable as such. Each day's continuance of a
25 violation shall constitute a separate offense.

26
27 SECTION 503. Arkansas Code § 8-5-202(c), concerning penalties and
28 injunctions for violations of the laws governing wastewater treatment plants,
29 is amended to read as follows:

30 (c) A violation of any provision of this subchapter or of any rule ~~or~~
31 ~~regulation~~ promulgated under this subchapter is grounds for an administrative
32 revocation or suspension of the operator's license by the department.

33
34 SECTION 504. Arkansas Code § 8-5-205(b)(2)(A), concerning the powers
35 and duties of the Arkansas Pollution Control and Ecology Commission for
36 administering and enforcing the laws governing wastewater treatment plants,

1 is amended to read as follows:

2 (A) To adopt rules ~~and regulations~~ implementing and
3 effectuating this subchapter as may be necessary for the administration and
4 enforcement thereof;

5

6 SECTION 505. Arkansas Code § 8-5-206(a), concerning classification of
7 treatment plants by the Arkansas Pollution Control and Ecology Commission, is
8 amended to read as follows:

9 (a) The Arkansas Pollution Control and Ecology Commission shall,
10 through ~~regulations~~ rules, classify all wastewater treatment plants, taking
11 into account:

- 12 (1) The size, type, and complexity of the plant;
- 13 (2) The character and volume of wastewater treated;
- 14 (3) The population served;
- 15 (4) The skill, knowledge, and experience reasonably required to
16 supervise the proper operation of the plant; and
- 17 (5) Such other factors as the commission shall deem appropriate.

18

19 SECTION 506. Arkansas Code § 8-5-207 is amended to read as follows:
20 8-5-207. Operators to be licensed.

21 In order to safeguard the public health and protect the waters of this
22 state from pollution, all operators in responsible charge of public or
23 private wastewater treatment plants shall be duly licensed and certified as
24 competent by the Arkansas Department of Environmental Quality under the
25 provisions of this subchapter and under such rules ~~and regulations~~ as the
26 Arkansas Pollution Control and Ecology Commission may adopt, with the advice
27 and assistance of the licensing committee, pursuant to the authority of this
28 subchapter. All rules ~~and regulations~~ promulgated pursuant to this subchapter
29 shall be reviewed by the interim House Committee on Public Health, Welfare,
30 and Labor and the interim Senate Committee on Public Health, Welfare, and
31 Labor or appropriate subcommittees thereof.

32

33 SECTION 507. Arkansas Code § 8-5-208(a), concerning license
34 requirements for wastewater treatment plants, is amended to read as follows:

35 (a) The Arkansas Department of Environmental Quality shall license and
36 certify all applicants for licenses under this subchapter who satisfy the

1 requirements of the subchapter and the rules ~~and regulations~~ issued pursuant
2 to this subchapter. Licenses shall be granted according to the classification
3 of wastewater treatment plants established under this subchapter. Licenses
4 shall be valid for a period of two (2) years and shall be renewable upon
5 application without examination.

6
7 SECTION 508. Arkansas Code § 8-5-208(c), concerning license
8 requirements for wastewater treatment plants, is amended to read as follows:

9 (c) In its discretion, the department may waive the requirements or
10 any part of the requirements for formal examination of an applicant for
11 license if the applicant holds a valid license or certificate from another
12 state in which the requirements for license in the appropriate classification
13 are at least equal to the requirements set forth in this subchapter and the
14 rules ~~and regulations~~ issued pursuant to this subchapter.

15
16 SECTION 509. Arkansas Code § 8-5-209(a)(2)(A), concerning the fees for
17 the Wastewater Licensing Fund set by the Arkansas Pollution Control and
18 Ecology Commission, is amended to read as follows:

19 (2)(A) Licensing and examination fees shall be set forth in the
20 ~~regulation~~ rule.

21
22 SECTION 510. Arkansas Code § 8-5-501(a)(1), concerning regulation of
23 underground salt water disposal systems by the Arkansas Pollution Control and
24 Ecology Commission and the Oil and Gas Commission, is amended to read as
25 follows:

26 (a)(1) The Arkansas Pollution Control and Ecology Commission and the
27 Oil and Gas Commission are empowered to establish reasonable rules,
28 ~~regulations~~, and specifications for the establishment and operation of
29 underground salt water disposal systems to be used in disposing of salt water
30 produced in the production of oil.

31
32 SECTION 511. Arkansas Code § 8-5-501(a)(2)(B)(vi), concerning
33 regulation of underground salt water disposal systems by the Arkansas
34 Pollution Control and Ecology Commission and the Oil and Gas Commission, is
35 amended to read as follows:

36 (vi) Such other information as may be required by

1 rules ~~and regulations~~ of the respective commissions.

2
3 SECTION 512. Arkansas Code § 8-5-501(b)(1), concerning regulation of
4 underground salt water disposal systems by the Arkansas Pollution Control and
5 Ecology Commission and the Oil and Gas Commission, is amended to read as
6 follows:

7 (b)(1) If the commissions determine that the underground salt water
8 disposal system for which application is made will meet the requirements of
9 this section, §§ 8-5-502, 26-58-201 – 26-58-204, 26-58-206 – 26-58-210, and
10 26-58-211 [repealed], and the rules ~~and regulations~~ of the commissions, a
11 permit for the establishment of the system shall be issued.

12
13 SECTION 513. Arkansas Code § 8-5-501(b)(2)(B)(i), concerning
14 regulation of underground salt water disposal systems by the Arkansas
15 Pollution Control and Ecology Commission and the Oil and Gas Commission, is
16 amended to read as follows:

17 (B)(i) If the commission determines that the system is in
18 compliance with the requirements of this section, §§ 8-5-502, 26-58-201 – 26-
19 58-204, 26-58-206 – 26-58-210, and 26-58-211 [repealed], and the rules ~~and~~
20 ~~regulations~~ of the commission, a certificate of approval of the system shall
21 be granted.

22
23 SECTION 514. Arkansas Code § 8-5-501(b)(3)(B)(i), concerning
24 regulation of underground salt water disposal systems by the Arkansas
25 Pollution Control and Ecology Commission and the Oil and Gas Commission, is
26 amended to read as follows:

27 (B)(i) If a determination is made that the system is being
28 operated in a manner contrary to the provisions of this section, §§ 8-5-502,
29 26-58-201 – 26-58-204, 26-58-206 – 26-58-210, and 26-58-211 [repealed], or
30 the rules ~~and regulations~~ of the commission, the commission may revoke the
31 certificate of approval until such time as a showing may be made that the
32 deficiencies in the system have been corrected to the satisfaction of the
33 commission.

34
35 SECTION 515. Arkansas Code § 8-5-609 is amended to read as follows:

36 8-5-609. Privatization contracts, service agreements, etc. – Exemption

1 from certain laws.

2 The privatization contract, the service agreement, and any other
3 purchase by the local government in connection with the privatization
4 contract shall not be subject to the provisions of §§ 14-58-201 – 14-58-203,
5 14-58-301 – 14-58-303, 14-58-305 – 14-58-308, and 14-22-101 – 14-22-115 or
6 any other law, rule, or regulation requiring competitive bids.

7

8 SECTION 516. Arkansas Code § 8-5-701(1), concerning the definition of
9 "chronic noncompliance" of a common sewage system under the laws of water
10 pollution control facilities, is amended to read as follows:

11 (1) "Chronic noncompliance" means conditions described in this
12 subchapter that persist at a common sewage system after reasonable efforts by
13 the Arkansas Department of Environmental Quality to obtain compliance with
14 applicable laws or ~~regulations~~ rules in one (1) of the following:

15 (A) Failure to obtain a permit as required by law;

16 (B) Four (4) or more permit violations within a six-month
17 period as set out in the permit issued by the department;

18 (C) Failure to maintain the services of a certified
19 wastewater treatment operator, where applicable; or

20 (D) Demonstrable failure to operate the sewage system so
21 as to prevent the discharge of waterborne pollutants in unacceptable
22 concentrations, as defined in the individual permit or the state's water
23 quality standards, to the surface waters or groundwater of the state; and

24

25 SECTION 517. Arkansas Code § 8-5-702(e)(1), concerning remedies
26 available to the Arkansas Department of Environmental Quality for chronic
27 violations by any common sewage system, is amended to read as follows:

28 (1) Restrain any violation of or compel compliance with the
29 provisions of this subchapter and of rules, ~~regulations~~, orders, permits, or
30 plans issued pursuant thereto;

31

32 SECTION 518. Arkansas Code § 8-5-702(e)(4), concerning remedies
33 available to the Arkansas Department of Environmental Quality for chronic
34 violations by any common sewage system, is amended to read as follows:

35 (4) Assess civil penalties in an amount not to exceed ten
36 thousand dollars (\$10,000) per day for violations of this subchapter and of

1 any rules, ~~regulations~~, permits, or plans issued pursuant thereto; or

2
3 SECTION 519. Arkansas Code § 8-5-803(5), concerning the definition of
4 "mandated environmental control" under the Small Business Revolving Loan Fund
5 for Pollution Control and Prevention Technologies Act, is amended to read as
6 follows:

7 (5) "Mandated environmental control" means any change in a
8 commercial process that is required by federal environmental law or duly
9 adopted regulation or state environmental law or duly adopted ~~regulation~~
10 rule;

11
12 SECTION 520. Arkansas Code § 8-5-804(a)(1), concerning eligible
13 activities under the Small Business Revolving Loan Fund for Pollution control
14 and Prevention Technologies Act, is amended to read as follows:

15 (1) Loaned to eligible participants to pay the direct costs of
16 projects which are designed to correct or avoid violations of federal
17 environmental regulations or state environmental ~~regulations~~ rules and have
18 received a certificate of need from the department; or

19
20 SECTION 521. Arkansas Code § 8-5-807(a)(3), concerning the creation of
21 the Small Business Revolving Loan Fund under the Small Business Revolving
22 Loan Fund for Pollution Control and Prevention Technologies Act, is amended
23 to read as follows:

24 (3) To be used as a revolving fund by the department for making
25 loans to eligible participants to pay the direct costs of projects that are
26 designed to correct or avoid violations of federal environmental law or
27 regulations or state environmental ~~regulations~~ rules and have received a
28 certificate of need from the department or to pay costs incurred by the
29 department to provide management of lending activities.

30
31 SECTION 522. Arkansas Code § 8-6-204(a)(1)(A), concerning criminal,
32 civil, and administrative penalties under the Arkansas Solid Waste Management
33 Act, is amended to read as follows:

34 (1)(A) Any person who violates any provision of this subchapter,
35 who commits any unlawful act under this subchapter, or who violates any rule,
36 ~~regulation~~, or order of the Arkansas Pollution Control and Ecology Commission

1 or the Arkansas Department of Environmental Quality shall be guilty of a
2 misdemeanor.

3
4 SECTION 523. Arkansas Code § 8-6-204(a)(2)(A)(i), concerning criminal,
5 civil, and administrative penalties under the Arkansas Solid Waste Management
6 Act, is amended to read as follows:

7 (i) Violate any provision of this subchapter, commit
8 any unlawful act under it, or violate any rule, ~~regulation~~, or order of the
9 commission or department, and leave the state or remove his or her person
10 from the jurisdiction of this state;

11
12 SECTION 524. Arkansas Code § 8-6-204(b)(1), concerning criminal,
13 civil, and administrative penalties under the Arkansas Solid Waste Management
14 Act, is amended to read as follows:

15 (1) Restrain any violation of or compel compliance with the
16 provisions of this subchapter and of any rules, ~~regulations~~, orders, permits,
17 licenses, or plans issued pursuant to this subchapter;

18
19 SECTION 525. Arkansas Code § 8-6-204(b)(4), concerning criminal,
20 civil, and administrative penalties under the Arkansas Solid Waste Management
21 Act, is amended to read as follows:

22 (4) Assess civil penalties in an amount not to exceed ten
23 thousand dollars (\$10,000) per day for violations of this subchapter and of
24 any rules, ~~regulations~~, permits, or plans issued pursuant to this subchapter;
25 or

26
27 SECTION 526. Arkansas Code § 8-6-204(c), concerning criminal, civil,
28 and administrative penalties under the Arkansas Solid Waste Management Act,
29 is amended to read as follows:

30 (c) Any person who violates any provision of this subchapter and
31 ~~regulations~~, rules, permits, or plans issued pursuant to this subchapter may
32 be assessed an administrative civil penalty not to exceed ten thousand
33 dollars (\$10,000) per violation. Each day of a continuing violation may be
34 deemed a separate violation for purposes of penalty assessment. No civil
35 penalty may be assessed until the person charged with the violation has been
36 given the opportunity for a hearing in accordance with ~~regulations~~ rules

1 adopted by the commission. All hearings and appeals arising under this
2 subchapter shall be conducted in accordance with the procedures prescribed by
3 §§ 8-4-205, 8-4-212, and 8-4-218 – 8-4-229. These administrative procedures
4 may also be used to recover all costs, expenses, and damages to the
5 department and any other agency or subdivision of the state in enforcing or
6 effectuating the provisions of this subchapter, including natural resource
7 damages.

8
9 SECTION 527. Arkansas Code § 8-6-205(a)(1), concerning illegal
10 actions, rebuttable presumptions, acts, or omissions by a third party under
11 the Arkansas Solid Waste Management Act, is amended to read as follows:

12 (1) To violate any provision of this subchapter or any rule,
13 ~~regulation,~~ or order of the Arkansas Pollution Control and Ecology Commission
14 issued pursuant to this subchapter or of a permit issued under this
15 subchapter by the Arkansas Department of Environmental Quality;

16
17 SECTION 528. Arkansas Code § 8-6-205(a)(5), concerning illegal
18 actions, rebuttable presumptions, acts or omissions by a third party under
19 the Arkansas Solid Waste Management Act, is amended to read as follows:

20 (5) To sort, collect, transport, process, or dispose of solid
21 waste contrary to the rules, ~~regulations,~~ or orders of the department or in
22 such a manner or place as to create or be likely to create a public nuisance
23 or a public health hazard or to cause or be likely to cause water or air
24 pollution within the meaning of the Arkansas Water and Air Pollution Control
25 Act, § 8-4-101 et seq.

26
27 SECTION 529. Arkansas Code § 8-6-205(c), concerning illegal actions,
28 rebuttable presumptions, acts or omissions by a third party under the
29 Arkansas Solid Waste Management Act, is amended to read as follows:

30 (c) No person shall be liable for any violation of this subchapter or
31 of any rule, ~~regulation,~~ or order of the commission issued pursuant to this
32 subchapter if the violation results solely from the act or omission of a
33 third party, unless the person has knowingly allowed the violation to occur
34 through acquiescence, acts, or omissions.

35
36 SECTION 530. Arkansas Code § 8-6-206 is amended to read as follows:

1 8-6-206. Private right of action.

2 Any person adversely affected by a violation of this subchapter or of
3 any rules, ~~regulations~~, or orders issued pursuant thereto shall have a
4 private right of action for relief against the violation.

5
6 SECTION 531. Arkansas Code § 8-6-207(a)(1), concerning the powers and
7 duties of the Arkansas Department of Environmental Quality and the Arkansas
8 Pollution Control and Ecology Commission under the Arkansas Solid Waste
9 Management Act, is amended to read as follows:

10 (1) To administer and enforce all laws, and rules, ~~and~~
11 ~~regulations~~ relating to solid waste disposal;

12
13 SECTION 532. Arkansas Code § 8-6-207(a)(7)-(9), concerning the powers
14 and duties of the Arkansas Department of Environmental Quality and the
15 Arkansas Pollution Control and Ecology Commission under the Arkansas Solid
16 Waste Management Act, are amended to read as follows:

17 (7) To make investigations, inspections, and to hold such
18 hearings, after notice, as it may deem necessary or advisable for the
19 discharge of duties under this subchapter and to ensure compliance with this
20 subchapter and any orders, and rules, ~~and regulations~~ issued pursuant
21 thereto;

22 (8) To make, issue, modify, revoke, and enforce orders, after
23 notice and opportunity for adjudicatory review by the commission, prohibiting
24 violation of any of the provisions of this subchapter or of any rules ~~and~~
25 ~~regulations~~ issued pursuant to it, and to require the taking of such remedial
26 measures for solid waste disposal as may be necessary or appropriate to
27 implement or effectuate the provisions and purposes of this subchapter;

28 (9) To institute proceedings in the name of the department in
29 any court of competent jurisdiction to compel compliance with and to restrain
30 violation of the provisions of this subchapter or any rules, ~~regulations~~, and
31 orders issued pursuant thereto and to require the taking of such remedial
32 measures for solid waste disposal as may be necessary or appropriate to
33 implement or effectuate the provisions and purposes of this subchapter;

34
35 SECTION 533. Arkansas Code § 8-6-207(a)(11), concerning the powers and
36 duties of the Arkansas Department of Environmental Quality and the Arkansas

1 Pollution Control and Ecology Commission under the Arkansas Solid Waste
2 Management Act, is amended to read as follows:

3 (11) To make periodic inspections not less than quarterly in
4 accordance with ~~regulations~~ rules promulgated by the commission of all solid
5 waste disposal facilities or sites permitted under this subchapter to ensure
6 compliance with all requirements of this subchapter and the ~~regulations~~ rules
7 promulgated under this subchapter and to make a final inspection of closed or
8 abandoned solid waste disposal sites to determine compliance with rules ~~and~~
9 ~~regulations~~ for proper closure and proper filling and drainage of the site;

10
11 SECTION 534. Arkansas Code § 8-6-207(b)(1)(A) and (B), concerning the
12 powers and duties of the Arkansas Department of Environmental Quality and the
13 Arkansas Pollution Control and Ecology Commission under the Arkansas Solid
14 Waste Management Act, are amended to read as follows:

15 (1)(A) Promulgation of rules ~~and regulations~~ implementing the
16 substantive statutes charged to the Arkansas Department of Environmental
17 Quality for administration.

18 (B) In promulgation of such rules ~~and regulations~~, prior
19 to the submittal to public comment and review of any rule, ~~regulation~~, or
20 change to any rule ~~or regulation~~ that is more stringent than federal
21 requirements, the commission shall duly consider the economic impact and the
22 environmental benefit of such rule ~~or regulation~~ on the people of the State
23 of Arkansas, including those entities that will be subject to the ~~regulation~~
24 rule.

25
26 SECTION 535. Arkansas Code § 8-6-207(b)(1)(E), concerning the powers
27 and duties of the Arkansas Department of Environmental Quality and the
28 Arkansas Pollution Control and Ecology Commission under the Arkansas Solid
29 Waste Management Act, is amended to read as follows:

30 (E) Upon completion of the public comment period, the
31 commission shall compile a rulemaking record or response to comments
32 demonstrating a reasoned evaluation of the relative impact and benefits of
33 the more stringent ~~regulation~~ rule;

34
35 SECTION 536. Arkansas Code § 8-6-207(b)(2) and (3), concerning the
36 powers and duties of the Arkansas Department of Environmental Quality and the

1 Arkansas Pollution Control and Ecology Commission under the Arkansas Solid
2 Waste Management Act, are amended to read as follows:

3 (2) Promulgation of rules, ~~regulations~~, and procedures not
4 otherwise governed by applicable law which the commission deems necessary to
5 secure public participation in environmental decision-making processes;

6 (3) Promulgation of rules ~~and regulations~~ governing
7 administrative procedures for challenging or contesting department actions;

8
9 SECTION 537. Arkansas Code § 8-6-207(b)(10), concerning the powers and
10 duties of the Arkansas Department of Environmental Quality and the Arkansas
11 Pollution Control and Ecology Commission under the Arkansas Solid Waste
12 Management Act, is amended to read as follows:

13 (10) To adopt, after notice and public hearing, and to
14 promulgate, modify, repeal, and enforce rules ~~and regulations~~ for the source
15 reduction, minimization, recycling, collection, transportation, processing,
16 storage, and disposal of solid wastes, including, but not limited to, the
17 disposal site location and the construction, operation, and maintenance of
18 the disposal site or disposal process as necessary or appropriate to
19 implement or effectuate the purposes and intent of this subchapter and the
20 powers and duties of the commission under this subchapter.

21
22 SECTION 538. Arkansas Code § 8-6-208(a), concerning the existing rules
23 of the Arkansas Pollution Control and Ecology Commission under the Arkansas
24 Solid Waste Management Act, is amended to read as follows:

25 (a) All existing rules ~~and regulations~~ of the Arkansas Pollution
26 Control and Ecology Commission relating to subjects embraced within this
27 subchapter shall remain in full force and effect until expressly repealed,
28 amended, or superseded by the commission.

29
30 SECTION 539. Arkansas Code § 8-6-211(a), concerning municipal solid
31 waste management systems under the Arkansas Solid Waste Management Act, is
32 amended to read as follows:

33 (a) All municipalities shall provide a solid waste management system
34 which will adequately provide for the collection and disposal of all solid
35 wastes generated or existing within the incorporated limits of the
36 municipality or in the area to be served and in accordance with the rules,

1 ~~regulations,~~ and orders of the Arkansas Pollution Control and Ecology
2 Commission. The governing body of the municipality may enter into agreements
3 with one (1) or more other municipalities, counties, a regional solid waste
4 management district, private persons or trusts, or with any combination
5 thereof, to provide a solid waste management system, or any part of a system,
6 for the municipality, but the agreement shall not relieve the parties of
7 their responsibilities under this subchapter.

8
9 SECTION 540. Arkansas Code § 8-6-211(e), concerning municipal solid
10 waste management systems under the Arkansas Solid Waste Management Act, is
11 amended to read as follows:

12 (e) The governing body of a municipality shall have the right to
13 establish policies for and enact laws concerning all phases of the operation
14 of a solid waste management system, including hours of operation, the
15 character and kinds of wastes accepted at the disposal site, the separation
16 of wastes according to type by those generating them prior to collection, the
17 type of container for storage of wastes, the prohibition of the diverting of
18 recyclable materials by persons other than the generator or collector of the
19 recyclable material, the prohibition of burning of wastes, the pretreatment
20 of wastes, and such other rules as may be necessary or appropriate, so long
21 as the laws, policies, and rules are consistent with, in accordance with, and
22 not more restrictive than those adopted by, under, or pursuant to this
23 subchapter or any laws, rules, ~~regulations,~~ or orders adopted by state law or
24 incorporated by reference from federal law, the commission, or the regional
25 solid waste management boards or districts, unless:

26 (1) There exists a fully implemented comprehensive area-wide
27 zoning plan and corresponding laws or ordinances covering the entire
28 municipality; or

29 (2) The municipality has made a request to the regional solid
30 waste management board or district to adopt a more restrictive rule,
31 ~~regulation,~~ order, or standard and no public hearing has been held within
32 sixty (60) days or the request has not been acted upon within ninety (90)
33 days.

34
35 SECTION 541. Arkansas Code § 8-6-221 is amended to read as follows:
36 8-6-221. Review of rules ~~and regulations.~~

1 All rules ~~and regulations~~ adopted under this subchapter shall be
2 reviewed by the interim House Committee on Public Health, Welfare, and Labor
3 and interim Senate Committee on Public Health, Welfare, and Labor or
4 appropriate subcommittees of the committees.

5
6 SECTION 542. Arkansas Code § 8-6-503(4), concerning the definition of
7 "illegal dump" under the Illegal Dump Eradication and Corrective Action
8 Program Act, is amended to read as follows:

9 (4) "Illegal dump" means any place at which solid waste is
10 placed, deposited, abandoned, dumped, or otherwise disposed of in a manner
11 that is prohibited by this subchapter or other statutes, or rules, ~~or~~
12 ~~regulations~~, and which constitutes one (1) of the following:

- 13 (A) An attractive nuisance;
14 (B) A fire, health, or safety hazard;
15 (C) A potential source of surface or groundwater
16 contamination; or
17 (D) Other contamination that is hazardous to the public
18 health or endangers the environment;

19
20 SECTION 543. Arkansas Code § 8-6-602(d), concerning the duties of the
21 Department of Environmental Quality under the Solid Waste Management and
22 Recycling Fund Act, is amended to read as follows:

23 (d) The department and the Arkansas Pollution Control and Ecology
24 Commission shall promulgate and implement policies, rules, ~~regulations~~, and
25 procedures for administering the terms of this subchapter.

26
27 SECTION 544. Arkansas Code § 8-6-606(d)(1)(A), concerning landfill
28 disposal fees under the Solid Waste Management and Recycling Fund Act, is
29 amended to read as follows:

30 (d)(1)(A) By January 1, 2004, all permitted facilities identified by
31 ~~regulation~~ rule of the Arkansas Pollution Control and Ecology Commission as
32 Class 1 and Class 3C landfills, except those permitted landfills that shall
33 comply with closure requirements before January 1, 2005, shall install scales
34 and commence weighing all solid waste received at the landfill.

35
36 SECTION 545. Arkansas Code § 8-6-610 is amended to read as follows:

1 8-6-610. Rules ~~and regulations~~.

2 (a) The Arkansas Pollution Control and Ecology Commission may adopt
3 reasonable rules ~~and regulations~~ necessary to implement this subchapter,
4 including without limitation:

5 (1) Collecting fees; and

6 (2) Setting priorities for the administration of this
7 subchapter.

8 (b) The rules ~~and regulations~~ shall be reviewed by the House Committee
9 on Public Health, Welfare, and Labor and the Senate Committee on Public
10 Health, Welfare, and Labor or appropriate subcommittees of the House
11 Committee on Public Health, Welfare, and Labor and the Senate Committee on
12 Public Health, Welfare, and Labor.

13
14 SECTION 546. Arkansas Code § 8-6-613(d), concerning the computer and
15 electronic equipment recycling program under the Solid Waste Management and
16 Recycling Fund Act, is amended to read as follows:

17 (d) The Arkansas Pollution Control and Ecology Commission may adopt
18 ~~regulations~~ rules necessary to implement an effective computer and electronic
19 equipment recycling program.

20
21 SECTION 547. Arkansas Code § 8-6-615(d)(4), concerning distribution of
22 funds to regional solid waste management districts under the Solid Waste
23 Management and Recycling Fund Act, is amended to read as follows:

24 (4) The Arkansas Pollution Control and Ecology Commission may
25 promulgate ~~regulations~~ rules necessary for funding and program reporting,
26 accountability, and oversight under this subsection.

27
28 SECTION 548. Arkansas Code § 8-6-706(b)(2)(E), concerning solid waste
29 landfill and transfer station permits, is amended to read as follows:

30 (E) Does not conflict with the requirements of state laws
31 and rules or federal laws and regulations on the location of disposal
32 facilities;

33
34 SECTION 549. Arkansas Code § 8-6-706(d)(6), concerning solid waste
35 landfill and transfer station permits, is amended to read as follows:

36 (6) A detailed history of the applicant's record and that of the

1 stockholders and officers with respect to violations of environmental laws,
2 rules, and regulations of the United States or any state or any political
3 subdivision of any state; and
4

5 SECTION 550. Arkansas Code § 8-6-708 is amended to read as follows:

6 8-6-708. Procedures and ~~regulations~~ rules.

7 The Arkansas Pollution Control and Ecology Commission is authorized to
8 prescribe procedures and ~~regulations~~ rules:

9 (1) To guide the initial and continued organization and
10 operation of the respective boards in accordance with the purposes of this
11 subchapter and § 8-6-801 et seq.;

12 (2) To assure public notice and participation prior to adoption
13 of regional needs assessments, findings, or reports made by the boards;

14 (3) To defray some of the costs of the administration of this
15 subchapter, including, but not limited to, inspections and technical review
16 of submissions required by this subchapter by setting graduated surcharges
17 upon any waste stream increase in excess of ten percent (10%) as a result of
18 receipt of solid waste from outside the district; and

19 (4) To require prompt compliance with the requirements of this
20 subchapter and § 8-6-801 et seq.
21

22 SECTION 551. Arkansas Code § 8-6-712(a)(1)(A), concerning the
23 regulation of solid waste disposal, is amended to read as follows:

24 (1)(A) Require, by ~~regulation~~ rule or other legal means, that
25 solid waste generated or collected within the boundaries of the district be
26 delivered to a particular project for disposal, treatment, or other handling.
27

28 SECTION 552. Arkansas Code § 8-6-712(a)(2), concerning the regulation
29 of solid waste disposal, is amended to read as follows:

30 (2) Prohibit, by ~~regulation~~ rule or other legal means, the
31 collection of solid waste within the boundaries of the district by persons
32 not properly licensed by the district;
33

34 SECTION 553. Arkansas Code § 8-6-712(a)(4) and (5), concerning the
35 regulation of solid waste disposal, are amended to read as follows:

36 (4) Provide, by ~~regulation~~ rule or other legal means, that no

1 person, other than as may be designated by the district, shall engage in the
2 collection or utilization of solid waste within the district which would be
3 competitive with the purposes or activities of the district; and

4 (5) Covenant in connection with the issuance of bonds, notes, or
5 other evidence of indebtedness to adopt any ~~regulation~~ rule described in
6 subdivisions (a)(1), (a)(2), and (a)(4) of this section and that any
7 ~~regulation~~ rule so adopted shall remain in full force and effect and shall be
8 enforced so long as any bonds, notes, or other evidences of indebtedness
9 remain outstanding.

10
11 SECTION 554. Arkansas Code § 8-6-712(d), concerning the regulation of
12 solid waste disposal, is amended to read as follows:

13 (d) Furthermore, nothing in this subchapter shall prohibit the
14 disposal of dead animal carcasses through means which are otherwise permitted
15 by state law or ~~regulation~~ rule.

16
17 SECTION 555. Arkansas Code § 8-6-714(a)(1)(B)(i)(a), concerning the
18 rents, fees and charges established by a regional solid waste management
19 board, is amended to read as follows:

20 (a) Enforce all local ordinances, statutes, rules, and regulations for which the district has been previously given
21 enforcement authority regarding solid waste including the Illegal Dump
22 Eradication and Corrective Action Program Act, § 8-6-501 et seq.; and
23
24

25 SECTION 556. Arkansas Code § 8-6-718 is amended to read as follows:

26 8-6-718. Waste tire collection center.

27 Beginning July 1, 1993, each regional solid waste management board
28 shall establish a waste tire collection center at which residents of the
29 district may dispose of their waste motor vehicle tires at no cost except as
30 provided by ~~regulation~~ rule of the Arkansas Pollution Control and Ecology
31 Commission or the board.

32
33 SECTION 557. Arkansas Code § 8-6-720(b), concerning recyclable
34 materials collection centers, is amended to read as follows:

35 (b) The Arkansas Department of Environmental Quality shall determine
36 by ~~regulation~~ rule the adequacy of the facilities and the number and type of

1 recyclable materials for which the services in this section must be provided.

2
3 SECTION 558. Arkansas Code § 8-6-722 is amended to read as follows:

4 8-6-722. Penalties.

5 Any person who violates this subchapter or any ~~regulation~~ rule of the
6 Arkansas Pollution Control and Ecology Commission or of a regional solid
7 waste management board shall be deemed guilty of a misdemeanor. Upon
8 conviction, the person shall be subject to imprisonment for not more than
9 thirty (30) days or a fine of not more than one thousand dollars (\$1,000), or
10 both imprisonment and fine.

11
12 SECTION 559. Arkansas Code § 8-6-902 is amended to read as follows:

13 8-6-902. Penalties – Procedures.

14 (a) Any person who violates any provision of this subchapter or of any
15 rule, ~~regulation~~, or order issued pursuant thereto, shall be subject to the
16 same penalty and enforcement provisions as are contained in the Arkansas
17 Solid Waste Management Act, § 8-6-201 et seq.

18 (b) Except as otherwise provided in this subchapter, the procedure of
19 the Arkansas Pollution Control and Ecology Commission for issuance of rules
20 ~~and regulations~~, conduct of hearings, notice, power of subpoena, review of
21 action on permits, right of appeal, presumptions, finality of actions, and
22 related matters shall be as provided in §§ 8-4-101 – 8-4-106 and 8-4-201 – 8-
23 4-230 of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.,
24 including, without limitation, §§ 8-4-205, 8-4-210, 8-4-212 – 8-4-214, and 8-
25 4-218 – 8-4-229.

26 (c) All rules ~~and regulations~~ adopted under this subchapter shall be
27 reviewed by the interim House Committee on Public Health, Welfare, and Labor
28 and the interim Senate Committee on Public Health, Welfare, and Labor or
29 appropriate subcommittees of the committees.

30
31 SECTION 560. Arkansas Code § 8-6-905(a), concerning the powers and
32 duties of the Arkansas Pollution Control and Ecology Commission regarding
33 licensing of operators of solid waste management facilities, is amended to
34 read as follows:

35 (a) The Arkansas Pollution Control and Ecology Commission, with the
36 advice and assistance of the licensing committee, is given and charged with

1 the power and duty to adopt rules ~~and regulations~~ implementing and
2 effectuating such powers and duties of the Arkansas Department of
3 Environmental Quality and the licensing committee under this subchapter as
4 may be necessary for the administration and enforcement of this subchapter.
5

6 SECTION 561. Arkansas Code § 8-6-905(b)(3), concerning the powers and
7 duties of the Arkansas Pollution Control and Ecology Commission regarding
8 licensing of operators of solid waste management facilities, is amended to
9 read as follows:

10 (3) To initiate enforcement actions or institute court
11 proceedings, or both, to compel compliance with the provisions of this
12 subchapter and rules ~~and regulations~~ issued under this subchapter.
13

14 SECTION 562. Arkansas Code § 8-6-906(b), concerning the classification
15 of solid waste management facility operator licenses by the Arkansas
16 Pollution Control and Ecology Commission, is amended to read as follows:

17 (b) The Director of the Arkansas Department of Environmental Quality,
18 with the advice and assistance of the licensing committee, shall license
19 persons according to their qualifications to successfully operate solid waste
20 management facilities within the classifications established and effectuated
21 by rules ~~and regulations~~ promulgated by the commission.
22

23 SECTION 563. Arkansas Code § 8-6-907 is amended to read as follows:
24 8-6-907. Licensing.

25 All operators in responsible charge of public and private solid waste
26 management facilities shall be duly licensed and certified as competent by
27 the Director of the Arkansas Department of Environmental Quality under the
28 provisions of this subchapter and under such rules ~~and regulations~~ as the
29 Arkansas Pollution Control and Ecology Commission may adopt, with the advice
30 and assistance of the licensing committee, pursuant to the authority of this
31 subchapter.
32

33 SECTION 564. Arkansas Code § 8-6-908(a), concerning the licensing,
34 eligibility, and reciprocity of operators of solid waste management
35 facilities, is amended to read as follows:

36 (a)(1) The Director of the Arkansas Department of Environmental

1 Quality shall license and certify all applicants for licenses under this
2 subchapter who satisfy the requirements of this subchapter and the rules ~~and~~
3 ~~regulations~~ issued pursuant thereto.

4 (2) Licenses shall be granted according to the classifications
5 of operator licenses established in the rules ~~and regulations~~ promulgated by
6 the Arkansas Pollution Control and Ecology Commission.

7 (3) Licenses shall be valid for a period of one (1) year and,
8 with the exception of the apprenticeship license, shall be renewable upon
9 application if the applicant meets the renewal requirements established by
10 commission ~~regulation~~ rule. Provisional certificates shall be for a period of
11 one (1) year, but may be extended if the director determines there is
12 sufficient justification.

13
14 SECTION 565. Arkansas Code § 8-6-908(c)-(e), concerning the licensing,
15 eligibility, and reciprocity of operators of solid waste management
16 facilities, are amended to read as follows:

17 (c) The director may, at his or her discretion, waive the requirements
18 or any part of the requirements for formal examination of an applicant for a
19 license if the applicant holds a valid license or certificate from another
20 state in which the requirements for a license in the appropriate
21 classification are at least equal to the requirements set forth in this
22 subchapter and the rules ~~and regulations~~ issued pursuant thereto.

23 (d) The director shall issue an apprenticeship license to operators-
24 in-training as established under this subchapter and in rules ~~and regulations~~
25 promulgated by the commission.

26 (e) The director may issue, at his or her discretion, a provisional
27 certificate to any operator for just cause as established under this
28 subchapter and in rules ~~and regulations~~ promulgated by the commission.

29
30 SECTION 566. Arkansas Code § 8-6-1002(e)(3), concerning the creation
31 of the Landfill Post-Closure Trust Fund, is amended to read as follows:

32 (3) If the department is required to expend funds from the fund
33 due to the failure of an owner or operator to meet the requirements of this
34 subsection, the department shall pursue collection and recovery of the funds
35 by issuing an administrative order notifying the owner or operator by
36 certified mail at the last known address of the owner or operator of the

1 action taken by the department and the amount of funds expended from the fund
2 and that the administrative order may be appealed in accordance with the
3 department's ~~regulations~~ rules.

4
5 SECTION 567. Arkansas Code § 8-6-1105(c)(3), concerning exemptions to
6 expand outside of a district landfill service area, is amended to read as
7 follows:

8 (3) No new landfill shall be allowed to receive solid waste
9 outside the boundaries of the district in which it is located unless it is a
10 landfill where a private industry bears the expense of operating and
11 maintaining the landfill solely for the disposal of wastes generated by the
12 industry or of wastes of a similar kind or character and such industry has
13 commenced, prior to March 1, 1991, the process for obtaining a permit by
14 issuing notice to the local government having jurisdiction, as required under
15 the rules ~~and regulations~~ of the Arkansas Department of Environmental
16 Quality.

17
18 SECTION 568. Arkansas Code § 8-6-1105(c)(4)(B), concerning exemptions
19 to expand outside of a district landfill service area, is amended to read as
20 follows:

21 (B) Provided, the prohibition contained in this subsection
22 shall not apply to new applications for landfill permits if the landfill is
23 one where a private industry bears the expense of operating and maintaining
24 the landfill solely for the disposal of wastes generated by the industry, or
25 of wastes of a similar kind or character, and such industry has commenced,
26 prior to March 1, 1991, the process for obtaining a permit by issuing notice
27 to the local government having jurisdiction, as required under the rules ~~and~~
28 ~~regulations~~ of the department.

29
30 SECTION 569. Arkansas Code § 8-6-1105(d), concerning exemptions to
31 expand outside of district landfill service area, is amended to read as
32 follows:

33 (d) The director may grant an exemption from this section for solid
34 waste brought into a district for the purpose of recycling or because the
35 district where solid waste is generated does not have a landfill that meets
36 applicable state rules or federal regulations. The exemption shall be subject

1 to such terms and conditions as the director may deem appropriate.

2
3 SECTION 570. Arkansas Code § 8-6-1201 is amended to read as follows:
4 8-6-1201. Legislative intent.

5 The purpose of this subchapter is to protect the public health and the
6 state's environmental quality by establishing standards and promulgating
7 ~~regulations~~ rules by the Arkansas Pollution Control and Ecology Commission
8 for the disposal of potentially harmful materials, specifically incinerator
9 ash and petroleum-contaminated soils in a permitted landfill.

10
11 SECTION 571. Arkansas Code § 8-6-1204(1), concerning the powers and
12 duties of the Arkansas Pollution Control and Ecology Commission for disposal
13 of incinerator ash and petroleum-contaminated soils, is amended to read as
14 follows:

15 (1) To adopt rules ~~and regulations~~ to meet the purposes of this
16 subchapter;

17
18 SECTION 572. Arkansas Code § 8-6-1204(4), concerning the powers and
19 duties of the Arkansas Pollution Control and Ecology Commission for disposal
20 of incinerator ash and petroleum-contaminated soils, is amended to read as
21 follows:

22 (4) To administer and enforce all laws, and rules, ~~and~~
23 ~~regulations~~ relating to this subchapter.

24
25 SECTION 573. Arkansas Code § 8-6-1205(a)(2), concerning adoption of
26 disposal criteria for petroleum-contaminated soils in landfills permitted
27 under the Arkansas Solid Waste Management Act, is amended to read as follows:

28 (2) In adopting such criteria, the commission shall follow the
29 procedures applicable to the adoption of rules ~~and regulations~~ under § 8-4-
30 202(a).

31
32 SECTION 574. Arkansas Code § 8-6-1206(a)(2), concerning adoption of
33 disposal criteria for incinerator ash in landfills permitted under the
34 Arkansas Solid Waste Management Act, is amended to read as follows:

35 (2) In adopting such criteria, the commission shall follow the
36 procedures applicable to the adoption of rules ~~and regulations~~ under § 8-4-

1 202(a).

2
3 SECTION 575. Arkansas Code § 8-6-1301(c)(1), concerning the
4 legislative findings and purpose for the regulation of commercial medical
5 waste incineration facilities, is amended to read as follows:

6 (1) Commercial-scale medical waste incinerators beginning
7 operation after March 1, 1995, will be in compliance with the most recent
8 operating standards and ~~regulations~~ rules;

9
10 SECTION 576. Arkansas Code § 8-6-1304(b)(1), concerning the
11 applicability of the law to commercial medical waste incineration facilities
12 in operation before March 20, 1992, is amended to read as follows:

13 (1) Complying with the rules or regulations or standards imposed
14 by local, state, or federal government agencies; or

15
16 SECTION 577. Arkansas Code § 8-6-1305(e)(1)(C), concerning the permit
17 procedure for commercial medical waste incineration facilities, is amended to
18 read as follows:

19 (C) The department shall process the application as one
20 for a new permit and apply the most current statutes, rules, regulations,
21 technological standards, and operational controls as conditions precedent for
22 granting a permit or operational authority.

23
24 SECTION 578. Arkansas Code § 8-6-1401 is amended to read as follows:
25 8-6-1401. Purpose.

26 The purpose of this subchapter is to protect the public health and
27 safety by requiring the Arkansas Pollution Control and Ecology Commission to
28 establish standards and promulgate ~~regulations~~ rules regarding the post-
29 closure use of solid waste landfills and adjacent areas for residential
30 purposes.

31
32 SECTION 579. Arkansas Code § 8-6-1402(1), concerning the powers and
33 duties of the Arkansas Pollution Control and Ecology Commission to regulate
34 residential use of landfills, is amended to read as follows:

35 (1) To adopt rules ~~and regulations~~ to meet the purposes of this
36 subchapter;

1
2 SECTION 580. Arkansas Code § 8-6-1402(3), concerning the powers and
3 duties of the Arkansas Pollution Control and Ecology Commission to regulate
4 residential use of landfills, is amended to read as follows:

5 (3) To administer and enforce all laws, and rules, ~~and~~
6 ~~regulations~~ relating to this subchapter.

7
8 SECTION 581. Arkansas Code § 8-6-1403 is amended to read as follows:
9 8-6-1403. Rules ~~and regulations~~.

10 ~~Within six (6) months after August 13, 1993, the~~ The Arkansas Pollution
11 Control and Ecology Commission shall adopt rules ~~and promulgate regulations~~
12 for specific criteria:

13 (1) To limit any person, partnership, company, corporation, or
14 other entity from building, erecting, or constructing any house or building
15 for residential purposes upon any land used as or which has been used as a
16 solid waste landfill; and

17 (2) To identify those houses and other buildings located on any
18 land used as or which has been used as a solid waste landfill and are
19 currently being used for residential purposes and to limit their future use
20 for residential purposes.

21
22 SECTION 582. Arkansas Code § 8-6-1404(c), concerning prohibited land
23 use of property formerly used as a landfill, is amended to read as follows:

24 (c)(1) The prohibitions of this subchapter and any rules ~~or~~
25 ~~regulations~~ promulgated under its authority shall be limited to application
26 to the area of the land which was specifically used as a landfill for the
27 placement and disposal of solid waste.

28 (2) The prohibitions of this subchapter and any rules ~~and~~
29 ~~regulations~~ promulgated under its authority shall not apply to landfills or
30 the land which was specifically used as a landfill more than twenty-five (25)
31 years before August 13, 1993.

32
33 SECTION 583. Arkansas Code § 8-6-1502(3)(B)(vii), concerning the
34 definition of "high impact solid waste management facility" under the laws
35 addressing the siting of high impact solid waste management facilities, is
36 amended to read as follows:

1 (vii) An existing facility operating under the
2 interim status of the federal Resource Conservation and Recovery Act or
3 implementing ~~regulations~~ rules of the Arkansas Hazardous Waste Management Act
4 of 1979, § 8-7-201 et seq., or the Arkansas Hazardous Waste Management Code;
5 or

6
7 SECTION 584. Arkansas Code § 8-6-1601(b) and (c), concerning the
8 procedure for posting financial assurance for all permitted solid waste
9 management facilities, are amended to read as follows:

10 (b) The procedure for issuance of permits for solid waste management
11 facilities shall be as provided in the rules ~~and regulations~~ adopted by the
12 Arkansas Pollution Control and Ecology Commission under this subchapter or as
13 otherwise provided by law.

14 (c)(1) After an application to operate a facility has been reviewed
15 and approved but before a permit is issued, the applicant shall post with the
16 Arkansas Department of Environmental Quality, on forms prescribed by the
17 department in accordance with the ~~regulations~~ rules issued under this
18 subchapter, a corporate surety bond for performance or an acceptable
19 alternative, such as a certificate of deposit or letter of credit payable to
20 the department and conditioned upon faithful performance of all requirements
21 of this subchapter, the ~~regulations~~ rules issued pursuant to this subchapter,
22 and the permit, including, but not limited to, proper closure of the
23 facility.

24 (2) Liability under the bond shall be for the duration of the
25 disposal operation and for that period required to properly close the
26 facility and for post-closure care, in accordance with the ~~regulations~~ rules
27 issued by the commission.

28
29 SECTION 585. Arkansas Code § 8-6-1602(3), concerning the definition of
30 "closure plan" under the laws regarding financial assurance for permitted
31 solid waste management facilities, is amended to read as follows:

32 (3) "Closure plan" means a written plan that describes the steps
33 necessary to close any solid waste management facility at any point during
34 its active life in accordance with the design requirements in rules ~~and~~
35 ~~regulations~~ issued pursuant to this subchapter, as applicable;

36

1 SECTION 586. Arkansas Code § 8-6-1602(16), concerning the definition
2 of "post-closure plan" under the laws regarding financial assurance for
3 permitted solid waste management facilities, is amended to read as follows:

4 (16) "Post-closure plan" means a written plan that provides a
5 description of monitoring and maintenance activities required in rules ~~and~~
6 ~~regulations~~ issued pursuant to this subchapter and includes the frequency
7 with which these activities will be performed;

8
9 SECTION 587. Arkansas Code § 8-6-1603(a)(1), concerning procedures for
10 financial assurance for permitted solid waste management facilities, is
11 amended to read as follows:

12 (1) The owner or operator must have a detailed written estimate,
13 in current dollars, of the cost of hiring a third party to close the largest
14 area of the facility requiring closure as required under the ~~regulations~~
15 rules issued pursuant to this subchapter and the permit during the active
16 life of the facility in accordance with the closure plan.

17
18 SECTION 588. Arkansas Code § 8-6-1603(a)(4), concerning procedures for
19 financial assurance for permitted solid waste management facilities, is
20 amended to read as follows:

21 (4)(A) The owner or operator shall establish financial assurance
22 for closure of any permitted solid waste management facility in compliance
23 with the ~~regulations~~ rules issued pursuant to this subchapter and the permit.

24 (B) The owner or operator of any solid waste management
25 facility shall provide continuous financial assurance coverage for closure
26 until released from financial assurance requirements by demonstrating
27 compliance with ~~regulations~~ rules issued pursuant to this subchapter and the
28 permit.

29 (C) The amount of financial assurance shall be in
30 accordance with § 8-6-1002(e) and the ~~regulations~~ rules issued in that
31 subsection.

32
33 SECTION 589. Arkansas Code § 8-6-1603(b)(1), concerning procedures for
34 financial assurance for permitted solid waste management facilities, is
35 amended to read as follows:

36 (1) The owner or operator shall have a detailed written

1 estimate, in current dollars, of the cost of hiring a third party to conduct
2 post-closure care in compliance with the post-closure plan developed under
3 the ~~regulations~~ rules issued pursuant to this subchapter and the permit.
4

5 SECTION 590. Arkansas Code § 8-6-1603(b)(4), concerning procedures for
6 financial assurance for permitted solid waste management facilitates, is
7 amended to read as follows:

8 (4)(A) The owner or operator shall establish financial assurance
9 for costs of post-closure care of any permitted solid waste management
10 facility in compliance with ~~regulations~~ rules issued pursuant to this
11 subchapter and the permit.

12 (B) The owner or operator of any solid waste management
13 facility shall provide continuous financial assurance coverage for post-
14 closure care until released from financial assurance requirements for post-
15 closure care by demonstrating compliance with ~~regulations~~ rules issued
16 pursuant to this subchapter and the permit.
17

18 SECTION 591. Arkansas Code § 8-6-1603(c)(1), concerning procedures for
19 financial assurance for permitted solid waste management facilitates, is
20 amended to read as follows:
21

22 (1) The owner or operator, if required to undertake a corrective
23 action program under ~~regulations~~ rules issued pursuant to this subchapter,
24 shall have a detailed written estimate, in current dollars, of the cost of
25 hiring a third party to perform the corrective action in accordance with
26 ~~regulations~~ rules issued pursuant to this subchapter.
27

28 SECTION 592. Arkansas Code § 8-6-1603(c)(2)(B), concerning procedures
29 for financial assurance for permitted solid waste management facilitates, is
30 amended to read as follows:

31 (B) The owner or operator shall provide continuous
32 coverage for corrective action until released from financial assurance
33 requirements for corrective action by demonstrating compliance with
34 ~~regulations~~ rules issued pursuant to this subchapter.
35

36 SECTION 593. Arkansas Code § 8-6-1603(d)(3), concerning procedures for

1 financial assurance for permitted solid waste management facilitates, is
2 amended to read as follows:

3 (3) Owners and operators shall choose from the options specified
4 in ~~regulations~~ rules issued pursuant to this subchapter.

5
6 SECTION 594. Arkansas Code § 8-6-1603(d)(4)(B), concerning procedures
7 for financial assurance for permitted solid waste management facilitates, is
8 amended to read as follows:

9 (B) The contract of obligation shall be a binding
10 agreement on the municipality or county, allowing the director or his or her
11 designee to collect any general revenues being disbursed or to be disbursed
12 from the state to the municipality or county on the failure of the
13 municipality or county to fulfill the financial assurance requirements of
14 this subchapter and ~~regulations~~ rules issued pursuant to this subchapter.

15
16 SECTION 595. Arkansas Code § 8-6-1701(1), concerning the definition of
17 "open burning" under the laws addressing open burning of residential yard
18 waste, is amended to read as follows:

19 (1) "Open burning" shall mean, for the purposes of this subchapter,
20 the incineration or combustion of waste materials as a method of disposal
21 without any means to control the fuel/air ratio. None of the activities
22 exempted from ~~regulation~~ rules as air pollution in § 8-4-305 or in
23 ~~regulations~~ rules adopted by the Arkansas Pollution Control and Ecology
24 Commission shall constitute "open burning", provided such activities do not
25 cause a fire or safety hazard; and

26
27 SECTION 596. Arkansas Code § 8-6-1904(d), concerning development and
28 implantation of the Statewide Solid Waste Management Plan Act, is amended to
29 read as follows:

30 (d) The Arkansas Pollution Control and Ecology Commission may adopt
31 reasonable rules ~~and regulations~~ necessary to implement or effectuate the
32 purposes and intent of this subchapter.

33
34 SECTION 597. Arkansas Code § 8-7-101(a)(2), concerning the definition
35 of "hazardous materials" under the laws relating to civil liability of those
36 assisting at accidents involving hazardous materials, is amended to read as

1 follows:

2 (2) "Hazardous materials" means all materials and substances
3 which are designated or defined as hazardous by law or ~~regulation~~ rule of
4 this state or by law or regulation of the federal government.

5

6 SECTION 598. Arkansas Code § 8-7-204(a)(1)(A), concerning criminal,
7 civil, and administrative penalties under the Arkansas Hazardous Waste
8 Management Act of 1979, is amended to read as follows:

9 (1)(A) Any person who violates any provision of this subchapter,
10 who commits any unlawful act under it, or who violates any rule, ~~regulation~~,
11 or order of the Arkansas Pollution Control and Ecology Commission or the
12 Arkansas Department of Environmental Quality shall be guilty of a
13 misdemeanor.

14

15 SECTION 599. Arkansas Code § 8-7-204(a)(2)(A)(i), concerning criminal,
16 civil, and administrative penalties under the Arkansas Hazardous Waste
17 Management Act of 1979, is amended to read as follows:

18 (i) Violate any provision of this subchapter, commit
19 any unlawful act under it, or violate any rule, ~~regulation~~, or order of the
20 commission or the department, and leave the state or remove his or her person
21 from the jurisdiction of this state; or

22

23 SECTION 600. Arkansas Code § 8-7-204(b)(1), concerning criminal,
24 civil, and administrative penalties under the Arkansas Hazardous Waste
25 Management Act of 1979, is amended to read as follows:

26 (1) Restrain any violation of or compel compliance with the
27 provisions of this subchapter and of any rules, ~~regulations~~, orders, permits,
28 or plans issued pursuant thereto;

29

30 SECTION 601. Arkansas Code § 8-7-204(b)(4), concerning criminal,
31 civil, and administrative penalties under the Arkansas Hazardous Waste
32 Management Act of 1979, is amended to read as follows:

33 (4) Assess civil penalties in an amount not to exceed twenty-
34 five thousand dollars (\$25,000) per day for violations of this subchapter and
35 of any rules, ~~regulations~~, permits, or plans issued pursuant to this
36 subchapter; or

1
2 SECTION 602. Arkansas Code § 8-7-204(c), concerning criminal, civil,
3 and administrative penalties under the Arkansas Hazardous Waste Management
4 Act of 1979, is amended to read as follows:

5 (c) Any person who violates any provision of this subchapter and
6 ~~regulations~~, rules, permits, or plans issued pursuant to this subchapter may
7 be assessed an administrative civil penalty not to exceed twenty-five
8 thousand dollars (\$25,000) per violation. Each day of a continuing violation
9 may be deemed a separate violation for purposes of penalty assessment. No
10 civil penalty may be assessed until the person charged with the violation has
11 been given the opportunity for a hearing in accordance with ~~regulations~~ rules
12 adopted by the commission. All hearings and appeals arising under this
13 subchapter shall be conducted in accordance with the procedures prescribed by
14 §§ 8-4-205, 8-4-212, and 8-4-218 – 8-4-229. The procedures of this subsection
15 may also be used to recover all costs, expenses, and damages to the
16 department and any other agency or subdivision of the state in enforcing or
17 effectuating the provisions of this subchapter, including, but not limited
18 to, natural resource damages.

19
20 SECTION 603. Arkansas Code § 8-7-205(1) and (2), concerning unlawful
21 actions under the Arkansas Hazardous Waste Management Act of 1979, are
22 amended to read as follows:

23 (1) Violate any provisions of this subchapter or of any rule,
24 ~~regulation~~, permit, or order adopted or issued under this subchapter;

25 (2) Knowingly make any false statement, representation, or
26 certification in any application, record, report, plan, or other document
27 filed or required to be maintained under this subchapter or falsify, tamper
28 with, or knowingly render inaccurate any monitoring device or method required
29 to be maintained under this subchapter or any rules ~~or regulations~~ adopted
30 pursuant thereto;

31
32 SECTION 604. Arkansas Code § 8-7-205(4), concerning unlawful actions
33 under the Arkansas Hazardous Waste Management Act of 1979, is amended to read
34 as follows:

35 (4) Store, collect, transport, treat, or dispose of any
36 hazardous waste contrary to the rules, ~~regulations~~, permits, or orders issued

1 under this subchapter or in such a manner or place as to create or as is
2 likely to be created a public nuisance or a public health hazard or to cause
3 or is likely to cause water or air pollution within the meaning of the
4 Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

5
6 SECTION 605. Arkansas Code § 8-7-206 is amended to read as follows:

7 8-7-206. Private right of action.

8 Any person adversely affected by a violation of this subchapter or of
9 any rules, ~~regulations~~, or orders issued pursuant thereto shall have a
10 private right of action for relief against such violation.

11
12 SECTION 606. Arkansas Code § 8-7-209(a)(1), concerning the powers and
13 duties of the Arkansas Department of Environmental Quality and the Arkansas
14 Pollution Control and Ecology Commission under the Arkansas Hazardous Waste
15 Management Act of 1979, is amended to read as follows:

16 (1) To administer and enforce all laws, and rules, ~~and~~
17 ~~regulations~~ regarding hazardous waste management;

18
19 SECTION 607. Arkansas Code § 8-7-209(a)(6)-(9), concerning the powers
20 and duties of the Arkansas Department of Environmental Quality and the
21 Arkansas Pollution Control and Ecology Commission under the Arkansas
22 Hazardous Waste Management Act of 1979, are amended to read as follows:

23 (6) To make such investigations and inspections and to hold such
24 hearings, after notice, as it may deem necessary or advisable for the
25 discharge of its duties under this subchapter and to ensure compliance with
26 this subchapter and any orders, and rules, ~~and regulations~~ issued pursuant
27 thereto;

28 (7) To make, issue, modify, revoke, and enforce orders, after
29 notice and hearing, prohibiting violation of any of the provisions of this
30 subchapter or of any rules ~~and regulations~~ issued pursuant thereto or any
31 permit issued thereunder, and requiring the taking of such remedial measures
32 as may be necessary or appropriate to implement or effectuate the provisions
33 and purposes of this subchapter;

34 (8)(A) To institute proceedings in the name of the Arkansas
35 Department of Environmental Quality in any court of competent jurisdiction to
36 compel compliance with and to restrain any violation of the provisions of

1 this subchapter or any rules, ~~regulations~~, and orders issued pursuant thereto
2 or any permit issued thereunder, and require the taking of such remedial
3 measures as may be necessary or appropriate to implement or effectuate the
4 provisions and purposes of this subchapter.

5 (B) In any civil action in which a temporary restraining
6 order, preliminary injunction, or permanent injunction is sought, it shall
7 not be necessary to allege or prove at any stage of the proceeding that
8 irreparable damage will occur should the requested relief not be granted, nor
9 that the remedy at law is inadequate;

10 (9) To initiate, conduct, and support research, demonstration
11 projects, and investigations, and coordinate all state agency research
12 programs pertaining to hazardous waste management, and establish technical
13 advisory committees to assist in the development of procedures, standards,
14 criteria, and rules ~~and regulations~~, the members of which may be reimbursed
15 for travel expenses in accordance with § 25-16-901 et seq.;

16
17 SECTION 608. Arkansas Code § 8-7-209(b)(1), concerning the powers and
18 duties of the Arkansas Department of Environmental Quality and the Arkansas
19 Pollution Control and Ecology Commission under the Arkansas Hazardous Waste
20 Management Act of 1979, is amended to read as follows:

21 (1) To adopt, after notice and public hearing, and to
22 promulgate, modify, repeal, and enforce rules ~~and regulations~~ regarding
23 hazardous waste management as may be necessary or appropriate to implement or
24 effectuate the purposes and intent of this subchapter and the powers and
25 duties of the Arkansas Department of Environmental Quality under it,
26 including, but not limited to, rules ~~and regulations~~ for:

27 (A) The containerization and labeling of hazardous wastes,
28 which rules, to the extent practicable, shall be consistent with those issued
29 by the United States Department of Transportation, the United States
30 Environmental Protection Agency, the State Highway Commission, and the
31 Arkansas Department of Transportation;

32 (B) Establishing standards and procedures for the safe
33 operation and maintenance of facilities;

34 (C) Identifying those wastes or combination of wastes
35 which are incompatible and which may not be stored or disposed of together
36 and procedures for preventing the storage, disposal, recovery, or treatment

1 of incompatible wastes together;

2 (D) The reporting of hazardous waste management
3 activities;

4 (E) Establishing standards and procedures for the
5 certification of supervisory personnel at hazardous waste treatment or
6 disposal facilities or sites as required under § 8-7-219(3); and

7 (F) Establishing a manifest system for the transport of
8 hazardous waste and prohibiting the receipt of hazardous waste at storage,
9 processing, recovery, disposal, or transport facilities or sites without a
10 properly completed manifest;

11
12 SECTION 609. Arkansas Code § 8-7-209(b)(2)(A), concerning the powers
13 and duties of the Arkansas Department of Environmental Quality and the
14 Arkansas Pollution Control and Ecology Commission under the Arkansas
15 Hazardous Waste Management Act of 1979, is amended to read as follows:

16 (2)(A) In promulgation of such rules ~~and regulations~~, prior to
17 the submittal to public comment and review of any rule, ~~regulation~~, or change
18 to any rule ~~or regulation~~ that is more stringent than federal requirements,
19 the Arkansas Pollution Control and Ecology Commission shall duly consider the
20 economic impact and the environmental benefit of such rule ~~or regulation~~ on
21 the people of the State of Arkansas, including those entities that will be
22 subject to the ~~regulation~~ rule.

23
24 SECTION 610. Arkansas Code § 8-7-209(b)(2)(D), concerning the powers
25 and duties of the Arkansas Department of Environmental Quality and the
26 Arkansas Pollution Control and Ecology Commission under the Arkansas
27 Hazardous Waste Management Act of 1979, is amended to read as follows:

28 (D) Upon completion of the public comment period, the
29 Arkansas Pollution Control and Ecology Commission shall compile a rulemaking
30 record or response to comments demonstrating a reasoned evaluation of the
31 relative impact and benefits of the more stringent ~~regulation~~ rule;

32
33 SECTION 611. Arkansas Code § 8-7-209(b)(3) and (4), concerning the
34 powers and duties of the Arkansas Department of Environmental Quality and the
35 Arkansas Pollution Control and Ecology Commission under the Arkansas
36 Hazardous Waste Management Act of 1979, are amended to read as follows:

1 (3) Promulgation of rules, ~~regulations~~, and procedures not
2 otherwise governed by applicable law which the Arkansas Pollution Control and
3 Ecology Commission deems necessary to secure public participation in
4 environmental decision-making processes;

5 (4) Promulgation of rules ~~and regulations~~ governing
6 administrative procedures for challenging or contesting Arkansas Department
7 of Environmental Quality actions;

8
9 SECTION 612. Arkansas Code § 8-7-210(a), concerning the existing rules
10 of the Arkansas Department of Environmental Quality and the Arkansas
11 Pollution Control and Ecology Commission under the Arkansas Hazardous Waste
12 Management Act of 1979, is amended to read as follows:

13 (a) All existing rules ~~and regulations~~ of the Arkansas Department of
14 Environmental Quality not inconsistent with the provisions of this subchapter
15 relating to subjects embraced within this subchapter shall remain in full
16 force and effect until expressly repealed, amended, or superseded by the
17 Arkansas Pollution Control and Ecology Commission, insofar as the rules ~~and~~
18 ~~regulations~~ do not conflict with the provisions of this subchapter.

19
20 SECTION 613. Arkansas Code § 8-7-210(d), concerning the existing rules
21 of the Arkansas Department of Environmental Quality and the Arkansas
22 Pollution Control and Ecology Commission under the Arkansas Hazardous Waste
23 Management Act of 1979, is amended to read as follows:

24 (d) The provisions of this subchapter and the rules ~~and regulations~~
25 promulgated pursuant to it shall govern if they conflict with the provisions
26 of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or
27 the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or any action
28 taken by the department or commission under those laws.

29
30 SECTION 614. Arkansas Code § 8-7-212(b), concerning the administrative
31 considerations of the Arkansas Department of Environmental Quality and the
32 Arkansas Pollution Control and Ecology Commission under the Arkansas
33 Hazardous Waste Management Act of 1979, is amended to read as follows:

34 (b) To the extent practicable, the rules, ~~regulations~~, and procedures
35 adopted by the department pursuant to this subchapter shall be consistent
36 with other environmentally related rules, ~~regulations~~, and procedures of the

1 department. In administering the provisions of this subchapter and of all
2 other laws under the administration of the department, the department and the
3 Arkansas Pollution Control and Ecology Commission shall coordinate and
4 expedite the issuance of permits required by an applicant under one (1) or
5 more laws, to the end of eliminating, insofar as practicable, any duplication
6 of unnecessary time and expense to the applicant and the department.

7
8 SECTION 615. Arkansas Code § 8-7-213 is amended to read as follows:

9 8-7-213. Procedure generally.

10 The procedure of the Arkansas Department of Environmental Quality and
11 Arkansas Pollution Control and Ecology Commission for issuance of rules ~~and~~
12 ~~regulations~~, conduct of hearings, notice, power of subpoena, review of action
13 on permits, right of appeal, presumptions, finality of actions, and related
14 matters shall be as provided in §§ 8-4-101 et seq. and 8-4-201 et seq.,
15 including, but not limited to, §§ 8-4-205, 8-4-210, 8-4-212 – 8-4-214, and 8-
16 4-218 – 8-4-229 if they are not in conflict with the provisions set forth in
17 this subchapter.

18
19 SECTION 616. Arkansas Code § 8-7-218 is amended to read as follows:

20 8-7-218. Permits – Compliance with subchapter, state and federal
21 standards, regulations, etc.

22 (a) No permits shall be issued by the Arkansas Department of
23 Environmental Quality for any facility unless the department, after
24 opportunity for public comment, has determined that the facility has been
25 designed and will be operated in such manner that any emission from the
26 facility will comply with the provisions of this subchapter and all
27 applicable state and federal standards and state rules and federal
28 regulations concerning air and water quality and that the transfer, handling,
29 and storage of materials within the facility will not cause conditions which
30 would violate state and federal standards concerning worker safety or create
31 unreasonable hazards to the environment or to the health and welfare of the
32 people living and working in or near the facility.

33 (b)(1) No permit shall be issued by the department for any commercial
34 disposal or storage facility off the site where the hazardous waste is
35 generated until the department has adopted rules, ~~regulations~~, standards, and
36 procedures pursuant to § 8-7-209.

1 (2) The rules, ~~regulations~~, standards, procedures, or other
2 requirements adopted and imposed by the department shall not be less
3 stringent than the regulations promulgated or revised by the United States
4 Environmental Protection Agency pursuant to the federal Resource Conservation
5 and Recovery Act of 1976.

6 (c) No permit shall be issued for hazardous waste treatment, storage,
7 or disposal facilities except under the terms of ~~regulations~~ rules of the
8 department which conform to the provisions of § 3005 of the federal Resource
9 Conservation and Recovery Act.

10
11 SECTION 617. Arkansas Code § 8-7-220(a) and (b), concerning permit
12 renewals by the Arkansas Department of Environmental Quality under the
13 Arkansas Hazardous Waste Management Act of 1979, are amended to read as
14 follows:

15 (a) Permits shall be issued for a period not to exceed ten (10) years.
16 However, land disposal permits shall be reviewed five (5) years from the date
17 of issuance or reissuance and shall be modified as necessary to assure that
18 the facility continues to comply with the currently applicable laws and
19 ~~regulations~~ rules.

20 (b) Permits shall be subject to renewal by the Arkansas Department of
21 Environmental Quality upon a showing that the facility has been operated in
22 accordance with the terms of the permit, the rules ~~and regulations~~ applicable
23 to such facility, and in compliance with all other provisions of this
24 subchapter.

25
26 SECTION 618. Arkansas Code § 8-7-221 is amended to read as follows:

27 8-7-221. Permits – Revocation.

28 Any permit issued under §§ 8-7-215 – 8-7-220 shall be subject to
29 revocation for failure of the permittee to comply with the terms and
30 conditions of the permit, the rules ~~and regulations~~ of the Arkansas
31 Department of Environmental Quality applicable thereto, or the provisions of
32 this subchapter.

33
34 SECTION 619. Arkansas Code § 8-7-224(a), concerning the rules for
35 transporting hazardous waste, is amended to read as follows:

36 (a)(1) Following notice and public hearing, the Arkansas Department of

1 Transportation, in consultation with the Arkansas Department of Environmental
2 Quality, shall issue rules ~~and regulations~~ for the transportation of
3 hazardous wastes.

4 (2) The rules ~~and regulations~~ shall be consistent with
5 applicable rules and regulations issued by the United States Department of
6 Transportation and with any rules, ~~regulations~~, and standards issued by the
7 Arkansas Department of Environmental Quality under this subchapter.

8
9 SECTION 620. Arkansas Code § 8-7-225(a), concerning records and
10 examinations under the Arkansas Hazardous Waste Management Act of 1979, is
11 amended to read as follows:

12 (a) The owner or operator of any hazardous waste management facility
13 or site shall notify the Arkansas Department of Environmental Quality as to
14 hazardous waste management activities in accordance with the requirements of
15 this subchapter and ~~regulations~~ rules, permits, and orders issued under this
16 subchapter, and shall establish and maintain such records, make such reports,
17 install, use, and maintain such monitoring equipment or methods, take such
18 samples, perform such tests, and provide such other information to the
19 department as the Director of the Arkansas Department of Environmental
20 Quality may reasonably require.

21
22 SECTION 621. Arkansas Code § 8-7-226(a), concerning fees and
23 establishment of the Hazardous Waste Permit Fund under the Arkansas Hazardous
24 Waste Management Act of 1979, is amended to read as follows:

25 (a) The Arkansas Pollution Control and Ecology Commission shall have
26 authority to establish by ~~regulation~~ rule a schedule of fees to recover the
27 costs of processing permit applications and permit renewal proceedings, on-
28 site inspections and monitoring, the certification of personnel to operate
29 hazardous waste treatment, storage, or disposal facilities, and other
30 activities of Arkansas Department of Environmental Quality personnel which
31 are reasonably necessary to assure that generators and transporters of
32 hazardous waste and hazardous waste management facilities are complying with
33 the provisions of this subchapter and which reasonably should be borne by the
34 transporter, generator, or owner or operator of the hazardous waste
35 management facility.

36

1 SECTION 622. Arkansas Code § 8-7-226(d), concerning fees and
2 establishment of the Hazardous Waste Permit Fund under the Arkansas Hazardous
3 Waste Management Act of 1979, is amended to read as follows:

4 (d) The commission is hereby authorized to promulgate such rules ~~and~~
5 ~~regulations~~ as are necessary to administer the fees, rates, tolls, or charges
6 for services established by this section and is directed to prescribe such
7 fees, rates, tolls, or charges for the services delivered by the department
8 or its successor in such manner as may be necessary to support the programs
9 of the department as directed by the Governor and the General Assembly.

10
11 SECTION 623. Arkansas Code § 8-7-307(a)(1)-(3), concerning unlawful
12 actions or omissions of third parties under the Arkansas Resource Reclamation
13 Act of 1979, are amended to read as follows:

14 (1) Violate a provision of this subchapter or of any rule,
15 ~~regulation~~, permit, or order issued under this subchapter;

16 (2) Transport hazardous wastes into or out of the state, except
17 as provided by ~~regulations~~ rule established by the Arkansas Department of
18 Environmental Quality pursuant to the provisions of this subchapter; or

19 (3) Dispose of hazardous wastes in the state except as provided
20 by ~~regulations~~ rules established by the department pursuant to this
21 subchapter.

22
23 SECTION 624. Arkansas Code § 8-7-307(b)(2)(A), concerning unlawful
24 actions or omissions of third parties under the Arkansas Resource Reclamation
25 Act of 1979, is amended to read as follows:

26 (2)(A) A person who violates this section or the ~~regulations~~
27 rules issued under this subchapter, or who violates any condition of a permit
28 issued under this subchapter, may be assessed a civil penalty by the Arkansas
29 Pollution Control and Ecology Commission under administrative procedures and
30 civil penalty ~~regulations~~ rules of the commission.

31
32 SECTION 625. Arkansas Code § 8-7-307(c), concerning unlawful actions
33 or omissions of third parties under the Arkansas Resource Reclamation Act of
34 1979, is amended to read as follows:

35 (c) A person is not liable for violating a provision of this
36 subchapter or of any rule, ~~regulation~~, permit, or order issued under this

1 subchapter if the violation was caused solely by the acts or omissions of a
2 third party.

3
4 SECTION 626. Arkansas Code § 8-7-308(2)-(4), concerning powers and
5 duties of the Arkansas Department of Environmental Quality under the Arkansas
6 Resource Reclamation Act of 1979, are amended to read as follows:

7 (2) To adopt such ~~regulations~~ rules as may be necessary and
8 appropriate to enforce within the state the terms of any interstate agreement
9 or compact developed pursuant to the provisions of this subchapter;

10 (3) To promote the purposes of this subchapter and to effectuate
11 and implement interstate agreements by imposing reasonable conditions on
12 permits issued under this subchapter and the Arkansas Hazardous Waste
13 Management Act of 1979, § 8-7-201 et seq. and the ~~regulations~~ rules
14 promulgated under this subchapter and those sections;

15 (4) To prohibit, by ~~regulation~~ or rule or by condition of
16 permit, the disposal of any hazardous wastes within the state unless the
17 owner or custodian of the wastes can demonstrate to the reasonable
18 satisfaction of the director that it is technically or economically
19 infeasible for the wastes to be treated;

20
21 SECTION 627. Arkansas Code § 8-7-308(6), concerning powers and duties
22 of the Arkansas Department of Environmental Quality under the Arkansas
23 Resource Reclamation Act of 1979, is amended to read as follows:

24 (6) To adopt and enforce ~~regulations~~ rules which would require
25 the owners, operators, or other responsible parties of inactive or abandoned
26 disposal sites to undertake such actions as are reasonable to prevent
27 environmental contamination;

28
29 SECTION 628. Arkansas Code § 8-7-503(6)(A)(iii), concerning the
30 definition of "hazardous substance" under the Remedial Action Trust Fund Act,
31 is amended to read as follows:

32 (iii) Hazardous waste, including polychlorinated
33 biphenyls, as defined by the Arkansas Hazardous Waste Management Act of 1979,
34 § 8-7-201 et seq., and the ~~regulations~~ rules promulgated thereunder;

35
36 SECTION 629. Arkansas Code § 8-7-503(6)(B), concerning the definition

1 of "hazardous substance" under the Remedial Action Trust Fund Act, is amended
2 to read as follows:

3 (B) Any other substance or pollutant designated by
4 ~~regulations~~ rules of the commission promulgated under this subchapter;

5
6 SECTION 630. Arkansas Code § 8-7-503(13), concerning the definition of
7 "treatment", "storage", "disposal", "generation, and "hazardous waste" under
8 the Remedial Action Trust Fund Act, is amended to read as follows:

9 (13) "Treatment", "storage", "disposal", "generation", and
10 "hazardous waste" shall have the meanings provided in § 8-7-203 and the
11 ~~regulations~~ rules promulgated pursuant to the Arkansas Hazardous Waste
12 Management Act of 1979, § 8-7-201 et seq.

13
14 SECTION 631. Arkansas Code § 8-7-505(1) and (2), concerning unlawful
15 acts under the Remedial Action Trust Fund Act, are amended to read as
16 follows:

17 (1) To violate any provision of this subchapter or any rule ~~or~~
18 ~~regulation~~ adopted under this subchapter;

19 (2) To knowingly make a false statement, representation, or
20 certification in any report or other document filed or required by this
21 subchapter or the rules ~~and regulations~~ adopted pursuant to this subchapter;
22 or

23
24 SECTION 632. Arkansas Code § 8-7-506 is amended to read as follows:

25 8-7-506. ~~Regulations~~ Rules – Administrative procedure.

26 The Arkansas Pollution Control and Ecology Commission shall adopt
27 ~~regulations~~ rules under this subchapter necessary to implement or effectuate
28 the purposes and intent of this subchapter, including, but not limited to,
29 ~~regulations~~ rules affording any persons aggrieved by any order issued
30 pursuant to this subchapter an opportunity for a hearing thereon and
31 commission review of the action.

32
33 SECTION 633. Arkansas Code § 8-7-508(d), concerning remedial and
34 removal authority of the Arkansas Department of Environmental Quality under
35 the Remedial Action Trust Fund Act, is amended to read as follows:

36 (d) In taking removal or remedial actions pursuant to this subchapter,

1 the department or any contractor of the department under this section shall
2 not be required to obtain any state or local permit for the portion of any
3 removal or remedial action conducted pursuant to this subchapter entirely on
4 site when the removal or remedial action is otherwise carried out in
5 compliance with the ~~regulations~~ rules of the department.

6
7 SECTION 634. Arkansas Code § 8-7-518(b)(1)(B), concerning fees on the
8 generation of hazardous waste under the Remedial Action Trust Fund Act, is
9 amended to read as follows:

10 (B) The fees shall be calculated and paid according to a
11 schedule to be adopted by ~~regulation~~ rule of the Arkansas Pollution Control
12 and Ecology Commission, not to exceed a maximum of ten thousand dollars
13 (\$10,000) annually per facility.

14
15 SECTION 635. Arkansas Code § 8-7-518(b)(2)(A), concerning fees on the
16 generation of hazardous waste under the Remedial Action Trust Fund Act, is
17 amended to read as follows:

18 (2)(A) No person shall be required to pay fees based on the
19 quantity of hazardous wastes generated when such wastes are managed in a
20 totally enclosed treatment facility, an elementary neutralization unit, or a
21 wastewater treatment unit, or when the wastes are otherwise excluded by
22 ~~regulation~~ rule from inclusion in a facility's determination of its
23 compliance status or category as a generator.

24
25 SECTION 636. Arkansas Code § 8-7-518(d), concerning fees on the
26 generation of hazardous waste under the Remedial Action Trust Fund Act, is
27 amended to read as follows:

28 (d) To the extent practicable, the department shall coordinate the
29 reporting requirements of this section with the reporting requirements of the
30 Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., and the
31 ~~regulations~~ rules adopted thereunder. The content of the reporting shall be
32 consistent with federal reporting requirements pursuant to the Resource
33 Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., in all
34 respects with the exception of frequency.

35
36 SECTION 637. Arkansas Code § 8-7-519 is amended to read as follows:

1 8-7-519. Appeals.

2 An appeal may be taken from any final order of the Arkansas Department
3 of Environmental Quality under this subchapter as provided in §§ 8-4-202, 8-
4 4-210, 8-4-212-8-4-214, 8-4-218, 8-4-219, and 8-4-221 – 8-4-229 and in
5 accordance with ~~regulations~~ rules promulgated by the Arkansas Pollution
6 Control and Ecology Commission under this subchapter.

7
8 SECTION 638. Arkansas Code § 8-7-524(e)(1)(B), concerning recycling
9 transactions under the Remedial Action Trust Fund Act, is amended to read as
10 follows:

11 (B) Was in compliance with any applicable ~~regulations~~
12 rules or standards regarding the storage, transport, management, or other
13 activities associated with the recycling of scrap metal that the Arkansas
14 Pollution Control and Ecology Commission promulgates after the enactment of
15 this section and with regard to transactions occurring after the effective
16 date of those ~~regulations~~ rules or standards; and

17
18 SECTION 639. Arkansas Code § 8-7-524(f)(1)(B), concerning recycling
19 transactions under the Remedial Action Trust Fund Act, is amended to read as
20 follows:

21 (B) With respect to transactions involving lead-acid
22 batteries, was in compliance with applicable federal regulations or standards
23 and Arkansas environmental ~~regulations~~ rules or standards, and any amendments
24 thereto, regarding the storage, transport, management, or other activities
25 associated with the recycling of spent lead-acid batteries;

26
27 SECTION 640. Arkansas Code § 8-7-524(f)(2) and (3), concerning
28 recycling transactions under the Remedial Action Trust Fund Act, are amended
29 to read as follows:

30 (2) With respect to transactions involving nickel-cadmium
31 batteries, federal regulations or standards and Arkansas environmental
32 ~~regulations~~ rules or standards were in effect regarding the storage,
33 transport, management, or other activities associated with the recycling of
34 spent nickel-cadmium batteries, and the person was in compliance with
35 applicable regulations, rules, or standards or any amendments thereto; or

36 (3) With respect to transactions involving other spent

1 batteries, federal regulations or standards and Arkansas environmental
2 ~~regulations~~ rules or standards were in effect regarding the storage,
3 transport, management, or other activities associated with the recycling of
4 those batteries, and the person was in compliance with applicable
5 regulations, rules, or standards or any amendments thereto.

6
7 SECTION 641. Arkansas Code § 8-7-524(g)(1)(A)(iii), concerning
8 recycling transactions under the Remedial Action Trust Fund Act, is amended
9 to read as follows:

10 (iii) For transactions occurring before ninety (90)
11 days after the date of the enactment of this section, that the consuming
12 facility was not in compliance with a substantive, not procedural or
13 administrative, provision of any federal, state, or local environmental law,
14 rule, or regulation or compliance order or decree issued pursuant thereto,
15 applicable to the handling, processing, reclamation, or other management
16 activities associated with the recyclable material;

17
18 SECTION 642. Arkansas Code § 8-7-524(i), concerning recycling
19 transactions under the Remedial Action Trust Fund Act, is amended to read as
20 follows:

21 (i) The commission is authorized to promulgate additional rules ~~and~~
22 ~~regulations~~ concerning this section.

23
24 SECTION 643. Arkansas Code § 8-7-524(1)(1) and (2), concerning
25 recycling transactions under the Remedial Action Trust Fund Act, are amended
26 to read as follows:

27 (1) Liability under any other federal, Arkansas, or local
28 statute, rule, or regulation promulgated pursuant to any such statute,
29 including any requirements promulgated by the commission under the Arkansas
30 Hazardous Waste Management Act of 1979, § 8-7-201 et seq.; or

31 (2) The ability of the commission to promulgate ~~regulations~~
32 rules under any other statute, including the Arkansas Hazardous Waste
33 Management Act of 1979, § 8-7-201 et seq.

34
35 SECTION 644. Arkansas Code § 8-7-802(a)(1), concerning the powers and
36 duties of the Arkansas Pollution Control and Ecology Commission and the

1 Arkansas Department of Environmental Quality under the regulated substance
2 storage tank laws, is amended to read as follows:

3 (1) To promulgate, after notice and public hearing, and to
4 modify, repeal, and enforce, as necessary or appropriate to implement or
5 effectuate the purposes and intent of this subchapter, rules ~~and regulations~~
6 relating to an underground storage tank release detection, prevention,
7 corrective action, and financial responsibility program as required by the
8 federal Resource Conservation and Recovery Act of 1976 and the Energy Policy
9 Act of 2005, Pub. L. No. 109-58; and

10
11 SECTION 645. Arkansas Code § 8-7-802(a)(2)(A), concerning the powers
12 and duties of the Arkansas Pollution Control and Ecology Commission and the
13 Arkansas Department of Environmental Quality under the regulated substance
14 storage tank laws, is amended to read as follows:

15 (2)(A) To set reasonable fees for licensure of individuals and
16 annual registration of underground storage tanks and aboveground storage
17 tanks by rule ~~or regulation~~.

18
19 SECTION 646. Arkansas Code § 8-7-803 is amended to read as follows:
20 8-7-803. ~~Regulations~~ Rules generally.

21 Any ~~regulations~~ rules promulgated under this subchapter shall as much
22 as possible be identical to and no more stringent than the federal
23 regulations adopted by the United States Environmental Protection Agency.

24
25 SECTION 647. Arkansas Code § 8-7-804 is amended to read as follows:
26 8-7-804. Procedures of department generally.

27 The procedure of the Arkansas Department of Environmental Quality and
28 the Arkansas Pollution Control and Ecology Commission for issuance of rules
29 ~~and regulations~~, conduct of hearings, notice, power of subpoena, review of
30 action on permits, right of appeal, presumptions, finality of actions, and
31 related matters shall be as provided in §§ 8-4-101 – 8-4-106 and 8-4-201 – 8-
32 4-229, including, but not limited to, §§ 8-4-205, 8-4-210, 8-4-212 – 8-4-214,
33 and 8-4-218 – 8-4-229 to the extent they are not in conflict with the
34 provisions of this subchapter.

35
36 SECTION 648. Arkansas Code § 8-7-805(b)(1)(B), concerning the Arkansas

1 Department of Environmental Quality's licensing requirement under the
2 regulated substance storage tank laws, is amended to read as follows:

3 (B) Which provides that the department is the obligee or
4 payee of the instrument and otherwise complies with the ~~regulations~~ rules
5 promulgated under this subchapter.

6
7 SECTION 649. Arkansas Code § 8-7-805(d), concerning the Arkansas
8 Department of Environmental Quality's licensing requirement under the
9 regulated substance storage tank laws, is amended to read as follows:

10 (d) In the event the licensee or contracting company fails to properly
11 install, remove, repair, close, upgrade, or test any underground storage tank
12 pursuant to state law or ~~regulation~~ rule, the Director of the Arkansas
13 Department of Environmental Quality shall commence proceedings to collect on
14 the surety bond, letter of credit, or cash bond on which the department is
15 the obligee or payee.

16
17 SECTION 650. Arkansas Code § 8-7-806(a)(1) and (2), concerning
18 penalties under the regulated substance storage tank laws, are amended to
19 read as follows:

20 (1) To violate any provision of this subchapter or any rule ~~or~~
21 ~~regulation~~ adopted under this subchapter;

22 (2) To knowingly make a false statement, representation, or
23 certification in any report or other document submitted under or required by
24 this subchapter or the Petroleum Storage Tank Trust Fund Act, § 8-7-901 et
25 seq., or any rule ~~or regulation~~ issued pursuant thereto; or

26
27 SECTION 651. Arkansas Code § 8-7-806(c), concerning penalties under
28 the regulated substance storage tank laws, is amended to read as follows:

29 (c) Any owner or operator who fails to give any notification regarding
30 storage tanks required by this subchapter or any ~~regulation~~ rule issued
31 pursuant to this subchapter shall be subject to a civil penalty not to exceed
32 ten thousand dollars (\$10,000) for each storage tank for which notification
33 is not given.

34
35 SECTION 652. Arkansas Code § 8-7-806(d)(1), concerning penalties under
36 the regulated substance storage tank laws, is amended to read as follows:

1 (d)(1) Any person who violates any provision of this subchapter or of
2 any rule, ~~regulation~~, permit, certification, license, plan, or order issued
3 pursuant thereto or who commits an unlawful act hereunder may be assessed an
4 administrative civil penalty not to exceed ten thousand dollars (\$10,000) per
5 violation or unlawful act.

6
7 SECTION 653. Arkansas Code § 8-7-806(d)(4), concerning penalties under
8 the regulated substance storage tank laws, is amended to read as follows:

9 (4) No civil penalty may be assessed until the person charged
10 with the violation or unlawful act has been given the opportunity for a
11 hearing in accordance with ~~regulations~~ rules adopted by the Arkansas
12 Pollution Control and Ecology Commission.

13
14 SECTION 654. Arkansas Code § 8-7-806(e)(1), concerning penalties under
15 the regulated substance storage tank laws, is amended to read as follows:

16 (1) Restrain any violation of or compel compliance with the
17 provisions of this subchapter or of any rule, ~~regulation~~, permit,
18 certification, license, plan, or order issued pursuant to this subchapter or
19 restrain the commission of any unlawful act under this section;

20
21 SECTION 655. Arkansas Code § 8-7-806(e)(4), concerning penalties under
22 the regulated substance storage tank laws, is amended to read as follows:

23 (4) Assess civil penalties in an amount not to exceed ten
24 thousand dollars (\$10,000) per day for violations of this subchapter or of
25 any rule, ~~regulation~~, permit, certification, license, plan, or order issued
26 pursuant to this subchapter or for any unlawful act under this section;

27
28 SECTION 656. Arkansas Code § 8-7-807(a)(2), concerning the
29 responsibility and liability of an owner for a release of a regulated
30 substance from a storage tank, is amended to read as follows:

31 (2) However, the obligation of an owner or operator of an
32 aboveground storage tank to notify the department or undertake the other
33 activities required in this subsection shall not exceed and will be limited
34 to the existing requirements of any other applicable federal ~~or state~~
35 statutes or regulations, or state statutes or rules.

36

1 SECTION 657. Arkansas Code § 8-7-807(c)(3), concerning the
2 responsibility and liability of an owner for a release of a regulated
3 substance from a storage tank, is amended to read as follows:

4 (3) This section does not impair any right of the release site
5 property owner or adjacent property owner to seek equitable or legal
6 remedies, including without limitation claims for trespass, compensation as
7 the result of eminent domain, damages for temporary or permanent takings of
8 rights in land, contribution, and any other right or remedy allowed by state
9 law or rule, or federal law or regulation.

10
11 SECTION 658. Arkansas Code § 8-7-809(a), concerning corrective actions
12 after a release of a regulated substance from a storage tank and actions by
13 the Director of the Arkansas Department of Environmental Quality, is amended
14 to read as follows:

15 (a) Nothing in this subchapter or the ~~regulations~~ rules promulgated
16 under this subchapter shall prevent any person from undertaking corrective
17 action which would provide reasonable protection of public health and safety
18 and the environment.

19
20 SECTION 659. Arkansas Code § 8-7-810(b), concerning insurance pools to
21 demonstrate financial responsibility related to regulated substance storage
22 tanks, is amended to read as follows:

23 (b)(1) The formation and operation of an insurance pool under this
24 section shall be subject to approval by the Insurance Commissioner, who
25 shall, after notice and hearing, establish through rules ~~and regulations~~ a
26 method for approval and monitoring of such pools.

27 (2) Such ~~regulations~~ rules may include:

28 (A) Provisions for periodic examinations of financial
29 condition, including inspection of books, papers, accounts, and affairs of
30 the plan;

31 (B) Conditions for participation in the plan;

32 (C) Minimum amounts of cash reserves and insurance
33 coverage to be acquired;

34 (D) Requirements for sound management of the plan;

35 (E) Grounds for suspension or withdrawal of approval of
36 the plan; and

1 (F) Grounds for termination of the plan.

2
3 SECTION 660. Arkansas Code § 8-7-812 is amended to read as follows:

4 8-7-812. Subchapter controlling over other laws.

5 (a) This subchapter shall supersede and preempt all local government
6 laws, ordinances, rules, and regulations pertaining to underground storage
7 tanks, except for any applicable local building permit or fire code
8 requirements pertaining to installation of underground tanks.

9 (b) The provisions of this subchapter and the rules ~~and regulations~~
10 promulgated pursuant to it shall govern if they conflict with the provisions
11 of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., the
12 Arkansas Solid Waste Management Act, § 8-6-201 et seq., or the Arkansas
13 Hazardous Waste Management Act of 1979, § 8-7-201 et seq., or any action
14 taken by the Arkansas Department of Environmental Quality under those laws.

15
16 SECTION 661. Arkansas Code § 8-7-813(a), concerning the registration
17 of regulated substance storage tanks, is amended to read as follows:

18 (a) Except as provided under subsections (e) and (f) of this section,
19 all owners and operators of storage tanks shall register their storage tanks
20 as required by federal regulations and in accordance with the ~~regulations~~
21 rules adopted under this subchapter.

22
23 SECTION 662. Arkansas Code § 8-7-813(b)(2), concerning the
24 registration of regulated substance storage tanks, is amended to read as
25 follows:

26 (2) Proof of registration shall be in the form determined by
27 ~~regulations~~ rules adopted under this subchapter.

28
29 SECTION 663. Arkansas Code § 8-7-814(b), concerning the prohibited
30 delivery of a regulated substances into ineligible storage tanks, is amended
31 to read as follows:

32 (b) The Arkansas Pollution Control and Ecology Commission shall adopt
33 ~~regulations~~ rules to implement the criteria and process required by the
34 delivery prohibition requirements of the Energy Policy Act of 2005, Pub. L.
35 No. 109-58, and the ~~regulations~~ rules shall consist of, at a minimum, the
36 federal guidelines for determining the significant operational compliance of

1 underground storage tank systems.

2
3 SECTION 664. Arkansas Code § 8-7-816(d), concerning secondary
4 containment for regulated substance storage tanks, is amended to read as
5 follows:

6 (d) All secondary containment installed shall comply with federal
7 regulations for underground storage tanks and the ~~regulations~~ rules adopted
8 under this subchapter.

9
10 SECTION 665. Arkansas Code § 8-7-817(a), concerning operator training
11 required for operation and maintenance of regulated substance storage tanks,
12 is amended to read as follows:

13 (a) All operators of underground storage tank systems shall complete
14 training in the operation and maintenance of underground storage tank systems
15 in accordance with ~~regulations~~ rules promulgated under this section.

16
17 SECTION 666. Arkansas Code § 8-7-903 is amended to read as follows:

18 8-7-903. Rules ~~and regulations~~ - Powers of department.

19 (a) The Director of the Department of Finance and Administration is
20 authorized to adopt appropriate rules ~~and regulations~~ not inconsistent with
21 this subchapter as he or she may deem necessary to carry out the intent and
22 purposes of and to assure compliance with this subchapter.

23 (b) The Arkansas Pollution Control and Ecology Commission is
24 authorized to adopt appropriate rules ~~and regulations~~ not inconsistent with
25 this subchapter to carry out the intent and purposes of and to assure
26 compliance with this subchapter.

27 (c) The department shall have the authority to enter upon the property
28 of any owner or operator of an aboveground storage tank to obtain
29 information, conduct surveys, or review records for the purpose of
30 determining substantial compliance, as defined by this subchapter and
31 ~~regulations~~ rules promulgated thereunder, with all state laws and rules and
32 federal laws and regulations relating to aboveground storage tanks prior to
33 the director's approval of a claim for reimbursement or disbursement.

34
35 SECTION 667. Arkansas Code § 8-7-904(f), concerning the establishment
36 of the Advisory Committee on Petroleum Storage Tanks under the Petroleum

1 Storage Tank Trust Fund Act, is amended to read as follows:

2 (f) The committee shall adopt all rules ~~and regulations~~ necessary to
3 conduct its business.

4

5 SECTION 668. Arkansas Code § 8-7-904(h), concerning the establishment
6 of the Advisory Committee on Petroleum Storage Tanks under the Petroleum
7 Storage Tank Trust Fund Act, is amended to read as follows:

8 (h) The committee shall advise the department and the Arkansas
9 Pollution Control and Ecology Commission regarding promulgation of rules ~~and~~
10 ~~regulations~~ concerning storage tanks.

11

12 SECTION 669. Arkansas Code § 8-7-905(i)(2), concerning the
13 establishment of the Petroleum Storage Tank Trust Fund under the Petroleum
14 Storage Tank Trust Fund Act, is amended to read as follows:

15 (2) The procedures of the department and the Arkansas Pollution
16 Control and Ecology Commission for issuance of rules ~~and regulations~~, conduct
17 of hearings, notice, power of subpoena, right of appeal, presumptions,
18 finality of actions, and related matters shall be as provided in §§ 8-4-202,
19 8-4-210 – 8-4-214, and 8-4-218 – 8-4-229, and in rules ~~and regulations~~
20 applicable to administrative procedures of the department and the Arkansas
21 Pollution Control and Ecology Commission to the extent they are not in
22 conflict with the provisions of this subchapter.

23

24 SECTION 670. Arkansas Code § 8-7-907(c) and (d), concerning payments
25 for corrective action under the Petroleum Storage Tank Trust Fund Act, are
26 amended to read as follows:

27 (c) All payments for corrective action expenses of the owner or
28 operator shall be made only following proof that:

29 (1)(A) At the time of discovery of the release the owner or
30 operator had paid all fees required under state law or ~~regulations~~ rules
31 applicable to petroleum storage tanks.

32 (B) If the petroleum storage tank is an aboveground
33 storage tank, the owner or operator may be eligible for reimbursement if the
34 aboveground storage tank is registered under § 8-7-813 and all fees required
35 under state law or ~~regulation~~ rule have been paid;

36 (2) The corrective action expenses submitted for reimbursement

1 consist of items and amounts that are in accord and compliant with Arkansas
2 Department of Environmental Quality ~~regulations~~ rules; and

3 (3) The owner or operator cooperated fully with the department
4 in corrective action to address the release.

5 (d) Payment for corrective action may be denied if the storage tank
6 owner or operator fails to report a release as required by ~~regulation~~ rule
7 promulgated by the Arkansas Pollution Control and Ecology Commission, and the
8 failure to report the release causes a delay in the corrective action that
9 contributes to an adverse impact to the environment.

10
11 SECTION 671. Arkansas Code § 8-7-907(e)(1), concerning payments for
12 corrective action under the Petroleum Storage Tank Trust Fund Act, is amended
13 to read as follows:

14 (e)(1) The commission may provide through rule ~~and regulation~~ for
15 interim payments for corrective action.

16
17 SECTION 672. Arkansas Code § 8-7-907(f)(1), concerning payments for
18 corrective action under the Petroleum Storage Tank Trust Fund Act, is amended
19 to read as follows:

20 (f)(1) In the event moneys are expended from the fund for corrective
21 action and the owner or operator was not at the time of the occurrence
22 eligible to receive reimbursement for corrective action, as defined by this
23 subchapter and ~~regulations~~ rules promulgated under this subchapter, the
24 department may recover from the owner or operator the amount of moneys
25 expended from the fund for corrective action by filing an action in the
26 appropriate circuit court or by using the administrative procedures set forth
27 in § 8-7-804.

28
29 SECTION 673. Arkansas Code § 8-7-907(h), concerning payments for
30 corrective action under the Petroleum Storage Tank Trust Fund Act, is amended
31 to read as follows:

32 (h) If the owner or operator is found to have been in noncompliance
33 with any state laws and rules and federal laws and regulations relating to
34 storage tanks at the time of the occurrence, the department may assess a
35 penalty in accordance with its applicable policies and procedures.

36

1 SECTION 674. Arkansas Code § 8-7-907(k)(1), concerning payments for
2 corrective action under the Petroleum Storage Tank Trust Fund Act, is amended
3 to read as follows:

4 (k)(1) The Arkansas Pollution Control and Ecology Commission shall
5 provide through rule ~~and regulation~~ for a procedure under which an owner or
6 operator or a consultant can be eligible for payment for the purchase of
7 equipment needed for undertaking corrective action.

8
9 SECTION 675. Arkansas Code § 8-7-908(e)(1), concerning third-party
10 claims for under the Petroleum Storage Tank Trust Fund Act, is amended to
11 read as follows:

12 (e)(1) The Arkansas Pollution Control and Ecology Commission may
13 provide through rules ~~or regulations~~ for payments for third-party claims
14 under settlement agreements between the parties without entry of a final
15 court order or Arkansas State Claims Commission order.

16
17 SECTION 676. Arkansas Code § 8-7-908(f)(1), concerning third-party
18 claims for under the Petroleum Storage Tank Trust Fund Act, is amended to
19 read as follows:

20 (f)(1) In the event moneys are expended from the fund for third-party
21 claims and the owner or operator was not at the time of the occurrence in
22 substantial compliance, as defined by this subchapter and ~~regulations~~ rules
23 promulgated under this subchapter, the department may recover from the owner
24 or operator the amount of moneys expended from the fund for the third-party
25 claim by filing an action in the appropriate circuit court or by using the
26 administrative procedures set forth in § 8-7-804.

27
28 SECTION 677. Arkansas Code § 8-7-1008(b), concerning employee
29 information and training under the Public Employees' Chemical Right to Know
30 Act, is amended to read as follows:

31 (b)(1) The information and training program provided pursuant to this
32 section shall be developed in accordance with ~~regulations~~ rules to be
33 promulgated by the Director of the Department of Labor pursuant to § 8-7-1011
34 ~~within six (6) months after July 1, 1991.~~

35 (2) The ~~regulations~~ rules shall include, at a minimum,
36 requirements concerning:

1 (A) Information on interpreting labels and material safety
2 data sheets and the relationship between these two (2) methods of hazard
3 communication;

4 (B) The location and availability of the workplace
5 chemical list and material safety data sheets;

6 (C) Any operations in an employee's work area where
7 hazardous chemicals are present;

8 (D) The physical and health hazards of the hazardous
9 chemicals in the work area;

10 (E) Methods and observations that may be used to detect
11 the presence or release of a hazardous chemical in the work area, such as
12 monitoring conducted by the employer, continuous monitoring devices, visual
13 appearance or odor of hazardous chemicals when being released, etc.;

14 (F) The measures employees can take to protect themselves
15 from these hazards, including specific procedures the employer has
16 implemented to protect employees from exposure to hazardous chemicals, such
17 as appropriate work practices, emergency procedures, and personal protective
18 equipment to be used;

19 (G) Frequency of training;

20 (H) General safety instructions on the handling, cleanup,
21 and disposal of hazardous chemicals; and

22 (I) Employees' rights under this subchapter.

23
24 SECTION 678. Arkansas Code § 8-7-1008(f), concerning employee
25 information and training under the Public Employees' Chemical Right to Know
26 Act, is amended to read as follows:

27 (f) The director shall have authority to promulgate rules ~~and~~
28 ~~regulations~~ in accordance with § 8-7-1011:

29 (1) To exempt public employers from providing the information
30 and training otherwise required by this section to employees with special
31 skills and knowledge concerning hazardous chemicals, if such special skills
32 and knowledge would make the information and training unnecessary; and

33 (2) To require public employers to provide refresher training
34 for employees in workplaces or in circumstances in which the director
35 reasonably determines such refresher training to be necessary and
36 appropriate.

1
2 SECTION 679. Arkansas Code § 8-7-1011 is amended to read as follows:

3 8-7-1011. ~~Rule-making~~ Rulemaking.

4 (a) The Director of the Department of Labor may promulgate rules ~~and~~
5 ~~regulations~~ in accordance with the provisions of §§ 11-2-110, 11-2-112, and
6 11-2-113 to implement the provisions of this subchapter. This authority shall
7 include, but not be limited to, the authority to implement changes
8 corresponding to future amendments to the Hazard Communication Standard to
9 maintain consistency between this subchapter and the Hazard Communication
10 Standard.

11 (b) The director shall promulgate ~~regulations~~ rules within six (6)
12 months after July 1, 1991, requiring public employers to carry out
13 information and training programs for their employees and specifying the
14 minimum content of education and training programs as provided in § 8-7-1008.
15

16 SECTION 680. Arkansas Code § 8-7-1014(c), concerning enforcement under
17 the Public Employees' Chemical Right to Know Act, is amended to read as
18 follows:

19 (c) Violation of this subchapter by a public employer shall be cause
20 for adverse personnel action against the supervisor or supervisors
21 responsible for the violation, including, but not limited to, suspension,
22 demotion, withholding of annual career service recognition payments, or, in
23 the case of serious and repeated violations, termination. Issuance of a cease
24 and desist order by the director shall not be a prerequisite for such adverse
25 personnel action, but such action shall only be taken in accordance with the
26 civil service laws and ~~regulations~~ rules.
27

28 SECTION 681. Arkansas Code § 8-7-1311(a)(1), concerning fees under the
29 Phase I Environmental Site Assessment Consultant Act, is amended to read as
30 follows:

31 (a)(1) Under ~~regulations~~ rules promulgated by the Arkansas Pollution
32 Control and Ecology Commission, the Arkansas Department of Environmental
33 Quality may assess fees to Phase I consultants who apply to be placed on the
34 list maintained under § 8-7-1304.
35

36 SECTION 682. Arkansas Code § 8-9-101 is amended to read as follows:

1 8-9-101. Policy.

2 It is the policy of the State of Arkansas to encourage and promote
3 recycling in order to conserve natural resources, conserve energy, and
4 preserve landfill space. In furtherance of this policy, the State of Arkansas
5 adopts as a goal in the new century the recycling of forty percent (40%) of
6 its municipal solid waste ~~by 2005~~ and forty-five percent (45%) of its
7 municipal solid waste ~~by 2010~~, as shall be determined by the Arkansas
8 Department of Environmental Quality by ~~regulation~~ rule.

9
10 SECTION 683. Arkansas Code § 8-9-105 is amended to read as follows:

11 8-9-105. Penalties and procedures.

12 (a) Any person who violates any provision of § 8-9-301 et seq. or § 8-
13 9-401 et seq., or of any rule, ~~regulation~~, or order issued pursuant to this
14 chapter, shall be subject to the same penalty and enforcement provisions as
15 are contained in the Arkansas Solid Waste Management Act, § 8-6-204.

16 (b) Except as otherwise provided in this chapter, the procedure of the
17 Arkansas Pollution Control and Ecology Commission for issuance of rules ~~and~~
18 ~~regulations~~, conduct of hearings, notice, power of subpoena, review of action
19 on permits, right of appeal, presumptions, finality of actions, and related
20 matters shall be as provided in §§ 8-4-101 – 8-4-106 and 8-4-201 – 8-4-229 of
21 the Arkansas Water and Air Pollution Control Act, including, without
22 limitation, §§ 8-4-205, 8-4-210, 8-4-212 – 8-4-214, and 8-4-218 – 8-4-229.

23 (c) All rules ~~and regulations~~ adopted under this chapter shall be
24 reviewed by the interim House Committee on Public Health, Welfare, and Labor
25 and the interim Senate Committee on Public Health, Welfare, and Labor or
26 appropriate subcommittees of the committees.

27
28 SECTION 684. Arkansas Code § 8-9-202(1), concerning the powers and
29 duties of the Arkansas Department of Environmental Quality regarding waste
30 reduction and recycling, is amended to read as follows:

31 (1) Adopt reasonable rules ~~and regulations~~ to effectuate the
32 purposes of this subchapter;

33
34 SECTION 685. Arkansas Code § 8-9-304 is amended to read as follows:

35 8-9-304. Used motor oil.

36 ~~No later than December 31, 1992, the~~ The Arkansas Pollution Control and

1 Ecology Commission shall adopt, after notice and public hearing, reasonable
2 ~~regulations~~ rules which are protective of the public health and environment
3 for the collection, storage, and disposal, reuse, or recycling of used motor
4 oil.

5
6 SECTION 686. Arkansas Code § 8-9-402(25)(B)(ii), concerning the
7 definition of "waste tire site" under the Used Tire Recycling and
8 Accountability Act, is amended to read as follows:

9 (ii) A location that is authorized to store tires by
10 the Arkansas Department of Environmental Quality or ~~regulations~~ rules
11 promulgated by the Arkansas Pollution Control and Ecology Commission;
12

13 SECTION 687. Arkansas Code § 8-9-403(c)(3)(A) and (B), concerning the
14 operation of waste tire sites under the Used Tire Recycling and
15 Accountability Act, are amended to read as follows:

16 (3)(A) Unless otherwise provided by law or ~~regulation~~ rule,
17 whole tires shall not be deposited into a landfill or a waste tire monofill
18 as a method of final disposal unless shredded or split into sufficiently
19 small parts to assure their proper disposal.

20 (B) Unless otherwise provided by law or ~~regulation~~ rule,
21 only small tires that have been processed by cutting, shredding, or splitting
22 into sufficiently small parts to assure proper disposal or small tires
23 processed by baling may be disposed of at a disposal site that has a permit
24 issued for a landfill designed and operated as a waste tire monofill.
25

26 SECTION 688. Arkansas Code § 8-9-403(c)(4), concerning the operation
27 of waste tire sites under the Used Tire Recycling and Accountability Act, is
28 amended to read as follows:

29 (4) A person who leases, owns, or otherwise controls real
30 property may use tires in compliance with procedures approved by and
31 ~~regulations~~ rules promulgated by the Arkansas Pollution Control and Ecology
32 Commission and procedures approved by each solid waste management district:

33 (A) For soil erosion abatement and drainage purposes; or
34 (B) To secure covers over silage, hay, straw, or
35 agricultural products.
36

1 SECTION 689. Arkansas Code § 8-9-405(b)(5), concerning used tire
2 program reimbursements under the Used Tire Recycling and Accountability Act,
3 is amended to read as follows:

4 (5) Be operated in compliance with this subchapter and all other
5 laws, ~~regulations~~, and rules related to the administration of solid waste
6 management systems and recycling programs in Arkansas;

7
8 SECTION 690. Arkansas Code § 8-9-414(a) and (b), concerning the powers
9 and duties of the Arkansas Pollution Control and Ecology Commission under the
10 Used Tire Recycling and Accountability Act, are amended to read as follows:

11 (a) The Arkansas Pollution Control and Ecology Commission shall
12 promulgate ~~regulations~~ rules to carry out the intent and purposes of this
13 subchapter.

14 (b) The ~~regulations~~ rules shall:

15 (1)(A) Except as provided under subdivision (b)(1)(B) of this
16 section, provide for the administration of permits for tire processing
17 facilities, tire collection centers, commercial generators, and any other
18 person or entity that collects, receives, processes, recycles, or disposes of
19 used tires regulated under this subchapter with the maximum permit fee not to
20 exceed two hundred fifty dollars (\$250) annually.

21 (B) The maximum permit fee under this subdivision (b)(1)
22 shall not apply to tire transporters;

23 (2) Establish standards for tire processing facilities, tire
24 collection centers, tire transporters, and beneficial use projects;

25 (3) Establish procedures for administering reimbursements to
26 used tire programs under § 8-9-405;

27 (4) Unless otherwise provided by law, authorize the final
28 disposition of waste tires at a permitted solid waste disposal facility if
29 the waste tires have been cut into sufficiently small parts for proper
30 disposal and in compliance with this subchapter and all other applicable
31 provisions in this title;

32 (5) Establish procedures for administering the electronic
33 uniform used tire manifest system;

34 (6) Establish accountability procedures for the sustainability
35 of used tire programs operated under this subchapter; and

36 (7)(A) Establish the number of tires that each individual who is

1 a resident of a regional solid waste management district may discard monthly
2 without a fee.

3 (B) The maximum number of tires under this subdivision
4 (b)(7) shall not be more than four (4) tires per month.

5
6 SECTION 691. Arkansas Code § 8-9-414(c)(2), concerning the powers and
7 duties of the Arkansas Pollution Control and Ecology Commission under the
8 Used Tire Recycling and Accountability Act, is amended to read as follows:

9 (2) Promulgate ~~regulations~~ rules that are necessary to
10 administer the fees and reimbursement rates for services provided under this
11 subchapter by the used tire programs; and

12
13 SECTION 692. Arkansas Code § 8-9-415(a)(3), concerning permitting,
14 licensing, inspections, procedures, enforcement, and penalties under the Used
15 Tire Recycling and Accountability Act, is amended to read as follows:

16 (3) All applicable ~~regulations~~ rules promulgated by the Arkansas
17 Pollution Control and Ecology Commission.

18
19 SECTION 693. Arkansas Code § 8-9-606(e)(2), concerning the removal and
20 proper management of mercury-added vehicle components under the Mercury
21 Switch Removal Act of 2005, is amended to read as follows:

22 (2) Provisions of the rules ~~and regulations~~ concerning universal
23 waste adopted by the department pursuant to the Arkansas Hazardous Waste
24 Management Act of 1979, § 8-7-201 et seq.

25
26 SECTION 694. Arkansas Code § 8-9-609 is amended to read as follows:

27 8-9-609. Rules ~~and regulations~~ – Authority of Arkansas Pollution
28 Control and Ecology Commission.

29 The Arkansas Pollution Control and Ecology Commission may adopt rules
30 ~~and regulations~~ to effectuate and implement the purposes and intent of this
31 subchapter and the powers and duties of the Arkansas Department of
32 Environmental Quality.

33
34 SECTION 695. Arkansas Code § 8-10-203(4), concerning the definition of
35 "hazardous waste" under the Arkansas Pollution Prevention Act, is amended to
36 read as follows:

1 (4) "Hazardous waste" means hazardous waste as defined by the
2 Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., and
3 ~~regulations~~ rules issued pursuant thereto;
4

5 SECTION 696. Arkansas Code § 8-10-301(e) and (f), concerning the
6 prohibited sale and disposal of certain batteries, are amended to read as
7 follows:

8 (e) The Arkansas Pollution Control and Ecology Commission may
9 promulgate, modify, or repeal rules ~~or regulations~~ as necessary or
10 appropriate to implement or effectuate the purpose and intent of this
11 section.

12 (f) Any person violating any provision of this section or of any rule,
13 ~~regulation~~, or order issued pursuant to this section shall be subject to the
14 same penalty and enforcement provisions as are contained in the Arkansas
15 Solid Waste Management Act, § 8-6-204.
16

17 SECTION 697. Arkansas Code § 8-10-303(a)(3)(E), concerning required
18 permits for motor vehicle racing facilities, is amended to read as follows:

19 (E) The Arkansas Pollution Control and Ecology Commission
20 shall have the authority to promulgate all necessary rules ~~and regulations~~ to
21 implement this section, including the authority to set a permit fee to
22 recover the cost of issuing the permit.
23

24 SECTION 698. Arkansas Code § 8-10-304(b)(6), concerning motor vehicle
25 racing facilities in certain municipalities, is amended to read as follows:

26 (6) The Arkansas Pollution Control and Ecology Commission shall
27 have the authority to promulgate any and all necessary rules ~~and regulations~~
28 to implement this section, including the authority to set a permit fee to
29 recover the cost of issuing the permit.
30

31 SECTION 699. Arkansas Code § 8-14-104(a)(2), concerning the shielding
32 prohibitions and exemptions under the Shielded Outdoor Lighting Act, is
33 amended to read as follows:

34 (2) The Arkansas Department of Environmental Quality shall
35 promulgate ~~regulations~~ rules prohibiting any person or entity from knowingly
36 placing or disposing of the bulb or tube portion of an electric lighting

1 device containing hazardous levels of mercury in a landfill after January 1,
2 2008, if:

3 (A) The device contains more than two-tenths milligram per
4 liter (0.2 mg/l) of leachable mercury as measured by the Toxicity
5 Characteristic Leaching Procedure as set out in EPA Test Method 1311; and

6 (B) Adequate facilities exist for the public to properly
7 dispose of the device described in subdivision (a)(2)(A) of this section; and

8

9 SECTION 700. Arkansas Code § 8-14-104(a)(2), concerning the shielding
10 prohibitions and exemptions under the Shielded Outdoor Lighting Act, is
11 amended to read as follows:

12 (2) The Arkansas Department of Environmental Quality shall
13 promulgate ~~regulations~~ rules prohibiting any person or entity from knowingly
14 placing or disposing of the bulb or tube portion of an electric lighting
15 device containing hazardous levels of mercury in a landfill after January 1,
16 2008, if:

17 (A) The device contains more than two-tenths milligram per
18 liter (0.2 mg/l) of leachable mercury as measured by the Toxicity
19 Characteristic Leaching Procedure as set out in EPA Test Method 1311; and

20 (B) Adequate facilities exist for the public to properly
21 dispose of the device described in subdivision (a)(2)(A) of this section; and

22

23 SECTION 701. Arkansas Code § 9-3-105 is amended to read as follows:

24 9-3-105. Rules ~~and regulations~~.

25 The Secretary of State shall have power to make such rules ~~and~~
26 ~~regulations~~ as may be necessary for properly carrying into execution the
27 various provisions of this chapter.

28

29 SECTION 702. Arkansas Code § 9-4-103(a)(2), concerning the duties of
30 the Arkansas Child Abuse/Rape/Domestic Violence Commission, is amended to
31 read as follows:

32 (2) Promulgate rules, ~~regulations~~, procedures, and forms for the
33 evaluation of each shelter;

34

35 SECTION 703. Arkansas Code § 9-8-101(5), concerning the definition of
36 "regulations" in court-ordered investigations or studies involving children,

1 is amended to read as follows:

2 (5) ~~“Regulations”~~ “Rules” means ~~regulations~~ rules promulgated by
3 the division for the purpose of implementing this subchapter pursuant to the
4 Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

5
6 SECTION 704. Arkansas Code § 9-8-102(c), concerning the court-ordered
7 investigation, study, or supervision of a domestic relations case involving
8 children and the fee to a licensed social worker, is amended to read as
9 follows:

10 (c) If payment is not made within the established time frame as set
11 forth in the court order or as prescribed by ~~regulations~~ rules, the
12 obligation shall be considered a delinquent debt, as defined by ~~regulation~~
13 rule, and the licensed social worker may recover the fee as provided by law
14 for the recovery of a debt.

15
16 SECTION 705. Arkansas Code § 9-8-203 is amended to read as follows:

17 9-8-203. Promulgation of ~~regulations~~ rules.

18 (a) The Department of Human Services shall promulgate rules ~~and~~
19 ~~regulations~~ to implement this program.

20 (b) The department shall promulgate rules ~~and regulations~~ that include
21 eligibility requirements in accordance with any requirements from the funding
22 stream.

23
24 SECTION 706. Arkansas Code § 9-9-212(b)(3), concerning the
25 requirements for a hearing on an adoption petition under the Revised Uniform
26 Adoption Act, is amended to read as follows:

27 (3) All home studies shall be prepared and submitted in
28 conformity with the ~~regulations~~ rules promulgated pursuant to the Child
29 Welfare Agency Licensing Act, § 9-28-401 et seq.

30
31 SECTION 707. Arkansas Code § 9-9-212(d)(4), concerning the
32 requirements for a hearing on an adoption petition under the Revised Uniform
33 Adoption Act, is amended to read as follows:

34 (4) All home studies shall be prepared and submitted in
35 conformity with the ~~regulations~~ rules promulgated pursuant to the Child
36 Welfare Agency Licensing Act, § 9-28-401 et seq.

1
2 SECTION 708. Arkansas Code § 9-9-217(a)(2)(C)(iv), concerning
3 confidentiality of hearings and records under the Revised Uniform Adoption
4 Act, is amended to read as follows:

5 (iv) No one shall be permitted to review the removed
6 portion of the record except in an official capacity, and, except for uses
7 required by the federal audit in compliance with state laws and rules and
8 federal statutes and regulations, such a person shall be bound to keep the
9 contents of such records confidential.

10
11 SECTION 709. Arkansas Code § 9-9-217(a)(2)(D)(v), concerning
12 confidentiality of hearings and records under the Revised Uniform Adoption
13 Act, is amended to read as follows:

14 (v) No one shall be permitted to review the removed
15 portion of the record except in an official capacity, and, except for uses
16 required to provide for the enhancement of possible federal funding in
17 compliance with state laws and rules and federal statutes and regulations,
18 such a person shall be bound to keep the contents of such records
19 confidential.

20
21 SECTION 710. Arkansas Code § 9-9-411(a)(2), concerning subsidy
22 agreements, renewal, termination, or modification under the Arkansas
23 Subsidized Adoption Act, is amended to read as follows:

24 (2) The subsidy agreement may be continued in accordance with
25 the terms by entering into a new agreement each year but only as long as the
26 adopted child is the legal dependent of the adoptive parents and the child's
27 condition continues, except that, in the absence of other appropriate
28 resources provided by law and in accordance with Arkansas ~~regulations~~ rules,
29 it may not be continued after the adopted child reaches majority.

30
31 SECTION 711. Arkansas Code § 9-9-508 is amended to read as follows:

32 9-9-508. Rules ~~and regulations~~.

33 The Department of Human Services shall issue such rules ~~and regulations~~
34 as are necessary for implementing this subchapter.

35
36 SECTION 712. Arkansas Code § 9-9-702(e)(2)(A), concerning fast-tracked

1 adoption of Garrett's Law babies and definitions under the Streamline
2 Adoption Act, is amended to read as follows:

3 (A) The proposed relative adoptive parents have an
4 approved adoptive home study or the department approves the proposed relative
5 adoptive parents to adopt under state law on adoption, child welfare agency
6 licensing law and ~~regulations~~ rules, and department policy and procedures;

7
8 SECTION 713. Arkansas Code § 9-13-101(e)(7), concerning an award of
9 custody in a divorce action, is amended to read as follows:

10 (7) In order to ensure that each judicial district will have an
11 appropriate amount of funds to utilize for ad litem representation in custody
12 cases, the funds appropriated shall be apportioned based upon a formula
13 developed by the office and approved by the Arkansas Judicial Council and the
14 Administrative Rules ~~and Regulations~~ Subcommittee of the Legislative Council.

15
16 SECTION 714. Arkansas Code § 9-14-208(h)(2)(A), concerning the Office
17 of Child Support Enforcement, the powers to obtain information on a
18 noncustodial parent, penalties, and immunity, is amended to read as follows:

19 (2)(A) The rules ~~and regulations~~ shall require written notice to
20 each parent and noncustodial parent to whom this section applies:

21 (i) That the withholding, intercept, or seizure has
22 commenced; and

23 (ii) Of the right to an administrative hearing and
24 the procedures to follow if the parent or noncustodial parent desires to
25 contest the withholding, intercept, or seizure on the grounds that the
26 withholding, intercept, or seizure is improper due to a mistake of fact.

27
28 SECTION 715. Arkansas Code § 9-14-239(f), concerning suspension of a
29 driver's license for failure to pay child support, is amended to read as
30 follows:

31 (f) The office and the department are authorized to promulgate rules
32 ~~and regulations~~ necessary to carry out this section in the interests of
33 justice and equity.

34
35 SECTION 716. Arkansas Code § 9-14-801(2)(C), concerning the definition
36 of "clearinghouse" and capabilities of the Arkansas Child Support Tracking

1 System, is amended to read as follows:

2 (C) The clearinghouse shall be capable of processing
3 automated assignments of child support payments in accordance with state laws
4 and rules and federal laws and regulations.

5

6 SECTION 717. Arkansas Code § 9-14-803(b)(2)(D), concerning data
7 submitted to the Office of Child Support Enforcement of the Revenue Division
8 of the Department of Finance and Administration on child support payments, is
9 amended to read as follows:

10 (D) In all Title IV-D cases, or in multiple cases
11 involving the Title IV-D office, in which income withholding is ordered and
12 the obligated parent has more than one (1) child support case and the clerk
13 of the court is unable to split the child support payment between the
14 obligated parent's cases on a pro rata basis as required by state laws and
15 rules and federal laws and regulations.

16

17 SECTION 718. Arkansas Code § 9-20-103(18)(B)(iv), concerning the
18 definition of "neglect" under the Adult Maltreatment Custody Act, is amended
19 to read as follows:

20 (iv) Provide to an adult resident of a long-term
21 care facility goods or services necessary to avoid physical harm, mental
22 anguish, or mental illness as defined in ~~regulations~~ rules promulgated by the
23 Office of Long-Term Care of the Division of Medical Services of the
24 Department of Human Services;

25

26 SECTION 719. Arkansas Code § 9-27-303(29)(A), concerning the
27 definition of "home study" under the Arkansas Juvenile Code of 1989, is
28 amended to read as follows:

29 (29)(A) "Home study" means a written report that is obtained
30 after an investigation of a home by the Department of Human Services or other
31 appropriate persons or agencies and that shall conform to ~~regulations~~ rules
32 established by the Department of Human Services.

33

34 SECTION 720. Arkansas Code § 9-27-357(d), concerning deoxyribonucleic
35 acid samples under the Arkansas Juvenile Code of 1989, is amended to read as
36 follows:

1 (d) All deoxyribonucleic acid samples taken under this section shall
2 be taken in accordance with ~~regulations~~ rules promulgated by the State Crime
3 Laboratory.

4
5 SECTION 721. Arkansas Code § 9-28-216 is amended to read as follows:

6 9-28-216. Separation of juvenile offenders – ~~Regulations~~ Rules –
7 Review.

8 (a) The Division of Youth Services of the Department of Human Services
9 shall promulgate ~~regulations~~ rules to require the separation of juvenile
10 offenders committed to a facility operated by the division based upon:

11 (1) The age of the juvenile offender;

12 (2) The seriousness of the crime or crimes committed by the
13 juvenile offender; or

14 (3) Whether the juvenile offender has been adjudicated
15 delinquent of a sex offense as defined under § 12-12-903(12).

16 (b) No ~~regulation~~ rule pertaining to the separation of juvenile
17 offenders promulgated hereafter by the division shall be effective until
18 reviewed by the Legislative Council, the House Committee on Aging, Children
19 and Youth, Legislative and Military Affairs, and the Senate Interim Committee
20 on Children and Youth, or appropriate subcommittees thereof, of the General
21 Assembly.

22
23 SECTION 722. Arkansas Code § 9-28-402(3), concerning the definition of
24 "alternative compliance" under the Child Welfare Agency Licensing Act, is
25 amended to read as follows:

26 (3) "Alternative compliance" means approval from the Child
27 Welfare Agency Review Board to allow a licensee to deviate from the letter of
28 a ~~regulation~~ rule, provided that the licensee has demonstrated how an
29 alternate plan of compliance will meet or exceed the intent of the ~~regulation~~
30 rule;

31
32 SECTION 723. Arkansas Code § 9-28-403(a)(2), concerning the creation
33 and authority of the Child Welfare Agency Review Board, is amended to read as
34 follows:

35 (2) The board shall have the authority to promulgate rules ~~and~~
36 ~~regulations~~ to enforce the provisions of this subchapter.

1
2 SECTION 724. Arkansas Code § 9-28-403(b)(1), concerning the creation
3 and authority of the Child Welfare Agency Review Board, is amended to read as
4 follows:

5 (1) Expanding the types and categories of licenses issued for
6 programs falling within the definition of "child welfare agency", as may be
7 required by changes in the types of child welfare programs that may occur,
8 and to promulgate separate ~~regulations~~ rules for each category of license as
9 it may deem proper;

10
11 SECTION 725. Arkansas Code § 9-28-405(b), concerning the duties of the
12 Child Welfare Agency Review Board, is amended to read as follows:

13 (b) The board may amend the rules ~~and regulations~~ promulgated pursuant
14 to this section from time to time, in accordance with the rule promulgation
15 procedures in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.
16

17 SECTION 726. Arkansas Code § 9-28-405(h)(1), concerning the duties of
18 the Child Welfare Agency Review Board, is amended to read as follows:

19 (h)(1) The board or its designee may grant an agency's request for
20 alternative compliance upon a finding that the child welfare agency does not
21 meet the letter of a ~~regulation~~ rule promulgated under this subchapter but
22 that the child welfare agency meets or exceeds the intent of that rule
23 through alternative means.
24

25 SECTION 727. Arkansas Code § 9-28-405(i)(2), concerning the duties of
26 the Child Welfare Agency Review Board, is amended to read as follows:

27 (2) The board shall have the discretion to impose a civil
28 penalty pursuant to this section when the board determines by clear and
29 convincing evidence that the person sought to be charged has violated this
30 subchapter or the rules promulgated thereunder willfully, wantonly, or with
31 conscious disregard for law or ~~regulation~~ rule.
32

33 SECTION 728. Arkansas Code § 9-28-406(b)(1), concerning the
34 enforcement duties of the Department of Human Services under the Child
35 Welfare Agency Licensing Act, is amended to read as follows:

36 (b)(1) The board is authorized to make an inspection and investigation

1 of any proposed or operating child welfare agency and of any personnel
2 connected with that agency to the extent that an inspection and investigation
3 are necessary to determine whether the child welfare agency will be or is
4 being operated in accordance with this subchapter and the rules ~~and~~
5 ~~regulations~~ promulgated by the board.

6
7 SECTION 729. Arkansas Code § 9-28-406(d)(1), concerning the
8 enforcement duties of the Department of Human Services under the Child
9 Welfare Agency Licensing Act, is amended to read as follows:

10 (d)(1) The department shall assist licensees and applicants in
11 complying with published rules ~~and regulations~~ by issuing advisory opinions
12 regarding matters of rule compliance when so requested.

13
14 SECTION 730. Arkansas Code § 9-28-407(h)(1)(A), concerning licenses by
15 the Child Welfare Agency Review Board, is amended to read as follows:

16 (A) To the Director of the Child Welfare Agency Review
17 Board as required by ~~regulation~~ rule;

18
19 SECTION 731. Arkansas Code § 9-28-408(c)(3), concerning church-related
20 exemption from the state income tax, is amended to read as follows:

21 (3) Challenge to the constitutionality or reasonableness of any
22 ~~regulation~~ rule or statute may be made prior to any appeal under the Arkansas
23 Administrative Procedure Act, § 25-15-201 et seq.

24
25 SECTION 732. Arkansas Code § 9-32-202 is amended to read as follows:
26 9-32-202. Legislative findings.

27 To enhance the public's access to child welfare program performance
28 indicators, to raise the public's awareness of the child welfare program's
29 client outcomes, to enable the General Assembly to monitor and assess the
30 performance of the Division of Children and Family Services of the Department
31 of Human Services, the Division of Aging, Adult, and Behavioral Health
32 Services of the Department of Human Services, and the Division of Youth
33 Services of the Department of Human Services, and to specifically monitor the
34 compliance of the Division of Children and Family Services of the Department
35 of Human Services with court-ordered settlement agreements and compliance
36 with state laws and rules and federal regulations, the General Assembly finds

1 that special and extraordinary provisions for legislative oversight of the
2 child welfare system should be established.

3
4 SECTION 733. Arkansas Code § 9-32-205(c), concerning the annual
5 performance audit of the Division of Youth Services, the Division of Aging,
6 Adult, and Behavioral Health Services, and Division of Children and Family
7 Services of the Department of Human Services, is amended to read as follows:

8 (c) The performance audits shall include without limitation a complete
9 assessment of the compliance of the Division of Youth Services, the Division
10 of Aging, Adult, and Behavioral Health Services, and the Division of Children
11 and Family Services with state laws and rules and federal regulations and
12 with the terms and conditions of the court-ordered settlement agreement.

13
14 SECTION 734. Arkansas Code § 10-2-114(f), concerning bills imposing
15 new or additional costs on a municipality or county and fiscal impact
16 statements, is amended to read as follows:

17 (f) For the purposes of this section, the term “fiscal impact
18 statement” means a realistic statement of the estimated financial cost to
19 municipalities or counties of implementing or complying with a proposed law
20 and ~~regulations~~ rules promulgated under it.

21
22 SECTION 735. Arkansas Code § 10-2-127(a)(1), concerning fiscal impact
23 statements, is amended to read as follows:

24 (a)(1) As used in this section, unless the context otherwise requires,
25 “fiscal impact statement” means a realistic written statement of the purpose
26 of a proposed law, or a ~~regulation~~ rule promulgated under a law, and the
27 estimated financial cost to the state or any local school district of
28 implementing or complying with the proposed law or ~~regulation~~ rule.

29
30 SECTION 736. Arkansas Code § 10-3-309(c)(2) and (3), concerning the
31 review and approval of state agency rules, are amended to read as follows:

32 (2) The Legislative Council shall assign proposed rules to the
33 Administrative Rules ~~and Regulations~~ Subcommittee of the Legislative Council.

34 (3)(A)(i) The proposed rule shall be reviewed by the
35 Administrative Rules ~~and Regulations~~ Subcommittee of the Legislative Council.

36 (ii) When reviewing a rule under subdivision

1 (c)(3)(A)(i) of this section, the Administrative Rules ~~and Regulations~~
2 Subcommittee of the Legislative Council shall allow members of the public a
3 reasonable opportunity to comment on the proposed rule.

4 (B)(i)(a) Except as set forth in subdivision (c)(3)(B)(ii)
5 of this section, upon conclusion of the review of the proposed rule by the
6 Administrative Rules ~~and Regulations~~ Subcommittee of the Legislative Council,
7 the proposed rule shall be considered approved unless a majority of a quorum
8 present request that the Administrative Rules ~~and Regulations~~ Subcommittee of
9 the Legislative Council vote on the issue of approving the proposed rule.

10 (b) If the Administrative Rules ~~and~~
11 ~~Regulations~~ Subcommittee of the Legislative Council votes on the issue of
12 approving the proposed rule, the proposed rule shall be approved unless a
13 majority of a quorum present vote for the proposed rule to not be approved.

14 (ii) A proposed rule submitted by the State Board of
15 Health under § 20-7-604(d)(2)(D), concerning exemptions from the requirements
16 of the Prescription Drug Monitoring Program, shall be considered reviewed and
17 approved by the Administrative Rules ~~and Regulations~~ Subcommittee of the
18 Legislative Council upon an affirmative vote of three-fourths (3/4) of the
19 members present when a quorum is present.

20
21 SECTION 737. Arkansas Code § 10-3-309(c)(4)(A)(i), concerning the
22 review and approval of state agency rules, is amended to read as follows:

23 (4)(A)(i) Except as set forth in subdivision (c)(4)(B) of this
24 section, a proposed rule approved by the Administrative Rules ~~and Regulations~~
25 Subcommittee of the Legislative Council shall be considered approved by the
26 Legislative Council unless a majority of a quorum present request that the
27 Legislative Council vote on the issue of approving the proposed rule.

28
29 SECTION 738. Arkansas Code § 10-3-309(d)(3), concerning the review and
30 approval of state agency rules, is amended to read as follows:

31 (3) A proposed emergency rule approved by the Executive
32 Subcommittee of the Legislative Council shall be reported to the
33 Administrative Rules ~~and Regulations~~ Subcommittee of the Legislative Council.

34
35 SECTION 739. Arkansas Code § 10-3-309(e), concerning the review and
36 approval of state agency rules, is amended to read as follows:

1 (e)(1) The Joint Budget Committee shall establish the Administrative
2 Rule ~~and Regulation~~ Review Subcommittee.

3 (2)(A) The Administrative Rule ~~and Regulation~~ Review
4 Subcommittee shall consist of twenty-two (22) members of the General
5 Assembly.

6 (B)(i) Nine (9) members of the Administrative Rule ~~and~~
7 ~~Regulation~~ Review Subcommittee shall be appointed by the Senate Cochair of
8 the Joint Budget Committee.

9 (ii) The Senate Cochair of the Joint Budget
10 Committee shall designate one (1) of his or her appointees as Senate Cochair
11 of the Administrative Rule ~~and Regulation~~ Review Subcommittee.

12 (C)(i) Nine (9) members of the Administrative Rule ~~and~~
13 ~~Regulation~~ Review Subcommittee shall be appointed by the House Cochair of the
14 Joint Budget Committee.

15 (ii) The House Cochair of the Joint Budget Committee
16 shall designate one (1) of his or her appointees as House Cochair of the
17 Administrative Rule ~~and Regulation~~ Review Subcommittee.

18 (3) The cochairs and co-vice chairs of the Legislative Council
19 shall be ex officio members of the Administrative Rule ~~and Regulation~~ Review
20 Subcommittee.

21 (4)(A) The Administrative Rule ~~and Regulation~~ Review
22 Subcommittee may meet only during a regular, fiscal, or extraordinary session
23 of the General Assembly.

24 (B) The Administrative Rule ~~and Regulation~~ Review
25 Subcommittee shall meet at the call of the cochairs of the Administrative
26 Rule ~~and Regulation~~ Review Subcommittee.

27 (5)(A) During a regular, fiscal, or extraordinary session of the
28 General Assembly:

29 (i) The Administrative Rule ~~and Regulation~~ Review
30 Subcommittee shall perform the functions assigned to the Administrative Rules
31 ~~and Regulations~~ Subcommittee of the Legislative Council under this section;
32 and

33 (ii) The Joint Budget Committee shall perform the
34 functions assigned to the Legislative Council under this section.

35 (B) Actions taken by the Administrative Rule ~~and~~
36 ~~Regulation~~ Review Subcommittee and the Joint Budget Committee under this

1 subsection have the same effect as actions taken by the Administrative Rules
2 ~~and Regulations~~ Subcommittee of the Legislative Council and the Legislative
3 Council under this section.

4 (C) The Joint Budget Committee shall file a report of its
5 actions under this subsection with the Legislative Council as soon as
6 practicable.

7
8 SECTION 740. Arkansas Code § 10-3-309(g)(1), concerning the review and
9 approval of state agency rules, is amended to read as follows:

10 (g)(1) The Administrative Rules ~~and Regulations~~ Subcommittee of the
11 Legislative Council, the Legislative Council, the Administrative Rule ~~and~~
12 ~~Regulation~~ Review Subcommittee, or the Joint Budget Committee may refer a
13 rule to a committee of the General Assembly for the committee's
14 consideration.

15
16 SECTION 741. Arkansas Code § 10-3-309(g)(3), concerning the review and
17 approval of state agency rules, is amended to read as follows:

18 (3) The Administrative Rules ~~and Regulations~~ Subcommittee of the
19 Legislative Council, the Legislative Council, the Administrative Rule ~~and~~
20 ~~Regulation~~ Review Subcommittee, or the Joint Budget Committee shall not
21 delegate their authority to review or approve a rule under this section to a
22 committee or subcommittee of the General Assembly or the Legislative Council.

23
24 SECTION 742. Arkansas Code § 10-3-309(h)(1)(A), concerning the review
25 and approval of state agency rules, is amended to read as follows:

26 (A) The process for determining when a rule will be placed
27 on the agendas of the Administrative Rules ~~and Regulations~~ Subcommittee of
28 the Legislative Council and the Legislative Council; and

29
30 SECTION 743. Arkansas Code § 10-3-313(a)(1), concerning meetings,
31 agendas, procedures, and practices of the Review Subcommittee of the
32 Legislative Council, the Administrative Rules and Regulations Subcommittee of
33 the Legislative Council, and the Performance Evaluation and Expenditure
34 Review Subcommittee of the Legislative Council, is amended to read as
35 follows:

36 (a)(1) The Review Subcommittee of the Legislative Council, the

1 Administrative Rules ~~and Regulations~~ Subcommittee of the Legislative Council,
2 and the Performance Evaluation and Expenditure Review Subcommittee of the
3 Legislative Council shall each meet monthly on a date approximately two (2)
4 weeks preceding the date on which regular meetings of the interim committees
5 are held.

6
7 SECTION 744. Arkansas Code § 10-3-408 is amended to read as follows:
8 10-3-408. Rules ~~and regulations~~.

9 The Legislative Joint Auditing Committee may establish any rules ~~and~~
10 ~~regulations~~ as it may deem fit which are not inconsistent with law.

11
12 SECTION 745. Arkansas Code § 10-3-604(3), concerning duties of the
13 Joint Committee on Legislative Printing Requirements and Specifications, is
14 amended to read as follows:

15 (3) Promulgate standards, specifications, and ~~regulations~~ rules
16 governing the size, composition, and printing or duplicating processes that
17 shall be used in furnishing printing or duplicating services for the General
18 Assembly and certify the specifications and requirements to the director, who
19 shall incorporate the specifications and requirements in contracts to be let
20 for legislative printing needs;

21
22 SECTION 746. Arkansas Code § 10-3-604(5), concerning duties of the
23 Joint Committee on Legislative Printing Requirements and Specifications, is
24 amended to read as follows:

25 (5) Make any additional rules, ~~regulations~~, or specifications
26 and advise the director for incorporation in legislative printing or
27 duplicating contracts as the Joint Committee on Legislative Printing
28 Requirements and Specifications determines necessary in order that the
29 efficiency of the General Assembly might be expedited.

30
31 SECTION 747. Arkansas Code § 10-3-1002(c), concerning annual
32 evaluation of vocational-technical courses, is amended to read as follows:

33 (c) The Legislative Council, the House Committee on Education, and the
34 Senate Committee on Education are authorized to promulgate standard and
35 uniform forms and ~~regulations~~ rules to be followed by the various area
36 vocational-technical schools in compiling and furnishing information required

1 in this section.

2
3 SECTION 748. Arkansas Code § 10-3-2202(b)(3), concerning the power and
4 duties of the Academic Facilities Oversight Committee, is amended to read as
5 follows:

6 (3) When feasible, the Academic Facilities Oversight Committee
7 shall propose plans, measures, and initiatives as recommendations for
8 legislation or ~~regulation~~ rules.

9
10 SECTION 749. Arkansas Code § 10-3-3102(a)(1)(B)(ii), concerning the
11 duties of the Highway Commission Review and Advisory Subcommittee of the
12 Legislative Council, is amended to read as follows:

13 (ii) Rules promulgated by the State Highway
14 Commission are not subject to approval by the Highway Commission Review and
15 Advisory Subcommittee of the Legislative Council, the Legislative Council, or
16 the Administrative Rules ~~and Regulations~~ Subcommittee of the Legislative
17 Council under this section or § 10-3-309; and

18
19 SECTION 750. Arkansas Code § 10-4-305(c)(2)(A), concerning notice of
20 deficiencies of the Legislative Joint Auditing Committee, is amended to read
21 as follows:

22 (2)(A) Reimbursement for the training is authorized for expenses
23 at the rate authorized for state employees and for mileage at the rate
24 established in the state travel ~~regulations~~ rules for state employees while
25 traveling within the state in the performance of their official duties.

26
27 SECTION 751. Arkansas Code § 10-4-407(3), concerning the duties of the
28 Legislative Auditor, is amended to read as follows:

29 (3) Call attention to any funds which, in his or her opinion,
30 have not been expended in accordance with the law, appropriation, ordinance,
31 ~~regulation~~ rule, or other legal requirement and shall make recommendations to
32 the Legislative Joint Auditing Committee, the General Assembly, and other
33 applicable governing bodies as to the manner or form of appropriations which
34 will avoid any improper expenditure of money in the future;

35
36 SECTION 752. Arkansas Code § 10-4-425(b)(2), concerning the format of

1 private audit reports, is amended to read as follows:

2 (2) The reports shall include coverage of all applicable laws
3 that relate to the operation of the governmental unit, including coverage of
4 purchasing, bonding, revenue, and expenditures with comments on any apparent
5 violation of applicable state or local legislative acts, codes, rules, or
6 regulations.

7
8 SECTION 753. Arkansas Code § 11-2-122(b), concerning disclosure of
9 health benefits available to employees, is amended to read as follows:

10 (b) The notification shall be made at such time and in such manner as
11 prescribed by ~~regulation~~ rules promulgated by the Director of the Department
12 of Labor.

13
14 SECTION 754. Arkansas Code § 11-2-204(a), concerning confidentiality
15 of records and information of the Arkansas Mediation and Conciliation
16 Service, is amended to read as follows:

17 (a) All files, reports, letters, memoranda, minutes, documents, or
18 other papers in the official custody of the Arkansas Mediation and
19 Conciliation Service or any of its employees, or any other information,
20 whether written or not, obtained in the course of any employee's official
21 duties, relating to or acquired in its or their official activities under the
22 labor laws of the state or the ~~rules and regulations~~ rules lawfully promulgated by
23 the Director of the Department of Labor, are confidential.

24
25 SECTION 755. Arkansas Code § 11-4-203(9), concerning the definition of
26 "wage" under the Minimum Wage Act of the State of Arkansas, is amended to
27 read as follows:

28 (9) "Wage" means compensation due to an employee by reason of
29 his or her employment, payable in legal tender of the United States or checks
30 on banks convertible into cash on demand at full face value, subject to such
31 deductions, charges, or allowances as may be permitted by this subchapter or
32 by ~~regulations~~ rules of the director under this subchapter.

33
34 SECTION 756. Arkansas Code § 11-4-204(a), concerning the applicability
35 of the law most favorable to employees under the Minimum Wage Act of the
36 State of Arkansas, is amended to read as follows:

1 (a) Any standards relating to minimum wages, maximum hours, or other
2 working conditions in effect under any other law of this state on May 22,
3 1968, which are more favorable to employees than those applicable to
4 employees under this subchapter or the ~~regulations~~ rules issued in this
5 chapter shall not be deemed to be amended, rescinded, or otherwise affected
6 by this subchapter but shall continue in full force and effect and may be
7 enforced as provided by law unless and until they are specifically superseded
8 by standards more favorable to employees by operation of or in accordance
9 with ~~regulations~~ rules issued under this subchapter.

10
11 SECTION 757. Arkansas Code § 11-4-206(a)(1), concerning penalties
12 under the Minimum Wage Act of the State of Arkansas, is amended to read as
13 follows:

14 (a)(1) Any employer who willfully hinders or delays the Director of
15 the Department of Labor or his or her authorized representative in the
16 performance of his or her duties in the enforcement of this subchapter,
17 willfully refuses to admit the director or his or her authorized
18 representative to any place of employment, willfully fails to make, keep, and
19 preserve any records as required under the provisions of this subchapter,
20 willfully falsifies any such record, willfully refuses to make the record
21 accessible to the director or his or her authorized representative upon
22 demand, willfully refuses to furnish a sworn statement of the record or any
23 other information required for the proper enforcement of this subchapter to
24 the director or his or her authorized representative upon demand, willfully
25 fails to post a summary of this subchapter or a copy of any applicable
26 ~~regulations~~ rules as required by § 11-4-216, pays or agrees to pay minimum
27 wages at a rate less than the rate applicable under this subchapter, or
28 otherwise willfully violates any provision of this subchapter or of any
29 ~~regulation~~ rule issued under this subchapter shall be deemed in violation of
30 this subchapter and shall be subject to a civil penalty of not less than
31 fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for
32 each violation.

33
34 SECTION 758. Arkansas Code § 11-4-209(a)-(c), concerning the powers
35 and duties of the Director of the Department of Labor, are amended to read as
36 follows:

1 (a) For any occupation, the Director of the Department of Labor shall
 2 make and revise such administrative ~~regulations~~ rules, including definitions
 3 of terms, as he or she may deem appropriate to carry out the purposes of this
 4 subchapter or necessary to prevent the circumvention or evasion thereof and
 5 to safeguard the minimum wage rates established.

6 (b) The ~~regulations~~ rules may include, but are not limited to,
 7 ~~regulations~~ rules governing:

- 8 (1) Outside or commission salespersons;
- 9 (2) Learners and apprentices, their number, proportion, and
 10 length of service;
- 11 (3) Part-time pay, bonuses, and fringe benefits;
- 12 (4) Special pay for special or extra work;
- 13 (5) Permitted charges to employees or allowances for board,
 14 lodging, apparel, or other facilities or services customarily furnished by
 15 employers to employees;
- 16 (6) Allowances for gratuities; and
- 17 (7) Allowances for other special conditions or circumstances
 18 which may be usual in a particular employer-employee relationship.

19 (c) ~~Regulations~~ Rules shall be promulgated pursuant to the Arkansas
 20 Administrative Procedure Act, § 25-15-201 et seq.

21
 22 SECTION 759. Arkansas Code § 11-4-209(d)(1)(C), concerning the powers
 23 and duties of the Director of the Department of Labor, is amended to read as
 24 follows:

25 (C) Question employees for the purpose of ascertaining
 26 whether the provisions of this subchapter and ~~regulations~~ rules issued under
 27 this subchapter have been and are being complied with;

28
 29 SECTION 760. Arkansas Code § 11-4-209(d)(3) and (4), concerning the
 30 powers and duties of the Director of the Department of Labor, are amended to
 31 read as follows:

- 32 (3) Publish all ~~regulations~~ rules promulgated pursuant to this
 33 subchapter; and
- 34 (4) Otherwise implement and enforce the provisions of this
 35 subchapter and the ~~regulations~~ rules issued under this subchapter.

36

1 SECTION 761. Arkansas Code § 11-4-211(g), concerning overtime under
2 the Minimum Wage Act of the State of Arkansas, is amended to read as follows:

3 (g) By rule ~~or regulation~~, the Director of the Department of Labor may
4 authorize employment in excess of the standard set by subsection (a) of this
5 section or may authorize the calculation of overtime on a basis other than
6 the regular rate of pay required by subsection (a) of this section for
7 employment:

8 (1) Necessitating irregular hours of work;

9 (2) At a piece rate;

10 (3) Paying on a commission basis in a retail or service
11 establishment;

12 (4) In a hospital or enterprise engaged in the care of the sick,
13 the aged, or individuals with mental illness;

14 (5) By an independently-owned-and-controlled local enterprise
15 engaged in the wholesale or bulk distribution of petroleum products; and

16 (6) Under a collective bargaining agreement.
17

18 SECTION 762. Arkansas Code § 11-4-214(a) and (b), concerning
19 handicapped workers under the Minimum Wage Act of the State of Arkansas, are
20 amended to read as follows:

21 (a) Any person handicapped by lack of skill, age, or physical or
22 mental deficiency or injury in any way that his or her earning capacity is
23 impaired shall be granted a temporary special exemption license or permit
24 authorizing the employment of the person at wages lower than the minimum
25 prescribed in this subchapter until such time as the Director of the
26 Department of Labor shall hold a hearing and prescribe ~~regulations~~ rules
27 regarding exemption of these persons as authorized in this section.

28 (b)(1) The director may provide by ~~regulation~~ rule, after notice and
29 public hearing at which any person may be heard, for the employment in any
30 occupation of individuals whose earning capacity is impaired by age or
31 physical or mental deficiency or injury at wages lower than the minimum wage
32 rate provided in § 11-4-210 as he or she may find appropriate to prevent
33 curtailment of opportunities for employment, to avoid undue hardship, and to
34 safeguard the minimum wage rate under this subchapter.

35 (2) In addition, the director, by ~~regulation~~ rule or special
36 order, may provide for the employment of handicapped clients in work

1 activities centers under special certificates at wages that are less than the
2 minimum prescribed in § 11-4-210 that the director determines constitutes
3 equitable compensation for the clients in work activities centers.
4

5 SECTION 763. Arkansas Code § 11-4-215 is amended to read as follows:

6 11-4-215. Learners, apprentices, and full-time students.

7 (a) For any occupation, the Director of the Department of Labor may
8 provide, by ~~regulation~~ rule, after a public hearing at which any person may
9 be heard, for the employment in the occupation of learners, apprentices, and
10 full-time students at wages lower than the minimum wage rate provided in §
11 11-4-210(b) as he or she may find appropriate to prevent curtailment of
12 opportunities for employment and to safeguard the minimum wage rate under
13 this subchapter.

14 (b) No employee shall be employed at wages fixed pursuant to this
15 section, except under special license issued under applicable ~~regulations~~
16 rules of the director.
17

18 SECTION 764. Arkansas Code § 11-4-216 is amended to read as follows:

19 11-4-216. Posting of law.

20 (a) Every employer subject to any provisions of this subchapter or of
21 any ~~regulations~~ rules issued under this subchapter shall keep a summary of
22 this subchapter, approved by the Director of the Department of Labor, and
23 copies of any applicable ~~regulations~~ rules issued under this subchapter, or a
24 summary of the ~~regulations~~ rules approved by the director, posted in a
25 conspicuous and accessible place in or about the premises wherein any person
26 subject thereto is employed.

27 (b) Employers shall be furnished copies of the summaries of this
28 statute and ~~regulations~~ rules by the director on request without charge.
29

30 SECTION 765. Arkansas Code § 11-4-217(a), concerning records kept by
31 employer under the Minimum Wage Act of the State of Arkansas, is amended to
32 read as follows:

33 (a) Every employer subject to any provision of this subchapter or of
34 any ~~regulation~~ rule issued under this subchapter shall make and keep for a
35 period of not less than three (3) years in or about the premises wherein any
36 employee is employed a record of the name, address, and occupation of each of

1 his or her employees, the rate of pay, the amount paid each pay period to
2 each employee, and such other information as the Director of the Department
3 of Labor shall prescribe by ~~regulation~~ rule as necessary or appropriate for
4 the enforcement of the provisions of this subchapter or of the ~~regulations~~
5 rules under this subchapter.

6
7 SECTION 766. Arkansas Code § 11-4-219(a), concerning judicial review
8 under the Minimum Wage Act of the State of Arkansas, is amended to read as
9 follows:

10 (a) Any interested person in any occupation for which any
11 administrative ~~regulation~~ rule has been issued under the provisions of this
12 subchapter who may be aggrieved by any ~~regulation~~ rule may obtain a review
13 thereof in the circuit court of the county of the residence of the aggrieved
14 party by filing in the court within twenty (20) days after the date of
15 publication of the ~~regulation~~ rule a written petition praying that the
16 ~~regulation~~ rule be modified or set aside.

17
18 SECTION 767. Arkansas Code § 11-4-219(c), concerning judicial review
19 under the Minimum Wage Act of the State of Arkansas, is amended to read as
20 follows:

21 (c)(1) The court shall review the record of the proceedings before the
22 director, and the director's findings of fact shall be affirmed if supported
23 by substantial evidence. The court shall determine whether the ~~regulation~~
24 rule is in accordance with law.

25 (2) If the court determines that the ~~regulation~~ rule is not in
26 accordance with law, it shall remand the case to the director with directions
27 to modify or revoke the ~~regulation~~ rule.

28
29 SECTION 768. Arkansas Code § 11-4-219(f), concerning judicial review
30 under the Minimum Wage Act of the State of Arkansas, is amended to read as
31 follows:

32 (f)(1) The commencement of proceedings under subsections (a)-(d) of
33 this section, unless specifically ordered by the court, shall not operate as
34 a stay of an administrative ~~regulation~~ rule issued under the provisions of
35 this subchapter.

36 (2) The court shall not grant any stay of an administrative

1 ~~regulation rule~~ unless the person complaining of the ~~regulation rule~~ shall
2 file an amount in the court, undertaking with a surety satisfactory to the
3 court, for payment to the employees affected by the ~~regulation rule~~ in the
4 event that the ~~regulation rule~~ is affirmed. The surety shall be in an amount
5 by which the compensation the employees are entitled to receive under the
6 ~~regulation rule~~ exceeds the compensation they actually receive while the stay
7 is in effect.

8
9 SECTION 769. Arkansas Code § 11-5-205 is amended to read as follows:

10 11-5-205. State Board of Health – Rules ~~and regulations~~.

11 It shall be the duty of the State Board of Health to adopt rules ~~and~~
12 ~~regulations~~ pertaining to the control of industrial health hazards, including
13 and concerning the maximum allowable limits of materials, ventilation
14 requirements, water supplies, excreta disposal facilities, washing and shower
15 facilities, and other matters pertaining to the maintenance of the health of
16 the worker.

17
18 SECTION 770. Arkansas Code § 11-6-103(a)(1), concerning the
19 disposition of fines and penalties for violations of child labor laws, is
20 amended to read as follows:

21 (a)(1) Any person, firm, corporation, partnership, association,
22 parent, guardian, or custodian who employs or permits or suffers any child to
23 be employed or to work in violation of this subchapter or §§ 11-12-101 – 11-
24 12-105, or any ~~regulations~~ rules issued thereunder, shall be subject to a
25 civil penalty of not less than fifty dollars (\$50.00) and not more than one
26 thousand dollars (\$1,000) for each violation.

27
28 SECTION 771. Arkansas Code § 11-6-103(g), concerning the disposition
29 of fines and penalties for violations of child labor laws, is amended to read
30 as follows:

31 (g) In addition to the civil penalty provided by this section, the
32 director is authorized to petition any court of competent jurisdiction,
33 without paying costs or giving bond for costs, to enjoin or restrain any
34 person, firm, corporation, partnership, or association who violates the
35 provisions of this subchapter or §§ 11-12-101 – 11-12-105, or any ~~regulation~~
36 rule issued thereunder.

1
2 SECTION 772. Arkansas Code § 11-6-111(b)(2), concerning inspection of
3 workplace and prosecution of violators under child labor laws, is amended to
4 read as follows:

5 (2) The director is authorized to adopt rules ~~and regulations~~
6 for the enforcement and administration of this subchapter.

7
8 SECTION 773. Arkansas Code § 11-7-206(a)(1), concerning the powers and
9 duties of the State Mine Inspector, is amended to read as follows:

10 (1) Recommend to the various operators of coal mines throughout
11 the state all safety ~~regulations~~ rules that he or she shall deem advisable;
12 and

13
14 SECTION 774. Arkansas Code § 11-8-106(a), concerning contract
15 exemptions and setoff for insurance contributions after the injury or death
16 of an employee, is amended to read as follows:

17 (a) Any contract, rule, ~~regulation~~, or device whatsoever, the purpose
18 or intent of which shall be to enable any corporation to exempt itself from
19 any liability created by §§ 11-8-101 – 11-8-108, shall to that extent be
20 void.

21
22 SECTION 775. Arkansas Code § 11-9-106(g), concerning penalties for
23 misrepresentation in workers' compensation cases, is amended to read as
24 follows:

25 (g) The Insurance Commissioner, with the cooperation and assistance of
26 the Workers' Compensation Commission, is authorized to establish rules ~~and~~
27 ~~regulations~~ as may be necessary to carry out the provisions of this section.

28
29 SECTION 776. Arkansas Code § 11-9-118(d), concerning provider payments
30 while claims are pending under workers' compensation laws, is amended to read
31 as follows:

32 (d) This section shall not avoid, modify, or amend any other section
33 or subsection of this chapter, including, but not limited to, the prohibition
34 against balanced billing contained in § 11-9-508(d)(3) and any rules ~~and~~
35 ~~regulations~~ adopted thereunder.

36

1 SECTION 777. Arkansas Code § 11-9-205(a)(1)(A), concerning the
2 administration of staff and expenditures of the Workers' Compensation
3 Commission, is amended to read as follows:

4 (A) To make such rules ~~and regulations~~ as may be found
5 necessary;

6
7 SECTION 778. Arkansas Code § 11-9-205(a)(2)(A), concerning the
8 administration of staff and expenditures of the Workers' Compensation
9 Commission, is amended to read as follows:

10 (2)(A) Prior to the adoption, prescription, amendment,
11 modification, or repeal of any rule, ~~regulation~~, or form, the commission
12 shall give at least forty-five (45) days' notice of its intended action.
13

14 SECTION 779. Arkansas Code § 11-9-205(a)(4), concerning the
15 administration of staff and expenditures of the Workers' Compensation
16 Commission, is amended to read as follows:

17 (4) Each rule, ~~regulation~~, or form adopted by the commission
18 shall be effective twenty (20) days after adoption unless a later date is
19 specified by law or in the rule itself.
20

21 SECTION 780. Arkansas Code § 11-9-207(a)(9), concerning the powers and
22 duties of the Workers' Compensation Commission, is amended to read as
23 follows:

24 (9) To prescribe rules ~~and regulations~~ governing the
25 representation of employees, employers, and carriers in respect to claims
26 before the commission;
27

28 SECTION 781. Arkansas Code § 11-9-207(b)(2), concerning the powers and
29 duties of the Workers' Compensation Commission, is amended to read as
30 follows:

31 (2) The fees shall be established by ~~regulation~~ rule of the
32 commission.
33

34 SECTION 782. Arkansas Code § 11-9-210(b), concerning the funding of
35 death and permanent total disability trust fund obligations and the purchase
36 of annuity contracts by the Workers' Compensation Commission, is amended to

1 read as follows:

2 (b) The commission shall adopt such appropriate rules ~~and regulations~~
3 consistent with the provisions of this section and §§ 23-96-1040(2) and X(2)
4 and 23-96-114F and G as it deems necessary to enable it to efficiently and
5 effectively administer the provisions of this section and §§ 23-96-1040(2)
6 and X(2) and 23-96-114F and G and any structured annuity arrangement it may
7 enter into pursuant to the authority granted herein.

8

9 SECTION 783. Arkansas Code § 11-9-306(f), concerning the determination
10 of surplus in the Workers' Compensation Fund and rate of taxation, is amended
11 to read as follows:

12 (f) The commission shall have the authority to promulgate rules ~~or~~
13 ~~regulations~~ for administration of the assessment and tax collection process,
14 including, but not limited to, rules ~~and regulations~~ applicable to the funds
15 established in § 11-9-301.

16

17 SECTION 784. Arkansas Code § 11-9-404(a)(3)(A), concerning the
18 requirement of an employer to secure workers' compensation payments, is
19 amended to read as follows:

20 (3)(A) The commission, under such rules ~~and regulations~~ as it
21 may prescribe, may permit two (2) or more employers engaged in the same type
22 of business activity or pursuit to enter into agreements to pool their
23 liabilities under this section for the purpose of qualifying as self-
24 insurers, and each such approved group shall be classified as an homogeneous
25 self-insurer.

26

27 SECTION 785. Arkansas Code § 11-9-405(a), concerning substitution of
28 insurance carrier for employer for workers' compensation coverage, is amended
29 to read as follows:

30 (a) In any case where the employer is not a self-insurer, in order
31 that the liability for compensation imposed by this chapter may be most
32 effectively discharged by the employer and in order that the administration
33 of this chapter with respect to that liability may be facilitated, the
34 Workers' Compensation Commission shall by ~~regulation~~ rule provide for the
35 discharge by the carrier, for the employer, of the obligations and duties of
36 the employer with respect to such liability imposed by this chapter upon the

1 employer as it considers proper in order to effectuate the provisions of this
2 chapter.

3
4 SECTION 786. Arkansas Code § 11-9-408(d), concerning insurance
5 policies for workers' compensation coverage, is amended to read as follows:

6 (d) Under such rules ~~and regulations~~ as may be adopted by the
7 Insurance Commissioner, and notwithstanding other provisions of this chapter,
8 he or she may certify five (5) or more employers as an insurance group which
9 shall be considered an employer for the purposes of this chapter.

10
11 SECTION 787. Arkansas Code § 11-9-409(a)(5)(C), concerning the
12 establishment of the Workers' Health and Safety Division and safety and
13 health loss control consultative services, is amended to read as follows:

14 (C) Such educational materials shall include specific
15 references to the requirements of state laws and rules and federal laws and
16 regulations, to recommendations and practices of business, industry, and
17 trade associations, and, where needed, to recommended work practices based on
18 recommendations made by the division, in cooperation and with the assistance
19 of the Department of Labor and the State Insurance Department, for the
20 prevention of injury.

21
22 SECTION 788. Arkansas Code § 11-9-503(a)(1), concerning violation of
23 safety provisions by an employer, is amended to read as follows:

24 (a)(1) Notwithstanding any other definition of extra-hazardous
25 employer as provided by § 11-9-409(c), any employer who fails to utilize the
26 consultative safety services available through the Department of Labor, its
27 own insurance carrier, or a private safety consultant shall be identified as
28 an extra-hazardous employer if it is established by a preponderance of the
29 evidence that an injury or death is caused in substantial part by the failure
30 of the employer to comply with any Arkansas statute or official ~~regulation~~
31 rule pertaining to the health or safety of employees or fails to follow
32 safety consultant recommendations.

33
34 SECTION 789. Arkansas Code § 11-9-508(c), concerning the liability of
35 employer for medical services and supplies, is amended to read as follows:

36 (c) In order to help control the cost of medical benefits, the

1 commission, on or before July 1, 1994, following a public hearing and with
2 the assistance and cooperation of the State Insurance Department, is
3 authorized and directed to establish appropriate rules ~~and regulations~~ to
4 establish and implement a system of managed health care for the State of
5 Arkansas.

6
7 SECTION 790. Arkansas Code § 11-9-508(d)(1) and (2), concerning the
8 liability of an employer for medical services and supplies, are amended to
9 read as follows:

10 (1) Develop rules ~~and regulations~~ for the certification of
11 managed care entities to provide managed care to injured workers;

12 (2) Develop ~~regulations~~ rules for peer review, service
13 utilization, and resolution of medical disputes;

14
15 SECTION 791. Arkansas Code § 11-9-508(f), concerning the liability of
16 an employer for medical services and supplies, is amended to read as follows:

17 (f) The commission is authorized to promulgate any other rules ~~or~~
18 ~~regulations~~ as may be necessary to carry out the provisions of this section
19 and its purpose of controlling medical costs through the establishment of a
20 managed care system.

21
22 SECTION 792. Arkansas Code § 11-9-514(g), concerning medical services,
23 supplies, and change of physician, is amended to read as follows:

24 (g) The commission shall by ~~regulation~~ rule require the inclusion of
25 the information set forth in subsection (f) of this section on all AR-P
26 forms.

27
28 SECTION 793. Arkansas Code § 11-9-516(b), concerning medical services,
29 supplies, and information furnished by provider, is amended to read as
30 follows:

31 (b) No person who in good faith pursuant to subsection (a) of this
32 section or pursuant to rules ~~and regulations~~ established by the commission
33 reports medical information shall incur legal liability for the disclosure of
34 the information.

35
36 SECTION 794. Arkansas Code § 11-9-517 is amended to read as follows:

1 11-9-517. Medical services and supplies – Rules ~~and regulations~~.

2 The Workers' Compensation Commission is authorized to establish rules
3 ~~and regulations~~, including schedules of maximum allowable fees for specified
4 medical services rendered with respect to compensable injuries, for the
5 purpose of controlling the cost of medical and hospital services and supplies
6 provided pursuant to §§ 11-9-508 – 11-9-516.

7
8 SECTION 795. Arkansas Code § 11-9-528(b) and (c), concerning employer
9 records of injuries to employees, are amended to read as follows:

10 (b) The record shall contain such information of disability or death
11 with respect to the injury as the Workers' Compensation Commission may by
12 rule ~~or regulation~~ require.

13 (c) The record shall be available for inspection by the commission or
14 by any state authority at such time and under such conditions as the
15 commission may by rule ~~or regulation~~ prescribe.

16
17 SECTION 796. The introductory language of Arkansas Code § 11-9-703,
18 concerning preliminary conference procedures, is amended to read as follows:

19 The Workers' Compensation Commission is authorized and directed to
20 promulgate appropriate rules ~~and regulations~~ to establish and implement, for
21 claims with respect to injuries occurring on or after January 1, 1987, a
22 preliminary conference procedure designed to accomplish the following
23 objectives:

24
25 SECTION 797. Arkansas Code § 11-9-705(b)(1)(B), concerning the nature
26 of Workers' Compensation Commission proceedings generally, is amended to read
27 as follows:

28 (B) The commission shall, by rule ~~or regulation~~, provide
29 for the preparation of a record of all hearings and other proceedings before
30 it.

31
32 SECTION 798. Arkansas Code § 11-9-812(b), concerning incarceration of
33 an injured employee receiving workers' compensation benefits, is amended to
34 read as follows:

35 (b) The commission shall promulgate ~~regulations~~ rules necessary for
36 the implementation of this section.

1
2 SECTION 799. Arkansas Code § 11-9-813(a)(1), concerning insurance
3 deductibles approved by the Insurance Commissioner, is amended to read as
4 follows:

5 (a)(1) Upon approval by the Insurance Commissioner, and following the
6 adoption of such rules ~~and regulations~~ as the Insurance Commissioner deems
7 necessary and advisable, each insurer issuing a policy under this chapter
8 shall offer, as a part of the policy or as an optional endorsement to the
9 policy, deductibles optional to the policyholder for benefits payable under
10 this chapter.

11
12 SECTION 800. Arkansas Code § 11-9-813(d), concerning insurance
13 deductibles approved by the Insurance Commissioner, is amended to read as
14 follows:

15 (d) If the Insurance Commissioner determines it to be feasible, and
16 under such rules ~~and regulations~~ as he or she may adopt, premium reduction
17 for deductibles may be determined before the application of any experience
18 modification, premium surcharge, or premium discounts, and, to the extent
19 that an employer's experience rating or safety record is based on benefits
20 paid, money paid by the insured employer under a deductible as provided in
21 this section may not be included as benefits paid so as to harm the
22 experience rating of the employer.

23
24 SECTION 801. Arkansas Code § 11-9-902 is amended to read as follows:

25 11-9-902. ~~Regulations~~ Rules.

26 The Workers' Compensation Commission shall promulgate ~~regulations~~ rules
27 to implement this subchapter.

28
29 SECTION 802. Arkansas Code § 11-10-106(c)(1), concerning penalties for
30 false statements or representations related to the Department of Workforce
31 Services, is amended to read as follows:

32 (1) Any person who shall willfully violate any provision of this
33 chapter or any order, or rule, ~~or regulation~~ thereunder, the violation of
34 which is made unlawful or the observance of which is required under the terms
35 of this chapter, and for which a penalty is neither prescribed herein nor
36 provided by any other applicable statute, shall be punished by a fine of not

1 less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200) or
2 by imprisonment for not longer than sixty (60) days, or by both fine and
3 imprisonment.

4
5 SECTION 803. Arkansas Code § 11-10-207 is amended to read as follows:
6 11-10-207. ~~Regulations~~ Rules.

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

11
12 SECTION 804. Arkansas Code § 11-10-214(b), concerning the definition
13 of "unemployed" under the Department of Workforce Services Law, is amended to
14 read as follows:

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

19
20 SECTION 805. Arkansas Code § 11-10-215(a)(1), concerning the
21 definition of "wages" under the Department of Workforce Services Law, is
22 amended to read as follows:

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

31
32 SECTION 806. Arkansas Code § 11-10-215(b), concerning the definition
33 of "wages" under the Department of Workforce Services Law, is amended to read
34 as follows:

35 (b) Except as otherwise provided in ~~regulations~~ rules prescribed by
36 the director, any third party which makes a sickness or accident disability

1 payment which is defined in this section as wages shall be treated for
2 purposes of this section and §§ 11-10-701 – 11-10-715 as the employer with
3 respect to the wages.

4
5 SECTION 807. Arkansas Code § 11-10-306(b)(1), concerning the duties
6 and powers of the Director of the Department of Workforce Services, is
7 amended to read as follows:

8 (b)(1) The Director shall have power and authority to adopt, amend, or
9 rescind such rules ~~and regulations~~, employ such persons, make such
10 expenditures, require such reports, make such investigations, and take such
11 other action as he or she deems necessary or suitable to that end.

12
13 SECTION 808. Arkansas Code § 11-10-306(c), concerning the duties and
14 powers of the Director of the Department of Workforce Services, is amended to
15 read as follows:

16 (c) Rules ~~and regulations~~ shall be effective upon publication in the
17 manner, not inconsistent with the provisions of this chapter, which the
18 director shall prescribe.

19
20 SECTION 809. Arkansas Code § 11-10-307(b), concerning the Director of
21 the Department of Workforce Services' authority over rules, is amended to
22 read as follows:

23 (b) ~~Regulations~~ Rules may be adopted, amended, or rescinded by the
24 director and shall become effective in the manner and at the time prescribed
25 by the director.

26
27 SECTION 810. Arkansas Code § 11-10-309 is amended to read as follows:

28 11-10-309. Director – Publication of rules, reports, etc.

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

34
35 SECTION 811. Arkansas Code § 11-10-310(c) and (d), concerning the
36 authority of the Director of the Department of Workforce Services over

1 personnel, are amended to read as follows:

2 (c) The director is authorized and directed to provide for a merit
3 system covering all persons employed in the administration of this chapter
4 and shall have authority, by ~~regulation~~ rule, to provide for all matters that
5 are appropriate to the maintenance of this system on the basis of efficiency
6 and fitness.

7 (d) The director is authorized to adopt such ~~regulations~~ rules as may
8 be necessary to meet personnel standards promulgated by the Social Security
9 Board pursuant to the Social Security Act, and the Wagner-Peyser Act, and to
10 provide for the maintenance of the merit system required under this section
11 in conjunction with any merit system applicable to any other state agency
12 which meets the personnel standards promulgated by the board.

13

14 SECTION 812. Arkansas Code § 11-10-312(a), concerning the Director of
15 the Department of Workforce Services and federal-state cooperation, is
16 amended to read as follows:

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

27

28 SECTION 813. Arkansas Code § 11-10-314(b)(2)(A), concerning the
29 Director of the Department of Workforce Services and the disclosure of
30 information, is amended to read as follows:

31 (A) Any claimant may be supplied, subject to such
32 restrictions as the director may by ~~regulation~~ rule prescribe, with any
33 information contained in his or her unemployment insurance benefit payment
34 record or on his or her most recent monetary determination;

35

36 SECTION 814. Arkansas Code § 11-10-314(c)(1)(A), concerning the

1 Director of the Department of Workforce Services and the disclosure of
2 information, is amended to read as follows:

3 (c)(1)(A) Subject to such restrictions as the director may by
4 ~~regulation~~ rule prescribe, the confidential information may be made available
5 to any agency of this or any other state, or any federal agency, charged with
6 the administration of an unemployment compensation law or the maintenance of
7 a system of public employment offices, the Internal Revenue Service, the
8 Office of Federal Contract Compliance Programs, the United States Bureau of
9 Labor Statistics of the United States Department of Labor, or any state or
10 federal agency for income or eligibility verification purposes but except as
11 may otherwise be provided in this section and § 11-10-305 [repealed], §§ 11-
12 10-306 – 11-10-312 and 11-10-315 – 11-10-318 only as and to the extent
13 mandated by Pub. L. No. 98-369 and implementing regulations promulgated
14 thereunder by the United States Department of Labor.

15
16 SECTION 815. Arkansas Code § 11-10-314(e)(2), concerning the Director
17 of the Department of Workforce Services and the disclosure of information, is
18 amended to read as follows:

19 (2) The director shall promulgate ~~regulations~~ rules establishing
20 such safeguards as are necessary to ensure that information disclosed as
21 authorized in this section to state and local child support enforcement
22 agency officers and employees is used only for purposes of establishing and
23 collecting child support obligations from and locating individuals owing the
24 obligations and to ensure that information disclosed as authorized in this
25 section to officers and employees of the United States Department of
26 Agriculture and to officers and employees of any state food stamp agency is
27 used only for purposes of determining an individual's eligibility for
28 benefits or the amount of benefits under the food stamp program established
29 under the Food Stamp Act of 1977.

30
31 SECTION 816. Arkansas Code § 11-10-319(b), concerning the Director of
32 the Department of Workforce Services, the Board of Review, and the state and
33 representation in court, is amended to read as follows:

34 (b) Criminal Actions. All criminal actions for violations of any
35 provisions of this chapter, or any rule ~~or regulation~~ issued pursuant
36 thereto, shall be prosecuted by the Attorney General of the state, or by the

1 prosecuting attorney of the county in which the violation occurred.

2
3 SECTION 817. Arkansas Code § 11-10-321(b), concerning the deposit and
4 disbursement to the Employment Security Administration Fund, is amended to
5 read as follows:

6 (b) Disbursements shall be paid out of the fund on requisitions drawn
7 by the Director of the Department of Workforce Services under ~~regulations~~
8 rules of the director.

9
10 SECTION 818. Arkansas Code § 11-10-402 is amended to read as follows:
11 11-10-402. Termination.

12 Except as otherwise provided in § 11-10-403, an employing unit may
13 cease to be an employer subject to this chapter in accordance with the
14 ~~regulations~~ rules of the Director of the Department of Workforce Services.

15
16 SECTION 819. Arkansas Code § 11-10-501(b), concerning payment from the
17 Unemployment Compensation Fund, is amended to read as follows:

18 (b) All benefits shall be paid through Department of Workforce
19 Services offices, in accordance with such ~~regulations~~ rules as the Director
20 of the Department of Workforce Services may prescribe.

21
22 SECTION 820. Arkansas Code § 11-10-507(1) and (2), concerning
23 eligibility of an insured worker to receive benefits, are amended to read as
24 follows:

25 (1) Claim for Benefits. He or she has made a claim for benefits
26 with respect to such week in accordance with such ~~regulations~~ rules as the
27 director may prescribe;

28 (2) Registration and Reporting. He or she has registered for
29 work at and thereafter continued to report to a Department of Workforce
30 Services office in accordance with such ~~regulations~~ rules as the director may
31 prescribe. The director, by ~~regulation~~ rule, may waive or alter either or
32 both of the requirements of this subdivision as to individuals attached to
33 regular jobs and as to such other types of cases or situations with respect
34 to which he or she finds that compliance with these requirements would be
35 oppressive or would be inconsistent with the purpose of this chapter.
36 However, no such ~~regulations~~ rules shall conflict with § 11-10-501;

1
2 SECTION 821. Arkansas Code § 11-10-520(a) and (b), concerning posting
3 of information regarding employee rights and claims by an employer, are
4 amended to read as follows:

5 (a) Each employer shall post and maintain, in places readily
6 accessible to individuals in the employer's employ, printed statements
7 concerning benefit rights, claims for benefits, and such other matters
8 relating to the administration of this chapter as the Director of the
9 Department of Workforce Services may by ~~regulation~~ rule prescribe.

10 (b) Each employer shall supply to those individuals copies of such
11 printed statements or other materials relating to claims for benefits when,
12 and as, the director may by ~~regulation~~ rule prescribe.
13

14 SECTION 822. Arkansas Code § 11-10-521(a), concerning filing claims
15 for benefits and providing notice to last employer, is amended to read as
16 follows:

17 (a) Claims for benefits shall be made in accordance with ~~regulations~~
18 rules the Director of the Department of Workforce Services prescribes.
19

20 SECTION 823. Arkansas Code § 11-10-523(f), concerning the creation of
21 the Board of Review for administrative appeals of claims filed with the
22 Department of Workforce Services, is amended to read as follows:

23 (f) The chair, the members, and the examiner and reporter, as provided
24 for above, shall all receive their actual and necessary expenses incurred, in
25 accordance with the ~~regulations~~ rules of the Department of Workforce
26 Services.
27

28 SECTION 824. Arkansas Code § 11-10-526(a)(2), concerning the claims
29 procedure for an administrative appeal filed with the Board of Review for
30 claims filed with the Department of Workforce Services, is amended to read as
31 follows:

32 (2) In like manner as provided at § 11-10-307(a) for the
33 adopting, amending, or rescinding of general rules by the Director of the
34 Department of Workforce Services, the board may adopt reasonable ~~regulations~~
35 rules governing the manner of filing appeals, the conduct of hearings, and
36 other appellate procedures, consistent with this chapter.

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SECTION 825. Arkansas Code § 11-10-535 is amended to read as follows:

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~~ rules of the Director of the Department 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 826. Arkansas Code § 11-10-610(d), concerning the amount of benefits for work unemployment compensation and the filing of claims, is amended to read as follows:

(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~~ rules by the Director of the Department of Workforce Services.

SECTION 827. Arkansas Code § 11-10-701(a)(2), concerning accrual and payment by an employer to the Unemployment Compensation Fund, is amended to read as follows:

(2) The contributions shall become due and be paid by each employer to the Director of the Department of Workforce Services for the Unemployment Compensation Fund in accordance with such ~~regulations~~ rules 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 828. Arkansas Code § 11-10-703(a)(3), concerning the future rates and maintenance of separate accounts for each employer for unemployment benefit payments, is amended to read as follows:

(3) However, regular benefit payments shall not be charged to the separate account of any employer if the employer provides the director with notices regarding separation from work as are required by ~~regulations~~ rules of the director if the director finds that:

(A) The claimant voluntarily left the employer without good cause connected with the work; or

1 (B) The claimant was discharged by the employer for
2 misconduct connected with the work.

3
4 SECTION 829. Arkansas Code § 11-10-707(a)(2)(B), concerning
5 notifications of future rates for voluntary elections for unemployment
6 benefits, is amended to read as follows:

7 (B) A voluntary election by an employer shall be made at
8 the time and in the manner prescribed by ~~regulations~~ rules of the Director of
9 the Department of Workforce Services.

10
11 SECTION 830. Arkansas Code § 11-10-708(e), concerning advance interest
12 tax contributions to the Unemployment Compensation Fund Clearing Account, is
13 amended to read as follows:

14 (e) The director shall promulgate such ~~regulations~~ rules as are
15 necessary to carry out the provisions of this section.

16
17 SECTION 831. Arkansas Code § 11-10-713(c)(6)(A), concerning employees
18 of nonprofit organizations and governmental entities and contributions to the
19 Unemployment Compensation Fund, is amended to read as follows:

20 (6)(A) The director, in accordance with such ~~regulations~~ rules
21 as he or she may prescribe, shall notify each employer filing an election
22 notice of any determination that he or she may make under this section and of
23 the effective date or the termination date of the election.

24
25 SECTION 832. Arkansas Code § 11-10-713(g)(4), concerning employees of
26 nonprofit organizations and governmental entities and contributions to the
27 Unemployment Compensation Fund, is amended to read as follows:

28 (4) The director shall prescribe such ~~regulations~~ rules as he or
29 she deems necessary with respect to applications for establishment,
30 maintenance, and termination of group accounts that are authorized by this
31 subsection, for addition of new members to, and withdrawal of active members
32 from, the accounts, and for the determination of the amounts that are payable
33 under this subsection by members of the group and the time and manner of the
34 payments.

35
36 SECTION 833. Arkansas Code § 11-10-716(a)(3), concerning collection of

1 interest on past due contributions directed to the Department of Workforce
2 Services Special Fund, is amended to read as follows:

3 (3) The date as of which payment of contributions, if mailed, is
4 deemed to have been received may be determined by such ~~regulations~~ rules as
5 the director may prescribe.

6
7 SECTION 834. Arkansas Code § 11-10-717(b)(3)(A), concerning failure to
8 pay or report a penalty by an employer, is amended to read as follows:

9 (A) The employer has failed to supply all information,
10 including, but not limited to, employee wage information, employee Social
11 Security number, and a separate accounting of seasonal worker wages within
12 and without the normal seasonal period of operations, directed by ~~regulations~~
13 rules prescribed by the director;

14
15 SECTION 835. Arkansas Code § 11-11-204(b), concerning the powers and
16 duties of the Department of Labor and the Director of the Department of
17 Labor, is amended to read as follows:

18 (b) The Director of the Department of Labor shall have the power,
19 jurisdiction, and authority to issue licenses to employment agencies, agency
20 managers, and counselors and to refuse to issue, revoke, or suspend the
21 licenses when, after due investigation, and in compliance with the procedures
22 set forth in §§ 11-11-221 and 11-11-222, the director finds that the
23 applicant is for good and sufficient cause unfit to be an employment agent,
24 agency manager, or counselor within the meaning of this subchapter or any
25 rules, ~~regulations~~, or orders lawfully promulgated under this subchapter.

26
27 SECTION 836. Arkansas Code § 11-11-204(d)(1), concerning the powers
28 and duties of the Department of Labor and the Director of the Department of
29 Labor, is amended to read as follows:

30 (d)(1) The director may prescribe such rules ~~and regulations~~ for the
31 conduct of the business of private employment agencies as necessary to
32 implement this subchapter.

33
34 SECTION 837. Arkansas Code § 11-11-204(d)(3), concerning the powers
35 and duties of the Department of Labor and the Director of the Department of
36 Labor, is amended to read as follows:

1 (3) Adoption of rules ~~and regulations~~ pursuant to this
2 subsection shall be carried out in compliance with the Arkansas
3 Administrative Procedure Act, § 25-15-201 et seq.
4

5 SECTION 838. Arkansas Code § 11-11-213(a)(3), concerning bond required
6 for an employment agency license, is amended to read as follows:

7 (3) The bond shall be conditioned that the employment agency and
8 each member, employee, shareholder, director, or officer of a person, firm,
9 partnership, corporation, or association operating as the employment agency
10 will not violate the provisions of this subchapter or violate rules,
11 ~~regulations~~, or orders lawfully promulgated by the director or violate the
12 terms of any contract made by the employment agent in the conduct of its
13 business.
14

15 SECTION 839. Arkansas Code § 11-11-220(a)(2)(A), concerning cessation
16 of business by a licensee, is amended to read as follows:

17 (2)(A) When one (1) or more individuals, on the basis of whose
18 qualifications an agency license has been obtained, ceases to be connected
19 with the licensed business for any reason whatsoever, the agency business may
20 be carried on for a temporary period not to exceed thirty (30) days, under
21 such terms and conditions as the Director of the Department of Labor shall
22 provide by ~~regulation~~ rule for the orderly closing of the business or the
23 replacement and qualification of a new member, partner, or corporate officer,
24 director, or shareholder.
25

26 SECTION 840. Arkansas Code § 11-11-221(b)(2), concerning grounds for
27 the issuance, refusal, suspension, or revocation of a license, is amended to
28 read as follows:

29 (2) That the employment agent, agency manager, or counselor has
30 violated any of the rules ~~and regulations~~ or other orders lawfully
31 promulgated by the director;
32

33 SECTION 841. Arkansas Code § 11-11-221(b)(6), concerning grounds for
34 the issuance, refusal, suspension, or revocation of a license, is amended to
35 read as follows:

36 (6) That the applicant is for good and sufficient cause unfit to

1 be an employment agent, agency manager, or employment counselor within the
2 meaning of this subchapter or of any of the rules ~~and regulations~~ or orders
3 lawfully promulgated by the director.

4
5 SECTION 842. Arkansas Code § 11-12-103 is amended to read as follows:
6 11-12-103. Penalty.

7 (a) Any person, firm, corporation, or association who violates a
8 provision of this chapter or a lawful ~~regulation~~ rule promulgated under this
9 chapter shall be liable for a civil penalty in accordance with the provisions
10 of § 11-6-103.

11 (b)(1) Any person who willfully or intentionally violates the
12 provisions of this chapter or a lawful ~~regulation~~ rule promulgated under this
13 chapter is guilty of a misdemeanor and upon conviction shall be punished by a
14 fine not to exceed one thousand dollars (\$1,000) or by imprisonment for not
15 more than thirty (30) days, or by both a fine and imprisonment.

16 (2) Each day that the violation continues shall be deemed a
17 separate offense.

18
19 SECTION 843. Arkansas Code § 11-12-105(1), concerning the
20 implementation and enforcement of laws regarding employment of children in
21 the entertainment industry, is amended to read as follows:

22 (1) Promulgate rules ~~and regulations~~ for the implementation of
23 this chapter;

24
25 SECTION 844. Arkansas Code § 12-8-103(c), concerning the powers and
26 duties of the Arkansas State Police Commission, is amended to read as
27 follows:

28 (c) The members of the commission are granted disciplinary authority
29 equal to that of supervisory and administrative personnel of the Department
30 of Arkansas State Police with respect to violations of rules ~~and regulations~~
31 committed by a department employee in the presence of a commissioner.

32
33 SECTION 845. Arkansas Code § 12-8-103(e)(2), concerning the powers and
34 duties of the Arkansas State Police Commission, is amended to read as
35 follows:

36 (2) For such purposes, the commission may promulgate and enforce

1 reasonable and necessary rules ~~and regulations~~.

2
3 SECTION 846. Arkansas Code § 12-8-106(a)(2), concerning the powers and
4 duties of the Department of Arkansas State Police, is amended to read as
5 follows:

6 (2) The Director of the Department of Arkansas State Police may
7 promulgate necessary rules ~~and regulations~~ to carry out the purpose and
8 intent of subdivision (a)(1)(B) of this section.

9
10 SECTION 847. Arkansas Code § 12-8-106(c), concerning the powers and
11 duties of the Department of Arkansas State Police, is amended to read as
12 follows:

13 (c) The department shall have the authority to establish a Crimes
14 Against Children Division, either through transfer or by contract, to conduct
15 child abuse investigations, to administer the Child Abuse Hotline, and, when
16 consistent with ~~regulations~~ rules promulgated by the department, to provide
17 training and technical assistance to local law enforcement in conducting
18 child abuse investigations.

19
20 SECTION 848. Arkansas Code § 12-8-119(b), concerning the authority of
21 the Director of the Department of Arkansas State Police to establish,
22 maintain, and conduct a police training school, is amended to read as
23 follows:

24 (b) The director may prescribe all rules ~~and regulations~~ necessary for
25 the proper functioning and operating of the school.

26
27 SECTION 849. Arkansas Code § 12-8-201(b) and (c), concerning selection
28 of members of the police force by the Director of the Department of Arkansas
29 State Police, are amended to read as follows:

30 (b) The commission shall promulgate rules ~~and regulations~~ setting
31 forth the minimum qualifications for employment as a department police
32 officer and prescribing the manner of examination of applicants for the
33 position.

34 (c) The director shall receive all applications for positions as
35 department officers and submit them to the commission for examination as to
36 the physical fitness and mental qualifications of the applicants and for such

1 other examinations as provided for by the commission's rules ~~and regulations~~.

2
3 SECTION 850. Arkansas Code § 12-8-508 is amended to read as follows:

4 12-8-508. Provision of information and assistance.

5 Notwithstanding a rule ~~or regulation~~ to the contrary, upon request of a
6 member of the General Assembly or legislative staff or upon request of a
7 legislative committee, the Crimes Against Children Division of the Department
8 of Arkansas State Police shall immediately provide information requested with
9 respect to child welfare as contemplated under the Arkansas Child Welfare
10 Public Accountability Act, § 9-32-201 et seq.

11
12 SECTION 851. Arkansas Code § 12-9-106(b)(1), concerning the exceptions
13 to the selection and training requirements of the Arkansas Commission on Law
14 Enforcement Standards and Training, is amended to read as follows:

15 (b)(1) In addition to the requirements of subsection (a) of this
16 section and § 12-9-104(7), the commission, by ~~rules and regulations~~ rule,
17 shall fix such other qualifications as it deems necessary.

18
19 SECTION 852. Arkansas Code § 12-9-106(c), concerning the exceptions to
20 the selection and training requirements of the Arkansas Commission on Law
21 Enforcement Standards and Training, is amended to read as follows:

22 (c) The commission shall issue a certificate evidencing satisfaction
23 of the requirements of subsections (a) and (b) of this section to any
24 applicant who presents such evidence as may be required by its rules ~~and~~
25 ~~regulations~~ of satisfactory completion of a program or course of instruction
26 in this or another state conforming to the content and quality required by
27 the commission for approved education and training.

28
29 SECTION 853. Arkansas Code § 12-9-110(a), concerning training of
30 civilians to file parking violations and traffic accident reports, is amended
31 to read as follows:

32 (a) The Arkansas Commission on Law Enforcement Standards and Training
33 shall by ~~regulation~~ rule establish the qualifications including minimum
34 training standards for persons performing law enforcement-related duties
35 pursuant to this section within cities of the first class and within other
36 areas of the State of Arkansas for cadets that are appointed by the Director

1 of the Department of Arkansas State Police.

2
3 SECTION 854. Arkansas Code § 12-9-302(1), concerning the powers and
4 duties of the Arkansas Commission on Law Enforcement Standards and Training,
5 is amended to read as follows:

6 (1) Promulgate rules ~~and regulations~~ for the administration of
7 this subchapter;

8
9 SECTION 855. Arkansas Code § 12-9-402(1), concerning the powers and
10 duties of the Arkansas Commission on Law Enforcement Standards and Training,
11 is amended to read as follows:

12 (1) Promulgate rules ~~and regulations~~ for the administration of
13 this subchapter;

14
15 SECTION 856. Arkansas Code § 12-12-203(a)(5), concerning the duties
16 and responsibilities of the Supervisory Board for the Arkansas Crime
17 Information Center, is amended to read as follows:

18 (5) Establish such ~~regulations~~ rules and policies as may be
19 necessary for the efficient and effective use and operation of the center
20 under the limitations imposed by the terms of this subchapter;

21
22 SECTION 857. Arkansas Code § 12-12-203(b), concerning the duties and
23 responsibilities of the Supervisory Board for the Arkansas Crime Information
24 Center, is amended to read as follows:

25 (b) The board shall establish its own rules ~~and regulations~~ for
26 performance of the responsibilities charged to the board in this subchapter.

27
28 SECTION 858. Arkansas Code § 12-12-205(c)(4), concerning the creation
29 and duties of the Missing Persons Information Clearinghouse, is amended to
30 read as follows:

31 (4) Be authorized to issue ~~regulations~~ rules and procedures for
32 the orderly collection and entry of information on missing persons and
33 unidentified deceased persons, as well as rules governing access to
34 information on missing persons and unidentified deceased persons;

35
36 SECTION 859. Arkansas Code § 12-12-211(a)(2), concerning access to

1 records held in the Arkansas Crime Information Center, is amended to read as
2 follows:

3 (2) Release of other noncriminal history records shall be in
4 accordance with policies and ~~regulations~~ rules established by the Supervisory
5 Board for the Arkansas Crime Information Center.

6
7 SECTION 860. Arkansas Code § 12-12-303(a), concerning the powers and
8 duties of the State Crime Laboratory Board, is amended to read as follows:

9 (a) The State Crime Laboratory Board shall promulgate such policies,
10 and rules, ~~and regulations~~ as shall be necessary to carry out the intent and
11 purpose of this subchapter along with the specific duties and
12 responsibilities set out in this subchapter.

13
14 SECTION 861. Arkansas Code § 12-12-304(b), concerning the duties of
15 the Executive Director of the State Crime Laboratory, is amended to read as
16 follows:

17 (b) The Executive Director of the State Crime Laboratory may delegate
18 specific duties to competent and qualified associates, assistants, and
19 deputies who may act for the executive director within the scope of the
20 authority granted him or her, subject, however, to such rules ~~and regulations~~
21 as may be prescribed by the State Crime Laboratory Board.

22
23 SECTION 862. Arkansas Code § 12-12-324(d), concerning testing of
24 firearms by the State Crime Laboratory, is amended to read as follows:

25 (d) A firearm seized by the Arkansas State Game and Fish Commission
26 for violation of a commission ~~regulation~~ rule is exempt from this section.

27
28 SECTION 863. Arkansas Code § 12-12-404(b), concerning reimbursement of
29 medical facilities by the Crime Victims Reparations Board, is amended to read
30 as follows:

31 (b) The board is empowered to prescribe minimum standards, and rules,
32 ~~and regulations~~ necessary to implement this subchapter. These shall include,
33 but not be limited to, a cost ceiling for each claim and the determination of
34 reasonable cost.

35
36 SECTION 864. Arkansas Code § 12-12-913(k)(2), concerning disclosure of

1 registration records under the Sex Offender Registration Act of 1997, is
2 amended to read as follows:

3 (2) In noncompliance with the requirements of registration under
4 rules ~~and regulations~~ promulgated by the Sex Offender Assessment Committee.

5
6 SECTION 865. Arkansas Code § 12-12-917(c)(1), concerning the
7 evaluation protocol, sexually dangerous persons, juveniles adjudicated
8 delinquent, and examiners under the Sex Offender Registration Act of 1997, is
9 amended to read as follows:

10 (c)(1) To the extent permissible and under the procedures established
11 by state rules and federal regulations, public agencies shall provide the
12 committee access to all relevant records and information in the possession of
13 public agencies or any private entity contracting with a public agency
14 relating to the sex offender or sexually dangerous person under review.

15
16 SECTION 866. Arkansas Code § 12-12-917(g)(1), concerning the
17 evaluation protocol, sexually dangerous persons, juveniles adjudicated
18 delinquent, and examiners under the Sex Offender Registration Act of 1997, is
19 amended to read as follows:

20 (g)(1) In cooperation with the committee, the Department of Correction
21 shall promulgate rules ~~and regulations~~ to establish the review process for
22 assessment determinations.

23
24 SECTION 867. Arkansas Code § 12-12-1010(b)(2)(B), concerning the
25 dissemination of criminal history information for designated purposes, is
26 amended to read as follows:

27 (B) The Director of the Arkansas Crime Information Center,
28 the repository of criminal history records, shall execute, administer, and
29 implement the compact on behalf of the state and may adopt necessary rules,
30 ~~regulations,~~ and procedures for the national exchange of criminal history
31 records for noncriminal justice purposes.

32
33 SECTION 868. Arkansas Code § 12-12-1104(2), concerning the powers and
34 duties of the State Crime Laboratory, is amended to read as follows:

35 (2) Promulgate rules ~~and regulations~~ to carry out the provisions
36 of this subchapter; and

1
2 SECTION 869. Arkansas Code § 12-12-1109(c), concerning the DNA sample
3 required upon adjudication of guilt for a qualifying offense, is amended to
4 read as follows:

5 (c) All DNA samples taken pursuant to this section shall be taken in
6 accordance with ~~regulations~~ rules promulgated by the State Crime Laboratory
7 in consultation with the Department of Correction, the Department of
8 Community Correction, the Department of Human Services, and the
9 Administrative Office of the Courts.

10
11 SECTION 870. Arkansas Code § 12-12-1507(a)(2), concerning the
12 administration of the release of criminal history information under the
13 Arkansas State Criminal Records Act, is amended to read as follows:

14 (2) The Department of Arkansas State Police and the center may
15 adopt rules ~~and regulations~~ consistent with the provisions and intent of this
16 subchapter.

17
18 SECTION 871. Arkansas Code § 12-12-1512 is amended to read as follows:
19 12-12-1512. Rules ~~and regulations~~.

20 The Department of Arkansas State Police and the Arkansas Crime
21 Information Center may promulgate rules ~~and regulations~~ as are necessary to
22 implement, enforce, and administer this subchapter.

23
24 SECTION 872. Arkansas Code § 12-12-1708(b)(1)(B), concerning persons
25 required to report adult or long-term care facility resident maltreatment
26 under the Adult and Long-Term Care Facility Resident Maltreatment Act, is
27 amended to read as follows:

28 (B) To the Office of Long-Term Care, under ~~regulations~~
29 rules of that office.

30
31 SECTION 873. Arkansas Code § 12-13-107(b) and (c), concerning the
32 duties of the Director of the Department of Arkansas State Police, are
33 amended to read as follows:

34 (b) The director is empowered to adopt reasonable rules ~~and~~
35 ~~regulations~~ for the effective administration of this subchapter to accomplish
36 its intent and purposes, and to safeguard the public from fire hazards.

1 (c) The director shall make reasonable ~~regulations~~ rules for the
2 keeping, storing, using, manufacture, selling, handling, transportation, or
3 other disposition of highly inflammable materials and rubbish, gunpowder,
4 dynamite, crude petroleum or any of its products, explosives or compounds or
5 any other explosive, including fireworks, and firecrackers, and he or she may
6 prescribe the materials and construction of receptacles and buildings to be
7 used for any of those purposes.

8
9 SECTION 874. Arkansas Code § 12-13-110(a), concerning the inspection
10 of buildings by the Department of Arkansas State Police under the Fire
11 Prevention Act, is amended to read as follows:

12 (a)(1) Upon complaint of any person or on their own motion, the
13 Director of the Department of Arkansas State Police and his or her officers
14 or deputies may inspect all buildings and premises within their jurisdiction
15 and issue an order for the compliance with the director's ~~regulations~~ rules.

16 (2) Failure or refusal to comply with an order of the director
17 in the enforcement of the ~~regulations~~ rules shall be a Class A misdemeanor.

18
19 SECTION 875. Arkansas Code § 12-14-103 is amended to read as follows:
20 12-14-103. Rules ~~and regulations~~.

21 The Secretary of State is hereby authorized and empowered to promulgate
22 rules ~~and regulations~~, and to amend or change the same from time to time as
23 he or she shall deem necessary, providing for the operation and organization
24 of the State Capitol Police, so long as such rules ~~and regulations~~ are not
25 arbitrary or capricious.

26
27 SECTION 876. Arkansas Code § 12-14-104(b), concerning the territory of
28 the State Capitol grounds and cumulative remedies of the State Capitol
29 Police, is amended to read as follows:

30 (b) The provisions of this chapter shall be cumulative to any remedies
31 that each department may now possess for enforcing its rules ~~and regulations~~,
32 including its rights to:

- 33 (1) Impose sanctions through fees and charges;
- 34 (2) Discipline;
- 35 (3) Deny service; and
- 36 (4) Expel.

1
2 SECTION 877. Arkansas Code § 12-18-909(g)(20), concerning the
3 availability of true reports of child maltreatment from the central registry,
4 is amended to read as follows:

5 (20) The Division of Child Care and Early Childhood Education of
6 the Department of Human Services for purposes of enforcement of licensing
7 laws and ~~regulations~~ rules;

8
9 SECTION 878. The introductory language of Arkansas Code § 12-27-
10 103(b), concerning the creation, powers, and duties of the Department of
11 Correction, is amended to read as follows:

12 (b) The Department of Correction shall have the following functions,
13 powers, and duties, administered in accordance with the policies, and rules,
14 ~~and regulations~~ promulgated by the Board of Corrections:

15
16 SECTION 879. Arkansas Code § 12-27-104(b), concerning the members,
17 records, and staff of the Board of Corrections, is amended to read as
18 follows:

19 (b) The Board of Corrections shall elect a chair annually in
20 accordance with rules ~~and regulations~~ developed by the Board of Corrections.

21
22 SECTION 880. Arkansas Code § 12-27-104(i)(1), concerning the members,
23 records, and staff of the Board of Corrections, is amended to read as
24 follows:

25 (i)(1) The Board of Corrections shall keep regular minutes of all its
26 meetings, visits, and proceedings and shall cause the minutes, together with
27 all orders, and rules, ~~and regulations~~ adopted by it, to be recorded in a
28 book which shall be kept by the secretary of the Board of Corrections for
29 that purpose.

30
31 SECTION 881. Arkansas Code § 12-27-105(b)(15), concerning the powers
32 and duties of the Board of Corrections, is amended to read as follows:

33 (15) To prescribe the duties of all personnel of the Department
34 of Correction and the Department of Community Correction and the ~~regulations~~
35 rules governing the transfer of employees within each department and between
36 departments;

1
2 SECTION 882. Arkansas Code § 12-27-106(a), concerning publication of
3 rules and laws and the report concerning administrative directives and
4 memoranda to be filed with Legislative Council, is amended to read as
5 follows:

6 (a) It shall be the duty of the Board of Corrections to publish in
7 pamphlet form and to post in conspicuous places about the Department of
8 Correction farms and all other penal institutions all rules, and laws, ~~and~~
9 ~~regulations~~ promulgated by the board with reference to the conduct of the
10 prisoners confined therein.

11
12 SECTION 883. Arkansas Code § 12-27-107(d), concerning the duties of
13 the Director of the Department of Correction, is amended to read as follows:

14 (d) Subject to the rules, ~~regulations~~, policies, and procedures
15 prescribed by the Board of Corrections, the director shall:

16 (1) Administer the Department of Correction and supervise the
17 administration of all institutions, facilities, and services under the
18 jurisdiction of the Department of Correction;

19 (2) Employ such personnel as are required in the administration
20 of the provisions of this act, provided that the employment of personnel
21 shall be in accordance with the applicable laws and personnel ~~regulations~~
22 rules of the state;

23 (3) Institute programs for the training and development of
24 personnel within the Department of Correction and have authority to suspend,
25 discharge, or otherwise discipline personnel in accordance with policies
26 prescribed by the Board of Corrections;

27 (4) Make an annual report to the Board of Corrections, which
28 will be forwarded to the Governor and the General Assembly, on the work of
29 the Department of Correction, including statistics and other data, income
30 derived by the Department of Correction from agriculture, livestock, and
31 other farming activities and from prison inmates' activities, a summary of
32 expenditures of the Department of Correction, and progress reports regarding
33 internal issues such as inmate discipline, utilization of programming,
34 facilities and bed space utilization, upkeep issues, and construction needs;

35 (5) Cooperate with the Department of Community Correction, the
36 Parole Board, the Arkansas Sentencing Commission, judicial districts,

1 counties, and municipalities to provide the guidance and services required to
2 ensure a full range of correctional options for the state as a whole; and

3 (6)(A) Designate those employees of the Department of Correction
4 who shall have the powers of peace officers in the enforcement of criminal
5 laws to the extent they apply to employees, inmates, and persons on
6 Department of Correction property, while participating in the search and
7 capture of an inmate who has escaped custody, or while assisting law
8 enforcement officers in the search and capture of any fugitive or escapee
9 from another jurisdiction.

10 (B) The employees so designated have the authority to use
11 blue rotating or flashing emergency lights on Department of Correction
12 vehicles and exercise other law enforcement powers exercised by police and
13 other law enforcement personnel.
14

15 SECTION 884. Arkansas Code § 12-27-108(b), concerning the
16 authentication of records by the Director of the Department of Correction, is
17 amended to read as follows:

18 (b) All acts, orders, ~~regulations~~, reports, and other records of the
19 department or copies thereof which are entitled to judicial notice shall be
20 certified to by the director with the seal affixed thereto.
21

22 SECTION 885. Arkansas Code § 12-27-113(b)(1), concerning records of
23 commitments to the Department of Correction, is amended to read as follows:

24 (b)(1) The Director of the Department of Correction, in accordance
25 with the rules, and procedures, ~~and regulations~~ promulgated by the Board of
26 Corrections shall transfer an inmate to the Department of Community
27 Correction, pursuant to a judicial transfer, or assign a newly committed
28 inmate to an appropriate facility of the Department of Correction.
29

30 SECTION 886. Arkansas Code § 12-27-125(b), concerning the creation,
31 powers, and duties of the Department of Community Correction, is amended to
32 read as follows:

33 (b) The Department of Community Correction shall have the following
34 functions, powers, and duties, administered in accordance with the policies,
35 and rules, ~~and regulations~~ promulgated by the Board of Corrections:

36 (1) It shall assume management and control over all properties,

1 both real and personal, facilities, books, records, equipment, supplies,
2 materials, contracts, funds, moneys, equities, and all other properties
3 belonging to the Arkansas Adult Probation Commission [abolished], and all
4 such properties deemed appropriate for transfer from the Department of
5 Correction by the Board of Corrections;

6 (2)(A) It shall have management and control over all community
7 correction services.

8 (B) It shall have management and control over all
9 community correction facilities within the purview of the Board of
10 Corrections existing on or created after July 1, 1993;

11 (3) It shall employ such officers, employees, and agents and
12 shall secure such offices and quarters as deemed necessary to discharge the
13 functions of the Department of Community Correction, and which are
14 appropriately funded;

15 (4) It may establish and operate regional community correction
16 facilities if funds for the regional community correction facilities have
17 been authorized and appropriated by the General Assembly;

18 (5)(A) It may exercise all legally sanctioned supervision and
19 appropriate care over all offenders referred with proper documentation from
20 the circuit courts and all offenders transferred with proper documentation
21 from the Department of Correction pursuant to policies established by the
22 Board of Corrections and conditions set by the Parole Board.

23 (B) Legal custody remains with the referring court or the
24 Department of Correction;

25 (6) It shall administer the provision of probation services for
26 offenders processed through circuit courts;

27 (7) It shall administer the provision of parole services in
28 coordination with the Parole Board and in cooperation with the Department of
29 Correction;

30 (8) It shall provide support services to the Parole Board or its
31 designated representatives as determined by the Parole Board;

32 (9) It shall assist the Board of Corrections in the furtherance
33 of its goals by staffing the specific charges articulated for it through
34 legislation and by the Board of Corrections;

35 (10) It shall conduct statewide public education and training to
36 foster the provision of correctional supervision and service in community

1 settings;

2 (11) It shall provide technical assistance when necessary to any
3 entity, program, division, or agency receiving assistance or clients through
4 the Department of Community Correction;

5 (12) It shall facilitate the development of a comprehensive
6 community correction plan through the provision of funding, criteria review,
7 and ongoing evaluation to ensure the maintenance of quality in supervision
8 and programming;

9 (13) It may accept gifts, grants, and funds from both public and
10 private sources with prior approval of the Board of Corrections;

11 (14) It shall establish minimum standards for case loads,
12 programs, facilities, and equipment and other aspects of the operation of
13 community correction programs and facilities necessary for the provision of
14 adequate and effective supervision and service;

15 (15) It shall establish minimum standards for the employment of
16 community correction employees;

17 (16) It shall establish programs of research, evaluation,
18 statistics, audit, and planning, including studies and evaluation of the
19 performance of various functions and activities of the Department of
20 Community Correction and studies affecting the treatment of offenders and
21 information about other programs;

22 (17)(A) It may receive and disburse moneys ordered to be paid by
23 offenders pursuant to statutory economic sanctions.

24 (B) It may receive fees to be levied by the courts or
25 authorized by the Board of Corrections for participation in specified
26 programs and to be paid by offenders on community correction.

27 (C) The payment of such sanctions and fees may be a
28 condition of probation, parole, or post prison transfer or attached to
29 admission and participation in a community correction program.

30 (D) The moneys collected shall be deposited into an
31 earmarked account at the state level to be used solely for the continuation
32 and expansion of community correction in this state.

33 (E) Economic sanction officers are to be authorized by the
34 Department of Community Correction to perform these duties pursuant to
35 policies and procedures adopted by the Board of Corrections and in accord
36 with any state statutory accounting requirements;

1 (18) It may cooperate and contract with the federal government,
2 with governmental agencies of Arkansas and other states, with political
3 subdivisions of Arkansas, and with private contractors to provide and improve
4 community correction options;

5 (19) It may inspect and evaluate any community correction site
6 and conduct audits of financial and service records at any reasonable time to
7 determine compliance with the Board of Corrections' rules, ~~regulations~~, and
8 standards;

9 (20)(A) It shall maintain a full and complete record of each
10 offender under its supervision.

11 (B)(i) To protect the integrity of a record described in
12 subdivision (b)(20)(A) of this section and to ensure its proper use, it is
13 unlawful to permit inspection of or disclose information contained in a
14 record described in subdivision (b)(20)(A) of this section or to copy or
15 issue a copy of any part of the record except:

16 (a) As authorized by administrative rule;

17 (b) By order of a court of competent
18 jurisdiction; or

19 (c) Records posted on the Department of
20 Community Correction's website as required by § 12-27-145.

21 (ii) The rules under subdivision (b)(20)(B)(i)(a)
22 shall provide for adequate standards of security and confidentiality of a
23 record described in subdivision (b)(20)(A) of this section;

24 (21) Subject to availability of funds, it shall employ officers,
25 employees, and agents and secure sufficient offices for monitoring each sex
26 offender on parole or probation who is required to register under the Sex
27 Offender Registration Act of 1997, § 12-12-901 et seq., and who has been
28 assessed as a risk Level 3 or Level 4 offender; and

29 (22)(A) It may issue an arrest warrant for the arrest of any
30 person who, while in its custody, unlawfully escapes from the Department of
31 Community Correction.

32 (B) The arrest warrant shall authorize:

33 (i) All law enforcement officers of this state to
34 take into custody and return the person named in the arrest warrant to the
35 custody of the Department of Community Correction or the Department of
36 Correction; and

1 (ii) All law enforcement officers of this state, any
2 other state, or the federal government to take into custody and detain the
3 person in a suitable detention facility while awaiting further transfer to
4 the Department of Community Correction or the Department of Correction.

5
6 SECTION 887. Arkansas Code § 12-27-126(d), concerning the appointment
7 of the Director of the Department of Community Correction, is amended to read
8 as follows:

9 (d) Subject to the rules, ~~regulations~~, policies, and procedures
10 prescribed by the Board of Corrections, the director shall:

11 (1) Administer the Department of Community Correction and
12 supervise the administration of all facilities, programs, and services under
13 the Department of Community Correction's jurisdiction;

14 (2) Employ such personnel as are required in the administration
15 of the provisions of this act, provided that the employment of personnel
16 shall be in accordance with the applicable laws and personnel ~~regulations~~
17 rules of the state;

18 (3) Institute programs for the training and development of
19 personnel within the Department of Community Correction and have authority to
20 suspend, discharge, or otherwise discipline personnel in accordance with
21 policies prescribed by the Board of Corrections;

22 (4) Make an annual report to the Board of Corrections, which
23 will be forwarded to the Governor and the General Assembly, on the work of
24 the Department of Community Correction, including statistics and other data,
25 income derived from fee collection, a summary of expenditures of the
26 Department of Community Correction, and progress reports regarding internal
27 issues such as offender success, programming development, bed space
28 utilization, and future needs; and

29 (5) Cooperate with the Department of Correction, the Parole
30 Board, the Arkansas Sentencing Commission, judicial districts, counties, and
31 municipalities to provide the guidance and services required to ensure a full
32 range of correctional and community correction options for the state as a
33 whole.

34
35 SECTION 888. Arkansas Code § 12-27-135(a)(1), concerning facility
36 assignments within the Department of Correction, is amended to read as

1 follows:

2 (a)(1) In accordance with the rules, and procedures, ~~and regulations~~
3 promulgated by the Board of Corrections, the Director of the Department of
4 Correction shall assign a newly committed inmate to an appropriate facility
5 of the Department of Correction.

6

7 SECTION 889. Arkansas Code § 12-27-139 is amended to read as follows:
8 12-27-139. Notice to police when furloughed inmate will be in
9 jurisdiction.

10 (a) The Board of Corrections may promulgate rules ~~and regulations~~ to
11 allow inmates to participate in a meritorious furlough program which include
12 a requirement that the county sheriff and the chief of police of the city or
13 town, if applicable, shall be notified if an inmate will be present within
14 their jurisdiction while on furlough.

15 (b) The rules ~~and regulations~~ referred to in subsection (a) of this
16 section shall not require the county sheriff or the chief of police of the
17 city or town, if applicable, of the jurisdiction in which an inmate will be
18 present on furlough to approve the granting of the furlough.

19 (c)(1) All Arkansas-certified law enforcement officers are authorized
20 to escort inmates on emergency furlough.

21 (2) The board may promulgate rules ~~and regulations~~ necessary to
22 implement subdivision (c)(1) of this section.

23

24 SECTION 890. Arkansas Code § 12-28-603(a)(2) and (3), concerning the
25 declaration of emergency when the prison population exceeds certain levels,
26 are amended to read as follows:

27 (2) In making any emergency request based on exceeding the
28 ninety-eight-percent capacity, the board shall certify the rated capacity and
29 current population of the prison system and shall further certify that all
30 authorized actions consistent with applicable state laws and ~~regulations~~
31 rules have been exhausted in an attempt to reduce the prison population to
32 ninety-eight percent (98%) of the rated capacity.

33 (3) In making any emergency request based on a county jail
34 backlog exceeding five hundred (500) inmates, the board shall certify the
35 list of persons on the county jail backlog and shall further certify that all
36 authorized actions consistent with applicable state laws and ~~regulations~~

1 rules have been exhausted in an attempt to reduce the county jail backlog to
2 five hundred (500) inmates.

3
4 SECTION 891. Arkansas Code § 12-29-101(d), concerning custody
5 classifications and treatment programs formulated by the Director of the
6 Department of Correction, is amended to read as follows:

7 (d)(1) With the approval of the Board of Corrections, the director
8 shall establish rules ~~and regulations~~ for the assignment of inmates to the
9 various programs, services, and work activities of the department.

10 (2) Inmates in the institutions of the department may
11 participate in and benefit from the vocational, educational, and
12 rehabilitation services of their respective institutions solely within the
13 rules ~~and regulations~~ of the department as determined by the director,
14 subject to appeal and review by the Board of Corrections or a designated
15 review board in accordance with procedures that shall be established by the
16 Board of Corrections.

17
18 SECTION 892. Arkansas Code § 12-29-103(a), concerning the prescription
19 of disciplinary rules by the Director of the Department of Correction, is
20 amended to read as follows:

21 (a) The Director of the Department of Correction or the Director of
22 the Department of Community Correction shall prescribe, with the approval of
23 the Board of Corrections, rules ~~and regulations~~ for the maintenance of good
24 order and discipline in the facilities and institutions of the Department of
25 Correction or the Department of Community Correction, respectively, including
26 proceedings for dealing with violations.

27
28 SECTION 893. Arkansas Code § 12-29-107 is amended to read as follows:

29 12-29-107. Inmate welfare funds.

30 Amounts held as inmate welfare funds or received as inmate welfare
31 funds through contributions, profit from sale of products to inmates, or
32 otherwise, shall be held as a special fund to be administered and used by the
33 Director of the Department of Correction for the general benefit of the
34 inmates under rules ~~and regulations~~ to be established by the Board of
35 Corrections.

36

1 SECTION 894. Arkansas Code § 12-29-108(a), concerning confiscation of
2 cash in the possession of inmates of state correctional facilities, is
3 amended to read as follows:

4 (a) The Board of Corrections is authorized to promulgate rules ~~and~~
5 ~~regulations~~ concerning the maximum amount of cash that inmates of the
6 Department of Correction may have in their possession.

7
8 SECTION 895. Arkansas Code § 12-29-108(c)(1) and (2), concerning
9 confiscation of cash in the possession of inmates of state correctional
10 facilities, are amended to read as follows:

11 (c)(1) An inmate of the department shall forfeit any cash found on his
12 or her person or in his or her possession in excess of the amount prescribed
13 by rules ~~or regulations~~ of the board.

14 (2) After a hearing, the Director of the Department of
15 Correction shall confiscate such cash and deposit the amount held in
16 violation of the rules ~~and regulations~~ into a department welfare fund, to be
17 used for the benefit of inmates of the department pursuant to rules ~~and~~
18 ~~regulations~~ of the board.

19
20 SECTION 896. Arkansas Code § 12-29-201(c), concerning meritorious good
21 time received by inmates in state correctional facilities, is amended to read
22 as follows:

23 (c) Meritorious good time shall be allocated under rules ~~and~~
24 ~~regulations~~ promulgated by the Board of Corrections and administered by the
25 respective Department of Correction or Department of Community Correction
26 staff subject to the provisions of this subchapter for good discipline,
27 behavior, work practices, job responsibilities, and involvement in
28 rehabilitative activities while in the custody or under the supervision of
29 the Department of Correction or the Department of Community Correction.

30
31 SECTION 897. Arkansas Code § 12-29-202(a)(1) and (2), concerning the
32 establishment of a classification committee approved by the Board of
33 Corrections, are amended to read as follows:

34 (a)(1) There is established a classification committee to be defined
35 by administrative ~~regulations~~ rules approved by the Board of Corrections.

36 (2) Members of the committee shall be selected by wardens or

1 supervisors of the various units, facilities, or centers of the Department of
2 Correction and Department of Community Correction per board ~~regulation~~ rule
3 governing their selection.

4
5 SECTION 898. Arkansas Code § 12-29-202(c), concerning the
6 establishment of a classification committee approved by the Board of
7 Corrections, is amended to read as follows:

8 (c) An inmate may be reclassified as often as the committee deems
9 necessary or in accordance with current board ~~regulations~~ rules to carry out
10 the purpose of this subchapter and to maintain good discipline, order, and
11 efficiency at the units, facilities, or centers.

12
13 SECTION 899. Arkansas Code § 12-29-205(a)(1), concerning good time
14 earned pending transfer to the Department of Correction or the Department of
15 Community Correction, is amended to read as follows:

16 (a)(1) Any person who is sentenced by a circuit court to the
17 Department of Correction or the Department of Community Correction and is
18 awaiting transfer to the Department of Correction or Department of Community
19 Correction may earn meritorious good time in accordance with law and
20 ~~regulations~~ rules as adopted by the Board of Corrections.

21
22 SECTION 900. Arkansas Code § 12-29-205(c), concerning good time earned
23 pending transfer to the Department of Correction or the Department of
24 Community Correction, is amended to read as follows:

25 (c) This meritorious good time award is subject to all rules ~~and~~
26 ~~regulations~~ regarding meritorious good time including, but not limited to,
27 those ~~regulations~~ rules for forfeiture of meritorious good time as adopted by
28 the board.

29
30 SECTION 901. Arkansas Code § 12-29-302 is amended to read as follows:

31 12-29-302. Rules ~~and regulations~~.

32 The Board of Corrections and the State Board of Education are directed,
33 authorized, and empowered to adopt rules ~~and regulations~~ as are necessary to
34 implement the provisions of this subchapter.

35
36 SECTION 902. Arkansas Code § 12-29-406(c), concerning the treatment

1 for deviant sexual behavior by the Department of Correction, is amended to
2 read as follows:

3 (c) The section shall adopt, promulgate, and enforce such rules,
4 ~~regulations~~, policies, and standards as may be necessary to carry out the
5 intent and purposes of this section.
6

7 SECTION 903. Arkansas Code § 12-30-101(g), concerning bartering
8 products of state correctional institutions, is amended to read as follows:

9 (g) The board may make reasonable rules ~~and regulations~~ governing the
10 Department of Correction in the administration of contracts, compacts, or
11 agreements made under the provisions of this section.
12

13 SECTION 904. Arkansas Code § 12-30-102(e), concerning buying and
14 selling products of state correctional institutions, is amended to read as
15 follows:

16 (e) The board may make reasonable rules ~~and regulations~~ governing the
17 Department of Correction in the administration of contracts, compacts, or
18 agreements made under the provisions of this section.
19

20 SECTION 905. Arkansas Code § 12-30-103(b), concerning establishment of
21 a workcraft program by the Department of Correction and the Department of
22 Community Correction, is amended to read as follows:

23 (b) The Board of Corrections is authorized to establish rules ~~and~~
24 ~~regulations~~ for operating the workcraft program, which shall include, but not
25 be limited to, the following:

26 (1) Acquisition of necessary machinery, materials, and
27 equipment;

28 (2) Establishment of procedures for public sale of inmate-
29 produced craft;

30 (3) Inmate eligibility for participation in the workcraft
31 program; and

32 (4) Establishment of a workcraft program revolving fund.
33

34 SECTION 906. Arkansas Code § 12-30-104(b)(2), concerning the purchase
35 of workcraft program items produced in the Department of Correction and the
36 Department of Community Correction workcraft programs, is amended to read as

1 follows:

2 (2) A percentage of sale proceeds, as determined by ~~rules and~~
3 ~~regulations~~ rule, will accrue to the individual product-creating inmate's
4 account and the remainder to a workcraft program revolving fund.

5

6 SECTION 907. Arkansas Code § 12-30-105 is amended to read as follows:

7 12-30-105. Marketing contracts.

8 (a)(1) The Department of Correction may enter into marketing contracts
9 with dealers, retailers, distributors, and manufacturer representatives
10 permitting them to market and sell all products and services produced by the
11 department industry program in accordance with existing laws and state
12 purchasing ~~regulations~~ rules.

13 (2) The Industry Division of the department will be responsible
14 for all billing of purchased products and services to ensure that only
15 customers authorized by law are making said purchases.

16 (b) Reimbursement to companies on contract for marketing of said
17 products and services will be based on ~~regulations~~ rules established by the
18 Board of Corrections.

19

20 SECTION 908. Arkansas Code § 12-30-211 is amended to read as follows:

21 12-30-211. Rules ~~and regulations~~.

22 The Board of Corrections shall have power and authority to prepare and
23 promulgate rules ~~and regulations~~ which are necessary to give effect to the
24 provisions of this subchapter with respect to matters of administration and
25 procedure respecting them.

26

27 SECTION 909. Arkansas Code § 12-30-301(b), concerning farming and
28 livestock activities on state correctional facilities, is amended to read as
29 follows:

30 (b) The Director of the Department of Correction, with the approval of
31 the Board of Corrections, shall promulgate necessary rules ~~and regulations~~
32 for the operation of the farming and livestock activities of the various
33 institutions of the department, the employment of personnel, the assignment
34 of inmate labor, and other activities as may be reasonably necessary to
35 accomplish the purposes as provided in this section.

36

1 SECTION 910. Arkansas Code § 12-30-306(a), concerning purchases,
2 expenditures, sales, and compliance with state purchasing laws by the
3 Department of Correction, is amended to read as follows:

4 (a) All purchases for or in behalf of the Department of Correction and
5 its various institutions shall be in strict compliance with the state
6 purchasing laws and applicable rules ~~and regulations~~ promulgated thereunder.
7

8 SECTION 911. Arkansas Code § 12-30-401 is amended to read as follows:

9 12-30-401. Work and rehabilitative programs – Work-release programs.

10 (a) All inmates committed to the Department of Correction for
11 institutional care shall be required to participate in the various work
12 programs to which assigned and may be afforded vocational training and
13 rehabilitative opportunities in accordance with rules, ~~regulations~~, and
14 procedures therefor as promulgated by the Director of the Department of
15 Correction with the approval of the Board of Corrections.

16 (b) The department may institute “work-release” programs under which
17 the inmates selected to participate in the programs may be gainfully employed
18 or attend school outside of the units maintained by the department, under
19 rules ~~and regulations~~ promulgated by the director with the approval of the
20 board.
21

22 SECTION 912. Arkansas Code § 12-30-403 is amended to read as follows:

23 12-30-403. Rules ~~and regulations~~ generally.

24 The Board of Corrections and the Director of the Department of
25 Correction will govern the administration of work-release programs with the
26 promulgation of rules, ~~regulations~~, and procedures subject to the continuing
27 review by the Governor, who shall have the right to revise and rescind any
28 such rules, ~~regulations~~, and procedures.
29

30 SECTION 913. Arkansas Code § 12-30-406(c), concerning work-release
31 program allocation of inmates’ earnings by the Department of Correction, is
32 amended to read as follows:

33 (c) The department shall promulgate rules ~~and regulations~~ governing
34 the possession of or use of money by inmates and may prohibit the possession
35 of money by inmates and may establish a system for the custody of all funds
36 belonging to inmates, for the balance of such fund period.

1
2 SECTION 914. Arkansas Code § 12-41-806(c), concerning matching grant
3 and loan fund requirements under the Juvenile Detention Facilities
4 Cooperative Development and Operations Act, is amended to read as follows:

5 (c) Any award of funds under this section shall be subject to review
6 and approval by the Division of Youth Services of the Department of Human
7 Services, which shall promulgate rules ~~and regulations~~ to effectuate the
8 provisions of this section.

9
10 SECTION 915. Arkansas Code § 12-41-807(c), concerning the operating
11 fund account under the Juvenile Detention Facilities Cooperative Development
12 and Operations Act, is amended to read as follows:

13 (c) The Division of Youth Services of the Department of Human Services
14 shall promulgate rules ~~and regulations~~ to effectuate the provisions of this
15 section.

16
17 SECTION 916. Arkansas Code § 12-60-102(9), concerning the definition
18 of "grade" under the laws regulating military affairs, is amended to read as
19 follows:

20 (9) "Grade" means a step or degree in a graduated scale of
21 office or military rank that is established and designated as a grade by law
22 or ~~regulation~~ rule;

23
24 SECTION 917. Arkansas Code § 12-61-103(a), concerning the Governor's
25 powers and duties regarding military affairs, is amended to read as follows:

26 (a)(1) The Governor is authorized to make such rules ~~and regulations~~
27 governing the government, organization, discipline, and training of the
28 militia as he or she may deem expedient.

29 (2) Such rules ~~and regulations~~ shall conform to the provisions
30 of this code and, as nearly as practicable, to those governing the armed
31 forces of the United States.

32 (3) When promulgated, the rules ~~and regulations~~ shall have the
33 same force and effect as the provisions of this code.

34 (4) Such rules ~~and regulations~~ shall not be repealed, altered,
35 amended, or added to, except with the approval of the Governor.

36 (5) The rules ~~and regulations~~ in force at the time of the

1 passage of this code shall remain in force until new rules ~~and regulations~~
2 are approved and promulgated.

3
4 SECTION 918. Arkansas Code § 12-61-103(c), concerning the Governor's
5 powers and duties regarding military affairs, is amended to read as follows:

6 (c) Whenever he or she shall deem it necessary, the Governor may
7 direct the members of the unorganized militia to present themselves for and
8 submit to registration at such time and place and in such manner as may be
9 prescribed by ~~regulations~~ rule.

10
11 SECTION 919. Arkansas Code § 12-61-104 is amended to read as follows:

12 12-61-104. Custom and usage of the armed forces of the United States.
13 All matters relating to the organization, discipline, and government of
14 the organized militia, not otherwise provided for in this code or in
15 ~~regulations~~ rules issued pursuant thereto, shall be as prescribed by the
16 customs and usages of the appropriate force or forces of the United States.

17
18 SECTION 920. Arkansas Code § 12-61-106(b), concerning the Adjunct
19 General's powers and duties regarding military affairs, is amended to read as
20 follows:

21 (b) He or she shall perform the duties prescribed for him or her in
22 this code and in the ~~regulations~~ rules issued thereunder and in the statutes
23 of the United States.

24
25 SECTION 921. Arkansas Code § 12-61-106(o), concerning the Adjunct
26 General's powers and duties regarding military affairs, is amended to read as
27 follows:

28 (o) For the purpose of effectively carrying out the terms of this
29 code, the Adjutant General shall have the power to prescribe such rules ~~and~~
30 ~~regulations~~ as he or she may from time to time deem necessary.

31
32 SECTION 922. Arkansas Code § 12-61-116(c), concerning state militia
33 and excuse from duty, is amended to read as follows:

34 (c) However, the provisions of this section shall not curtail the
35 rights of commanding officers to grant leaves of absence and furloughs as
36 provided by ~~regulations~~ rules unless they are specifically modified by orders

1 from superior authority.

2
3 SECTION 923. Arkansas Code § 12-61-117(b), concerning state militia
4 and the draft of the unorganized militia, failure to appear, and penalty, is
5 amended to read as follows:

6 (b) Whenever it shall be necessary in such a case, the Governor may
7 direct the members of the unorganized militia or such of them as may be
8 necessary to be drafted, under such ~~regulations~~ rules as he or she may
9 prescribe, into the active service of the state to serve as directed by him
10 or her.

11
12 SECTION 924. Arkansas Code § 12-61-121(a)(3), concerning the state
13 militia and awards and medals, is amended to read as follows:

14 (3) The State Military Department is authorized to promulgate
15 necessary rules ~~and regulations~~ to establish the criteria under which any
16 medal, ribbon, or decoration may be awarded.

17
18 SECTION 925. Arkansas Code § 12-61-121(b), concerning the state
19 militia and awards and medals, is amended to read as follows:

20 (b) Whenever it shall appear to the satisfaction of the Adjutant
21 General that any service medal duly issued by the State of Arkansas, in
22 accordance with the military rules ~~and regulations~~, to a member of the
23 organized militia, has been lost or stolen, he or she may, in his or her
24 discretion, and upon such terms as he or she may impose upon written
25 application of the person originally entitled to such medal, issue a
26 duplicate thereof.

27
28 SECTION 926. Arkansas Code § 12-61-123(c), concerning the
29 establishment of a Bureau of War Records, is amended to read as follows:

30 (c) The Adjutant General may adopt such reasonable and necessary
31 ~~regulations~~ rules as may be necessary to accomplish this purpose.

32
33 SECTION 927. Arkansas Code § 12-61-124(c), concerning civilian
34 juvenile student training programs, is amended to read as follows:

35 (c) The Adjutant General may promulgate and issue such rules,
36 ~~regulations~~, and other guidelines as may be necessary and proper to carry out

1 the purposes and provisions of this section.

2
3 SECTION 928. Arkansas Code § 12-61-205(a) and (b), concerning
4 discipline, organization, and training of the National Guard, are amended to
5 read as follows:

6 (a) The system of discipline and training of the National Guard shall
7 conform generally to that of the armed forces of the United States as it is
8 now or may hereafter be prescribed by the President and conform to the
9 provisions of the laws of the United States, except as otherwise provided in
10 this code or by the ~~regulations~~ rules issued by the Governor.

11 (b) The forces of the Army National Guard and Air National Guard shall
12 be organized, equipped, armed, disciplined, governed, administered, and
13 trained as prescribed by the laws of the United States and by this code and
14 the regulations and rules issued thereunder.

15
16 SECTION 929. Arkansas Code § 12-61-206(a), concerning assemblies,
17 annual training, and other duties of the National Guard, is amended to read
18 as follows:

19 (a) Members and units of the National Guard shall assemble for drill
20 or other equivalent training, instruction, or duties during each year and
21 shall participate in field training, encampments, maneuvers, schools,
22 conferences, or other similar duties each year as may be prescribed by the
23 laws of the United States and of the state and the regulations and rules
24 issued thereunder. However, no assembly of any such unit of the organized
25 militia shall be ordered in time of peace for any day during which a general
26 election shall be held, except in case of riot, invasion, or insurrection or
27 imminent danger thereof.

28
29 SECTION 930. Arkansas Code § 12-61-302 is amended to read as follows:

30 12-61-302. Organization and government.

31 (a) The Arkansas State Defense Force shall be organized and governed
32 by the terms of this code and by such rules ~~and regulations~~ as may be
33 promulgated from time to time.

34 (b) Except when otherwise provided, all provisions of this code and
35 ~~regulations~~ rules in respect to the Arkansas National Guard shall apply to
36 the Arkansas State Defense Force.

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SECTION 931. Arkansas Code § 12-61-305 is amended to read as follows:
12-61-305. Assignments.

All officers and enlisted personnel of the organized militia not otherwise assigned may be assigned to the Arkansas State Defense Force for such time and in such manner as prescribed by ~~regulations~~ rules promulgated by the Governor as he or she deems necessary.

SECTION 932. Arkansas Code § 12-62-102(a), concerning prerequisites to appointment and disqualifications under the law governing military personnel, is amended to read as follows:

(a) No person shall be appointed or promoted as a commissioned officer in the National Guard unless he or she shall have passed such examination as to his or her physical, moral, and professional qualifications as may be prescribed by the United States and by this code and the regulations and rules issued thereunder.

SECTION 933. Arkansas Code § 12-62-103 is amended to read as follows:
12-62-103. Assignment and transfer.

Commissioned officers and warrant officers may be assigned, reassigned, transferred, or detailed to and from units within the National Guard as prescribed by the laws of the United States and this code and the regulations and rules issued thereunder.

SECTION 934. Arkansas Code § 12-62-104(b), concerning removal of any officer from the Arkansas National Guard by the Adjutant General of the State of Arkansas, is amended to read as follows:

(b) The Adjutant General may adopt reasonable and necessary ~~regulations~~ rules as may be necessary to accomplish this purpose.

SECTION 935. Arkansas Code § 12-62-301 is amended to read as follows:
12-62-301. Pay generally.

Each officer, warrant officer, and enlisted person ordered for duty by the Governor or under his or her authority by the commanding general of the National Guard shall be paid by the state for every day actually on duty the same basic pay as officers and enlisted personnel of the armed forces of the

1 United States of equal grade, rating, and length of service and such
2 allowances as may be authorized in ~~regulations~~ rules issued in accordance
3 with the provisions of this code or at a flat daily rate of forty dollars
4 (\$40.00) for each day of twenty-four (24) hours or less actually spent on
5 active duty, whichever is greater. However, officers and enlisted personnel
6 shall not receive from the state the pay and allowances provided by this
7 section when ordered on duty thereunder in compliance with instructions from
8 the federal government for services for which they are to receive pay and
9 allowances from federal funds.

10
11 SECTION 936. Arkansas Code § 12-62-414(d), concerning extensions for
12 renewing certain documents by a member of the National Guard, is amended to
13 read as follows:

14 (d)(1) Each department, division, office, board, commission, and
15 institution of this state, including state-supported institutions of higher
16 education, shall promulgate ~~regulations~~ rules to establish the length of the
17 extension.

18 (2) The extension established by ~~regulation~~ rule shall be within
19 the limits provided by this section.

20
21 SECTION 937. Arkansas Code § 12-62-502(3), concerning the definition
22 of "high personnel readiness units" under the Arkansas National Guard Student
23 Loan Repayment Program of 1995, is amended to read as follows:

24 (3) "High personnel readiness units" means those units with
25 special manpower needs as designated by the Adjutant General pursuant to
26 ~~regulation~~ rule, based upon:

27 (A) The mobilization priority of the unit;

28 (B) The difficulty of attracting, qualifying, and
29 enlisting new members;

30 (C) The ability to maintain acceptable strength levels
31 within the unit; and

32 (D) Such other factors as the Adjutant General may deem
33 appropriate; and

34
35 SECTION 938. Arkansas Code § 12-62-504(c)(2), concerning the
36 application process under the Arkansas National Guard Student Loan Repayment

1 Program of 1995, is amended to read as follows:

2 (2) Payment shall be made directly to the approved institution,
3 on behalf of and for the benefit of the qualified applicant, in a manner as
4 may be established by ~~regulation~~ rule of the Adjutant General.

5
6 SECTION 939. Arkansas Code § 12-62-505 is amended to read as follows:

7 12-62-505. ~~Regulations~~ Rules.

8 (a)(1) The Adjutant General shall establish, implement, and enforce
9 such administrative rules ~~and regulations~~ as are necessary for implementation
10 of the Arkansas National Guard Student Loan Repayment Program.

11 (2) The ~~regulations~~ rules shall include criteria for selection
12 from among applicants in those circumstances in which the number of
13 applicants exceeds appropriated funding for the calendar year.

14 (b) In establishing ~~regulations~~ rules relating to academic
15 qualification, certification, recertification, and payment, the Adjutant
16 General shall obtain the advice of the Department of Higher Education.

17 (c) To the extent possible, the department shall include the program
18 among other existing financial aid programs and shall monitor the program and
19 enforce policies, as necessary, to conform with department ~~regulations~~ rules.

20
21 SECTION 940. Arkansas Code § 12-63-207 is amended to read as follows:

22 12-63-207. Motor vehicle ~~regulations~~ rules generally.

23 (a) The Adjutant General is authorized and empowered to promulgate
24 rules ~~and regulations~~, and to amend or change them from time to time as he or
25 she shall deem necessary, providing for the operation and parking of motor
26 vehicles upon the grounds, streets, drives, and alleys on a military
27 reservation, including, but not limited to, the following:

28 (1) Limiting the rate of speed;

29 (2) Assigning parking spaces and designating parking areas and
30 their use or uses;

31 (3) Prohibiting parking as he or she deems necessary;

32 (4) Removing motor vehicles parked in violation of the rules ~~and~~
33 ~~regulations~~ at the expense of the violator who shall pay the expense before
34 the motor vehicle is released;

35 (5) Instituting a system of motor vehicle registration for the
36 identification and regulation of motor vehicles regularly using the military

1 reservation premises; and

2 (6) Instituting a process for administrative adjudication for
3 the violation of a military reservation rule ~~or regulation~~ promulgated under
4 this section on a military reservation, which shall include the determination
5 of:

6 (A) A reasonable civil penalty;

7 (B) The enforcement process for the collection of the
8 civil penalty; and

9 (C) A reasonable sanction for noncompliance.

10 (b) Rules ~~and regulations~~, together with any amendments thereto, which
11 may from time to time be adopted by the Adjutant General for the regulation
12 of operation and parking of motor vehicles shall be filed with the Secretary
13 of State and shall be printed with copies thereof available at convenient
14 locations at the military reservation or at any separate portion thereof.

15 (c) Speed limits shall be posted at reasonable intervals, and traffic
16 and parking directions and prohibitions shall be indicated by signs.

17 (d) From and after the promulgation of the rules ~~and regulations~~
18 provided for in this section, it shall be unlawful for any person to operate
19 or to park a motor vehicle in violation thereof.

20
21 SECTION 941. Arkansas Code § 12-63-208(a)(1), concerning violations of
22 motor vehicle rules, is amended to read as follows:

23 (a)(1) Persons violating rules ~~and regulations~~ promulgated under § 12-
24 63-207 shall, at the option of the police officer, be charged under the
25 military reservation's system of charges or summoned to appear before any
26 court of competent jurisdiction to be dealt with according to law.

27
28 SECTION 942. Arkansas Code § 12-63-302 is amended to read as follows:

29 12-63-302. ~~Regulations~~ Rules for use.

30 (a) The Adjutant General shall issue rules ~~and regulations~~ governing
31 the use of armories, landing fields, and hangars acquired under the
32 provisions of this code.

33 (b) The Adjutant General is authorized to appoint one (1) or more
34 persons at the location of each armory, landing field, or hangar, who shall
35 have charge of such property and govern the use of it in accordance with the
36 rules ~~and regulations~~ issued by the Adjutant General.

1
2 SECTION 943. Arkansas Code § 12-63-304(a), concerning disposition of
3 proceeds from rental of currently used readiness centers, is amended to read
4 as follows:

5 (a) The Adjutant General, acting for and on behalf of the Arkansas
6 National Guard, shall issue rules ~~and regulations~~ concerning the rental and
7 use of a National Guard readiness center or its facilities or portions
8 thereof to any person, organization, firm, corporation, or governmental
9 agency for any legal use for short periods of time, provided the renting of
10 the readiness center or its facilities or portions thereof does not interfere
11 with its use by the National Guard for training or other military purposes.
12

13 SECTION 944. Arkansas Code § 12-63-304(d)(3), concerning disposition
14 of proceeds from rental of currently used readiness centers, is amended to
15 read as follows:

16 (3) The Adjutant General shall publish rules ~~and regulations~~
17 governing the expenditure of such rental funds to ensure that the state
18 expenses are recovered from the rental funds and that rental funds are used
19 for Arkansas National Guard morale, welfare, and recreation events.
20

21 SECTION 945. Arkansas Code § 12-63-405(a)(4), concerning the Adjutant
22 General's powers and duties over the operation of canteens and exchanges, is
23 amended to read as follows:

24 (4) To prescribe ~~regulations~~ rules governing the operation of
25 the canteens and exchanges on military reservations and military properties.
26

27 SECTION 946. Arkansas Code § 12-63-501(b)(2), concerning the operation
28 of a military service club at Ebbing Air National Guard Field, is amended to
29 read as follows:

30 (2) The laws of the state and the ~~regulations~~ rules of the
31 Alcoholic Beverage Control Division shall apply to the operation of the
32 military service club.
33

34 SECTION 947. Arkansas Code § 12-64-105(a)(9), concerning the
35 administration of oaths and affidavits for purposes of military
36 administration, is amended to read as follows:

1 (9) All other persons designated by ~~regulations~~ rules of the
2 Governor.

3
4 SECTION 948. Arkansas Code § 12-64-107(b), concerning the explanation
5 of code sections to every enlisted member, is amended to read as follows:

6 (b) A complete text of this code and of the ~~regulations~~ rules
7 prescribed by the Governor thereunder shall be made available to any member
8 of the organized militia, upon his or her request, for his or her personal
9 examination.

10
11 SECTION 949. Arkansas Code § 12-64-201(b), concerning apprehension
12 under military justice, is amended to read as follows:

13 (b) Any person authorized by this code or by ~~regulations~~ rules issued
14 pursuant thereto to apprehend persons subject to this code, any marshal of a
15 court-martial appointed pursuant to the provisions of this code, and any
16 peace officer authorized to do so by law may do so upon reasonable belief
17 that an offense has been committed and that the person apprehended committed
18 it.

19 SECTION 950. Arkansas Code § 12-64-203 is amended to read as follows:
20 12-64-203. Restraint.

21 Subject to the orders or ~~regulations~~ rules of the Adjutant General,
22 commanders of the organized militia may restrain persons under their
23 jurisdiction to the same extent as military commanders in service to the
24 United States.

25
26 SECTION 951. Arkansas Code § 12-64-207(a), concerning delivery of
27 offenders to civil authorities under military justice, is amended to read as
28 follows:

29 (a) Under such ~~regulations~~ rules as may be prescribed under this code,
30 a person on active militia duty who is accused of an offense against civil
31 authority may be delivered, upon request, to the civil authority for trial.

32
33 SECTION 952. Arkansas Code § 12-64-301 is amended to read as follows:
34 12-64-301. Nonjudicial punishment generally.

35 (a) Under such ~~regulations~~ rules as the Governor may prescribe, a
36 company grade commanding officer may, in addition to or in lieu of admonition

1 or reprimand, impose not more than two (2) of the following disciplinary
2 punishments for minor offenses without the intervention of a court-martial:

3 (1) Upon officers of his or her command:

4 (A) Withholding of privileges for not more than two (2)
5 consecutive weeks;

6 (B) Restriction to certain specified limits, with or
7 without suspension from duty, for not more than two (2) consecutive weeks; or

8 (C)(i) A fine or a forfeiture in an amount that does not
9 exceed ten (10) days of the officer's base pay.

10 (ii) The payment or collection of the fine or the
11 withholding of the forfeiture under this subdivision (a)(1)(C) shall not
12 exceed an amount equal to five (5) days of base pay during any calendar
13 month; or

14 (2) Upon other military personnel of his or her command:

15 (A) Withholding of privileges for not more than two (2)
16 consecutive weeks;

17 (B) Restriction to certain specified limits, with or
18 without suspension from duty, for not more than two (2) consecutive weeks;

19 (C) Extra duties for not more than two (2) consecutive
20 weeks and not to exceed two (2) hours per day, holidays included;

21 (D) Reduction to next inferior grade if the grade from
22 which demoted was established by the command or an equivalent or lower
23 command;

24 (E) If imposed upon a person attached to or embarked in a
25 vessel, confinement for not more than seven (7) consecutive days; or

26 (F)(i) A fine or a forfeiture in an amount that does not
27 exceed ten (10) days of the soldier's or airman's base pay.

28 (ii) The payment or collection of the fine or the
29 withholding of the forfeiture under this subdivision (a)(2)(F) shall not
30 exceed an amount equal to five (5) days of base pay during any calendar
31 month.

32 (b) Under such ~~regulations~~ rules as the Governor may prescribe, a
33 field grade commanding officer may, in addition to or in lieu of admonition
34 or reprimand, impose not more than two (2) of the following disciplinary
35 punishments for a minor offense without the intervention of a court-martial:

36 (1) Upon officers of his or her command:

1 (A) Withholding of privileges for not more than two (2)
2 consecutive weeks;

3 (B) Restriction to certain specified limits, with or
4 without suspension from duty, for not more than two (2) consecutive weeks; or

5 (C)(i) A fine or a forfeiture in an amount that does not
6 exceed thirty (30) days of the officer's base pay.

7 (ii) The payment or collection of the fine or the
8 withholding of the forfeiture under this subdivision (b)(1)(C) shall not
9 exceed an amount equal to fifteen (15) days of base pay during any calendar
10 month; or

11 (2) Upon other military personnel of his or her command:

12 (A) Withholding of privileges for not more than two (2)
13 consecutive weeks;

14 (B) Restriction to certain specified limits, with or
15 without suspension from duty, for not more than two (2) consecutive weeks;

16 (C) Extra duties for not more than two (2) consecutive
17 weeks and not to exceed two (2) hours per day, holidays included;

18 (D) Reduction to next inferior grade if the grade from
19 which demoted was established by the command or an equivalent or lower
20 command;

21 (E) If imposed upon a person attached to or embarked in a
22 vessel, confinement for not more than seven (7) consecutive days; or

23 (F)(i) A fine or a forfeiture in an amount that does not
24 exceed thirty (30) days of the soldier's or airman's base pay.

25 (ii) The payment or collection of the fine or the
26 withholding of the forfeiture under this subdivision (b)(2)(F) shall not
27 exceed an amount equal to fifteen (15) days of base pay during any calendar
28 month.

29 (c) However, except in the case where confinement has not been
30 excluded as a punishment option, a member of the organized militia may not
31 demand trial by court-martial in lieu of nonjudicial punishment.

32 (d) The Governor or commanding general may, by order or ~~regulation~~
33 rule, place limitations on the powers granted by this subchapter with respect
34 to the kind and amount of punishment authorized and the categories of
35 commanding officers authorized to exercise those powers.

36 (e) An officer in charge of a detached unit or section may, for minor

1 offenses, impose on officers, soldiers, or airmen assigned to the unit of
2 which he or she is in charge the punishment authorized to be imposed by
3 commanding officers as the Governor or commanding general may by order or
4 ~~regulation~~ rule specifically prescribe, as provided in subsections (a), (b),
5 (c), and (d) of this section.

6 (f) Whenever nonjudicial punishment of forfeiture of an amount of base
7 pay is imposed under this section, the forfeiture may apply to the base pay
8 only and before any deduction, withholding, assignment, or forfeiture then
9 due or becoming due on or after the date that punishment is imposed and to
10 any pay accrued before that date.

11
12 SECTION 953. Arkansas Code § 12-64-402(b), concerning the jurisdiction
13 of each force of the organized militia for court-martials, is amended to read
14 as follows:

15 (b) The exercise of jurisdiction by one force over personnel of
16 another force shall be in accordance with ~~regulations~~ rules prescribed by the
17 Governor.

18
19 SECTION 954. Arkansas Code § 12-64-411 is amended to read as follows:
20 12-64-411. Court reporters – Interpreters.

21 (a) Under such ~~regulations~~ rules as the Governor may prescribe, the
22 convening authority of a general or special court-martial shall detail or
23 employ qualified court reporters who shall record the proceedings of and
24 testimony taken before that court.

25 (b) Under like rules or regulations, the convening authority of a
26 military court may detail or employ interpreters or other professional
27 experts who shall interpret for and assist the court.

28
29 SECTION 955. Arkansas Code § 12-64-510(d) and (e), concerning the
30 duties of trial and defense counsel in a court-martial, are amended to read
31 as follows:

32 (d)(1) An assistant trial counsel of a general court-martial may,
33 under the direction of the trial counsel or when he or she is qualified to be
34 a trial counsel as required by this code, perform any duty imposed by law,
35 rule, regulation, or the custom of the service upon the trial counsel of the
36 court.

1 (2) An assistant trial counsel of a special court-martial may
2 perform any duty of the trial counsel.

3 (e) An assistant defense counsel of a general or special court-martial
4 may, under the direction of the defense counsel or when he or she is
5 qualified to be the defense counsel as required by this code, perform any
6 duty imposed by law, rule, regulation, or the custom of the service upon
7 counsel for the accused.

8
9 SECTION 956. Arkansas Code § 12-64-516(a), concerning obtaining
10 witnesses and other evidence in a court-martial, is amended to read as
11 follows:

12 (a) The trial counsel, the defense counsel, and the court-martial
13 shall have equal opportunity to obtain witnesses and other evidence in
14 accordance with such ~~regulations~~ rules as the Governor may prescribe.

15
16 SECTION 957. Arkansas Code § 12-64-518(c), concerning issuance of
17 process and subpoenas by military courts, is amended to read as follows:

18
19 (c) Such process and mandates may be issued by summary courts-martial
20 or the president or military judge of other military courts and may be
21 directed to and may be executed by the marshals of the military court or any
22 peace officer and shall be in such form as may be prescribed by ~~regulations~~
23 rules issued under this code.

24
25 SECTION 958. Arkansas Code § 12-64-604(b)(1), concerning effective
26 date of court-martial sentences, is amended to read as follows:

27 (b)(1) ~~Regulations~~ Rules prescribed by the Governor may provide that
28 sentences of confinement may not be effective or executed until approved by
29 designated officers.

30
31 SECTION 959. Arkansas Code § 12-64-605(a), concerning execution or
32 suspension of a court-martial sentence, is amended to read as follows:

33 (a) Except as otherwise provided, a court-martial sentence, unless
34 suspended, may be ordered executed by the convening authority when approved
35 by the convening authority in accordance with ~~regulations~~ rules prescribed by
36 the Governor.

1
2 SECTION 960. Arkansas Code § 12-64-713(a), concerning the effect of a
3 new trial on a court-martial sentence, is amended to read as follows:

4 (a) Under such ~~regulations~~ rules as the Governor may prescribe, all
5 rights, privileges, and property affected by an executed part of a court-
6 martial sentence which has been set aside or disapproved, except an executed
7 dismissal or discharge, shall be restored unless a new trial or rehearing is
8 ordered and such executed part is included in a sentence imposed upon the new
9 trial or rehearing.

10
11 SECTION 961. Arkansas Code § 12-64-808(b), concerning court-martial
12 for fraudulent or unlawful enlistment, appointment, or separation, is amended
13 to read as follows:

14 (b) Any person subject to this code who effects an enlistment or
15 appointment in or a separation from the organized militia of any person who
16 is known to him or her to be ineligible for that enlistment, appointment, or
17 separation because it is prohibited by law, ~~regulation~~ rule, or order shall
18 be punished as a court-martial may direct.

19
20 SECTION 962. Arkansas Code § 12-64-817 is amended to read as follows:

21 12-64-817. Failure to obey order or ~~regulation~~ rule.

22 Any person subject to this code shall be punished as a court-martial
23 may direct if he or she:

24 (1)(A) Violates or fails to obey any lawful order or ~~regulation~~
25 rule. A lawful order or ~~regulation~~ rule is a written, electronic, nonverbal
26 or oral communication by a member of the armed forces acting within the scope
27 of official military duties regarding instruction, decision, rule, judgment,
28 directive, procedure, statement or command, and which primarily affects the
29 action, organization, training, good order, discipline, property, welfare,
30 administration, operation, and procedure of the armed forces.

31 (B) Lawful orders and ~~regulations~~ rules shall not be
32 subject to the requirements of the Arkansas Administrative Procedure Act, §
33 25-15-201 et seq.;

34 (2) Having knowledge of any other lawful order issued by a
35 member of the organized militia, which it is his or her duty to obey, fails
36 to obey the order; or

1 (3) Is derelict in the performance of his or her duties.

2
3 SECTION 963. Arkansas Code § 12-64-829 is amended to read as follows:
4 12-64-829. Misconduct as a prisoner.

5 Any person subject to this code shall be punished as a court-martial
6 may direct if he or she, while in the hands of the enemy in time of war:

7 (1) For the purpose of securing favorable treatment by his or
8 her captors, acts without proper authority in a manner contrary to law,
9 custom, rule, or regulation, to the detriment of other of whatever
10 nationality held by the enemy as civilian or military prisoners; or

11 (2) While in a position of authority over such persons,
12 maltreats them without justifiable cause.

13
14 SECTION 964. Arkansas Code § 12-64-830 is amended to read as follows:
15 12-64-830. False official statements.

16 Any person subject to this code who, with intent to deceive, signs any
17 false record, return, regulation, rule, order, or other official document,
18 knowing it to be false, or makes any other false official statement knowing
19 it to be false, shall be punished as a court-martial may direct.

20
21 SECTION 965. Arkansas Code § 12-75-106 is amended to read as follows:
22 12-75-106. Enforcement.

23 (a) Each state office of emergency management and local office of
24 emergency management and the officers of each state office of emergency
25 management and local office of emergency management shall execute and enforce
26 such orders, and rules, ~~and regulations~~ as may be made by the Governor under
27 authority of this chapter.

28 (b) Each state office of emergency management and local office of
29 emergency management shall make available for inspection at its office all
30 orders, and rules, ~~and regulations~~ made by the Governor or made under his or
31 her authority.

32
33 SECTION 966. Arkansas Code § 12-75-111(a)(11), concerning the powers
34 and duties of the Arkansas Department of Emergency Management, is amended to
35 read as follows:

36 (11) Prepare for issuance by the Governor of executive orders,

1 proclamations, and ~~regulations~~ rules as necessary or appropriate in coping
2 with disasters;

3
4 SECTION 967. Arkansas Code § 12-75-114(b)(1), concerning the disaster
5 emergency responsibilities of the Governor, is amended to read as follows:

6 (b)(1) Under this chapter, the Governor may issue executive orders,
7 proclamations, and ~~regulations~~ rules and amend or rescind them.

8
9 SECTION 968. Arkansas Code § 12-75-114(d)(2), concerning the disaster
10 emergency responsibilities of the Governor, is amended to read as follows:

11 (2) To the greatest extent practicable, the Governor shall
12 delegate or assign operational control by prior arrangement embodied in
13 appropriate executive orders or ~~regulations~~ rules, but nothing in this
14 section restricts the Governor's authority to do so by orders issued at the
15 time of the disaster emergency.

16
17 SECTION 969. Arkansas Code § 12-75-114(e)(1), concerning the disaster
18 emergency responsibilities of the Governor, is amended to read as follows:

19 (1) Suspend the provisions of any regulatory statutes
20 prescribing the procedures for conduct of state business, or the orders, or
21 rules, ~~or regulations~~ of any state agency, if strict compliance with the
22 provisions of any statute, order, or rule, ~~or regulation~~ would in any way
23 prevent, hinder, or delay necessary action in coping with the emergency;

24
25 SECTION 970. Arkansas Code § 12-75-115(c)(3), concerning disaster
26 prevention generally, is amended to read as follows:

27 (c)(1) At the same time that the Governor makes his or her
28 recommendations pursuant to subsection (b) of this section, the Governor may
29 suspend the standard or control which he or she finds to be inadequate to
30 protect the public safety and by ~~regulation~~ rule place a new standard or
31 control in effect.

32
33 SECTION 971. Arkansas Code § 12-75-115(c)(3), concerning disaster
34 prevention generally, is amended to read as follows:

35 (3) During the time it is in effect, the standard or control
36 contained in the Governor's ~~regulation~~ rule shall be administered and given

1 full effect by all relevant regulatory agencies of the state and local
2 governments to which it applies.

3
4 SECTION 972. Arkansas Code § 12-79-103(3)(B), concerning the
5 definition of "hazardous and toxic materials" under the Arkansas Hazardous
6 and Toxic Materials Emergency Notification Act, is amended to read as
7 follows:

8 (B) Any other substance or pollutant designated by
9 ~~regulations~~ rules of the director promulgated under this chapter;

10
11 SECTION 973. Arkansas Code § 12-79-104(c), concerning the Arkansas
12 Hazardous and Toxic Materials Emergency Notification Act incident or accident
13 reporting system, is amended to read as follows:

14 (c) Each agency, office, bureau, or commission of the State of
15 Arkansas or its political subdivisions having a role or responsibility for
16 HAZMAT planning, response, recovery, or mitigation, or providing public
17 safety services or having regulatory or oversight authority shall establish
18 guidelines and procedures to ensure prompt and accurate reporting of any
19 accident, incident, or known or suspected release of toxic or hazardous
20 materials within the State of Arkansas in violation of any state or federal
21 environmental or health protective statutes, regulations, rules, or
22 guidelines.

23
24 SECTION 974. Arkansas Code § 12-79-106 is amended to read as follows:
25 12-79-106. Penalties.

26 Any person who pleads guilty or nolo contendere to or is found guilty
27 of violating any provisions of this chapter or any ~~regulation~~ rule
28 promulgated hereunder shall be guilty of a misdemeanor and be fined not more
29 than five hundred dollars (\$500) per day of violation or imprisoned for not
30 more than one (1) year, or both.

31
32 SECTION 975. Arkansas Code § 12-82-104(d), concerning the State
33 Emergency Response Commission, is amended to read as follows:

34 (d) The commission may promulgate such rules, ~~regulations~~, and
35 guidelines as deemed necessary or desirable:

36 (1) For the training and certification of public emergency

1 response and recovery personnel, as defined in this chapter;

2 (2) To ensure compliance with the appropriate federal guidelines
3 and law governing public emergency response and recovery personnel; and

4 (3) To adequately administer the requirements of the Emergency
5 Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.,
6 in accordance with the provisions of the Arkansas Administrative Procedure
7 Act, § 25-15-201 et seq.

8
9 SECTION 976. Arkansas Code § 12-83-105(a)(2), concerning reimbursement
10 under the Emergency Volunteer Reserve Act of 1995, is amended to read as
11 follows:

12 (2) Reimbursement shall be made in accordance with current state
13 travel ~~regulations~~ rules and at the prescribed rates in effect at the time of
14 their services.

15
16 SECTION 977. Arkansas Code § 13-2-207(3), concerning the powers and
17 duties of the Arkansas State Library, is amended to read as follows:

18 (3) Operate and maintain a collection of multimedia materials to
19 complement book collections and establish reasonable rules ~~and regulations~~
20 for their use and preservation;

21
22 SECTION 978. Arkansas Code § 13-2-207(8), concerning the powers and
23 duties of the Arkansas State Library, is amended to read as follows:

24 (8) Cooperate with the Department of Education and the
25 Department of Higher Education in devising plans for the development of
26 libraries, in aiding librarians in their administration, in certification
27 policies, and in formulating rules ~~and regulations~~ for the use of libraries;

28
29 SECTION 979. Arkansas Code § 13-3-106(d), concerning the powers and
30 duties of the State Historian, is amended to read as follows:

31 (d) The State Historian shall administer the provisions of this
32 chapter and the rules, ~~regulations~~, and orders established under this chapter
33 as instructed by the director.

34
35 SECTION 980. Arkansas Code § 13-4-304(2), concerning financial records
36 of the counties of the State of Arkansas, is amended to read as follows:

1 (2) State income tax records maintained per state law and
2 ~~regulations~~ rules;

3
4 SECTION 981. Arkansas Code § 13-6-205(b), concerning appropriations
5 and the disposition of funds for the Arkansas Archeological Survey, is
6 amended to read as follows:

7 (b) All expenditures of funds appropriated for the survey shall be
8 made in accordance with and subject to the state purchasing laws, the state
9 travel laws and ~~regulations~~ rules, and other laws and ~~regulations~~ rules
10 applicable thereto.

11
12 SECTION 982. Arkansas Code § 13-7-110(a), concerning the authorization
13 of the Arkansas Historic Building Code, is amended to read as follows:

14 (a) The Arkansas Historic Preservation Program may by ~~regulation~~ rule
15 promulgated pursuant to the Arkansas Administrative Procedure Act, § 25-15-
16 201 et seq., adopt an Arkansas Historic Building Code for buildings listed
17 individually on the National Register of Historic Places, buildings eligible
18 for listing individually on the National Register of Historic Places, and
19 buildings listed as a contributing resource in a National Register Historic
20 District.

21
22 SECTION 983. Arkansas Code § 13-12-103 is amended to read as follows:

23 13-12-103. ~~Regulations~~ Rules.

24 The Dean of the Department of Forest Resources at the University of
25 Arkansas at Monticello shall promulgate such ~~regulations~~ rules as are
26 necessary to implement the provisions of this chapter.

27
28 SECTION 984. Arkansas Code § 14-14-808 is amended to read as follows:

29 14-14-808. Consistency with state ~~regulation~~ rules or regulations
30 required.

31 (a) A county government exercising local legislative authority is
32 prohibited the exercise of any power in any manner inconsistent with state
33 law or administrative rule or regulation in any area affirmatively subjected
34 by law to state regulation or control.

35 (b) The exercise of legislative authority is inconsistent with state
36 law, rule, or regulation if it establishes standards or requirements which

1 are lower or less stringent than those imposed by state law, rule, or
2 regulation.

3 (c) An area is affirmatively subjected to state control if a state
4 agency or officer is directed to establish administrative rules ~~and~~
5 ~~regulations~~ governing the matter or if enforcement of standards or
6 requirements established by statute is vested in a state officer or agency.

7
8 SECTION 985. Arkansas Code § 14-14-809 is amended to read as follows:
9 14-14-809. Concurrent powers.

10 (a) If a county government is authorized to regulate an area which the
11 state by statute or administrative ~~regulation~~ rule also regulates, the local
12 government may regulate the area only by enacting ordinances which are
13 consistent with state law or administrative ~~regulation~~ rule.

14 (b) If state statute or administrative ~~regulation~~ rule prescribes a
15 single standard of conduct, an ordinance is consistent if it is identical to
16 the state statute or administrative ~~regulation~~ rule.

17 (c) If state statute or administrative ~~regulation~~ rule prescribes a
18 minimal standard of conduct, an ordinance is consistent if it establishes a
19 standard which is the same as, or higher or more stringent than the state
20 standard.

21 (d) A county government may adopt ordinances which incorporate by
22 reference state statutes and administrative ~~regulations~~ rules in areas in
23 which a local government is authorized to act.

24
25 SECTION 986. Arkansas Code § 14-15-306(c), concerning the disposition
26 of prescription medication by a coroner, is amended to read as follows:

27 (c) This section shall not apply to any prescription medication in the
28 custody or possession of an institutional health care provider or attending
29 hospice nurse that is subject to other laws, rules, and regulations
30 governing the destruction or disposition of patient or resident medication.

31
32 SECTION 987. Arkansas Code § 14-15-811(d)(2), concerning the County
33 Treasurer's Continuing Education Board, is amended to read as follows:

34 (2) Paying the meals, lodging, registration fees, and mileage at
35 the rate prescribed in state travel ~~regulations~~ rules of county treasurers
36 who attend the continuing education program;

1 (3) Acquiring educational materials; and

2 (4) Paying presenter fees and expenses.

3
4 SECTION 988. Arkansas Code § 14-15-1001(d)(2), concerning the County
5 Collector's Continuing Education Board, is amended to read as follows:

6 (2) Paying the meals, lodging, registration fees, and mileage at
7 the rate prescribed in state travel ~~regulations~~ rules of county collectors
8 and sheriff-collectors who attend the continuing education programs;

9
10 SECTION 989. Arkansas Code § 14-16-117(3)(A) and (B), concerning a
11 controlled burn by a property owner, are amended to read as follows:

12 (A) The property owner has complied with applicable state
13 and federal environmental laws, rules, and regulations regarding asbestos
14 abatement;

15 (B) The property owner ensures that the residence or
16 structure is free of asbestos-containing materials, is free of contents, and
17 otherwise demonstrates compliance with applicable state and federal
18 environmental laws, rules, and regulations regarding hazardous wastes; and

19
20 SECTION 990. Arkansas Code § 14-25-201(d)(1), concerning responsible
21 management entities for wastewater treatment systems, is amended to read as
22 follows:

23 (d)(1) Any installation, operation, or maintenance performed on a
24 wastewater treatment system on behalf of a responsible management entity
25 shall be done in compliance with the Arkansas Water and Air Pollution Control
26 Act, § 8-4-101 et seq., and the ~~regulations~~ rules of the Arkansas Pollution
27 Control and Ecology Commission as administered by the Arkansas Department of
28 Environmental Quality or its successor and the Department of Health or its
29 successor.

30
31 SECTION 991. Arkansas Code § 14-25-201(e)(1)(A), concerning
32 responsible management entities for wastewater treatment systems, is amended
33 to read as follows:

34 (A) Before the construction of a wastewater treatment
35 system begins, the developer secures written approval of the proposed
36 wastewater treatment system from the Department of Health and complies with

1 all applicable permitting requirements, including stormwater, through the
2 Arkansas Department of Environmental Quality pursuant to the Arkansas Water
3 and Air Pollution Control Act, § 8-4-101 et seq., and the ~~regulations~~ rules
4 of the Arkansas Pollution Control and Ecology Commission;

5
6 SECTION 992. Arkansas Code § 14-26-104(b)(4)(A), concerning counties'
7 workers' compensation coverage through private carrier or self-funding is
8 amended to read as follows:

9 (4)(A) Any self-funding group of participating municipalities or
10 counties that is governed by a board of trustees of elected municipal or
11 county officials shall be subject to the ~~regulations~~ rules of the Workers'
12 Compensation Commission applicable to self-insured groups or providers.

13
14 SECTION 993. Arkansas Code § 14-42-409 is amended to read as follows:

15 14-42-409. Applicable ~~regulations~~, rules, and laws.

16 All applicable ~~regulations~~, rules, and statutes regulating the conduct
17 of police or fire departments or their functions shall apply to a department
18 of public safety and its employees.

19
20 SECTION 994. Arkansas Code § 14-42-425(b), concerning cities of the
21 second class and incorporated towns, grants, and applicable regulations and
22 laws, is amended to read as follows:

23 (b) All applicable ~~regulations~~, rules, and statutes regulating the
24 certification of law enforcement officers, the certification of fire
25 departments, and the conduct of police or fire departments or their functions
26 shall apply to a department of public safety and its employees.

27
28 SECTION 995. Arkansas Code § 14-43-607(e)(2), concerning city income
29 taxes, is amended to read as follows:

30 (2) The director may establish ~~regulations~~ rules concerning the
31 procedures for collecting these taxes by him or her.

32
33 SECTION 996. Arkansas Code § 14-60-104(b)(4)(A)(i), concerning
34 municipalities' workers' compensation coverage through private carrier or
35 self-funding, is amended to read as follows:

36 (4)(A)(i) Any self-funding group of participating municipalities

1 or counties which is governed by a board of trustees of elected municipal or
2 county officials shall be subject to the ~~regulations~~ rules of the Workers'
3 Compensation Commission applicable to self-insured groups or providers.
4 However, cities and counties shall not be required to enter into an indemnity
5 agreement binding them jointly and severally.

6
7 SECTION 997. Arkansas Code § 14-72-503(a)(1)(B), concerning the
8 methods of issuance of bonds, is amended to read as follows:

9 (B) If the outstanding bonds are redeemable before
10 maturity and have been duly called for payment, by the deposit of the money
11 for their payment upon presentation according to the terms of the call in
12 trust with an escrow agent duly designated by the city council, which escrow
13 agent shall be a bank or trust company whose trust funds are secured in the
14 manner provided by the national or state banking laws, rules, and regulations
15 thereunder; or

16
17 SECTION 998. Arkansas Code § 14-92-219(11)(A), concerning the
18 organization of suburban improvement districts, is amended to read as
19 follows:

20 (11)(A) To provide a solid waste management system to adequately
21 provide for the collection and disposal of all solid wastes generated or
22 existing within the boundaries of the district in accordance with the rules,
23 ~~regulations~~, and orders of the Arkansas Pollution Control and Ecology
24 Commission.

25
26 SECTION 999. Arkansas Code § 14-116-402(a)(17), concerning the powers
27 of water districts under the Regional Water Distribution District Act, is
28 amended to read as follows:

29 (17) Accept appropriations from the state upon such terms and
30 conditions as may be imposed by law or ~~regulation~~ rule to be used in the
31 furtherance of the purposes for which the water district was created; and

32
33 SECTION 1000. Arkansas Code § 14-117-304(c), concerning the powers and
34 duties of the board of commissioners under the Arkansas Irrigation, Drainage,
35 and Watershed Improvement District Act of 1949, is amended to read as
36 follows:

1 (c) The board also may accept appropriations from the state and from
2 the United States Government upon such terms and conditions as may be imposed
3 by law, rule, or regulation to be used in the furtherance of the purposes for
4 which the district was authorized.

5
6 SECTION 1001. Arkansas Code § 14-125-108(a), concerning the
7 development of soil conservation programs and the powers and duties of the
8 Arkansas Soil and Water Conservation Commission, is amended to read as
9 follows:

10 (a) The commission in cooperation with the land grant college in the
11 state shall develop a program for soil conservation and for other purposes as
12 provided for in this chapter, which shall be recognized as the state's policy
13 in soil conservation. It may perform such acts, hold such public hearings,
14 and promulgate such rules ~~and regulations~~ as may be necessary for the
15 execution of its functions under this chapter.

16
17 SECTION 1002. Arkansas Code § 14-125-109(b)(5), concerning payments
18 made to the district by the Arkansas Natural Resources Commission, is amended
19 to read as follows:

20 (5) No application for payments shall be considered by the
21 commission that is not prepared and signed according to the rules ~~and~~
22 ~~regulations~~ of the commission or which is received after the date specified
23 by the commission for receiving applications.

24
25 SECTION 1003. Arkansas Code § 14-125-109(c), concerning payments made
26 to the district by the Arkansas Natural Resources Commission, is amended to
27 read as follows:

28 (c) Payments made to the various conservation districts of this state
29 shall be used only in furtherance of the purposes of this chapter and shall
30 be in such amounts and with such restrictions as prescribed by the rules ~~and~~
31 ~~regulations~~ of the commission.

32
33 SECTION 1004. Arkansas Code § 14-125-204(b), concerning expenses and
34 conduct of hearings and referenda, is amended to read as follows:

35 (b) It shall issue appropriate ~~regulations~~ rules governing the conduct
36 of the hearings and referenda, and providing for the registration prior to

1 the date of the referendum of all eligible voters, or prescribing some other
2 appropriate procedure for the determination of those eligible as voters in
3 the referendum.

4
5 SECTION 1005. Arkansas Code § 14-125-301(i), concerning the governing
6 body of a conservation district, is amended to read as follows:

7 (i) As reimbursement for his attendance at any scheduled meeting of
8 the district, a director may receive a sum not to exceed fifteen dollars
9 (\$15.00) plus mileage allowance at the same rate authorized by law or state
10 travel ~~regulations~~ rules for state employees, per mile traveled from his home
11 to the place of meeting and return. He may also be reimbursed for his actual
12 expenses, including traveling expenses, necessarily incurred in the discharge
13 of his other duties.

14
15 SECTION 1006. Arkansas Code § 14-125-302(b)(8)(C), concerning the
16 election of directors of a conservation district, is amended to read as
17 follows:

18 (C) Prescribe ~~regulations~~ rules governing the conduct of
19 the election and the determination of the eligibility of voters therein; and

20
21 SECTION 1007. Arkansas Code § 14-125-403(a), concerning the conduct of
22 a referendum filed with the Arkansas Soil and Water Conservation Commission,
23 is amended to read as follows:

24 (a) Within sixty (60) days after a petition has been filed with the
25 Arkansas Soil and Water Conservation Commission pursuant to § 14-125-402, the
26 commission shall give due notice of the holding of a referendum, shall
27 supervise and conduct the referendum, and shall issue appropriate ~~regulations~~
28 rules governing the conduct thereof.

29
30 SECTION 1008. Arkansas Code § 14-164-803(4)(A)(ii), concerning the
31 definition of "energy efficiency project" under the Local Government Energy
32 Efficiency Project Bond Act, is amended to read as follows:

33 (ii) Are measurable and verifiable under the
34 International Performance Measurement and Verification Protocol, promulgated
35 by the Arkansas Pollution Control and Ecology Commission in the ~~regulations~~
36 rules required under § 19-11-1207; and

1
2 SECTION 1009. Arkansas Code § 14-164-804(b), concerning the
3 authorization of energy efficiency projects, is amended to read as follows:

4 (b) An energy efficiency project shall comply with current local,
5 state, and federal construction and environmental codes, rules, and
6 regulations.

7
8 SECTION 1010. Arkansas Code § 14-164-821 is amended to read as
9 follows:

10 14-164-821. ~~Regulations~~ Rules.

11 A municipality or county may provide by ordinance that the municipality
12 or county shall comply with the ~~regulations~~ rules promulgated by the Arkansas
13 Pollution Control and Ecology Commission under § 19-11-1207.

14
15 SECTION 1011. Arkansas Code § 14-206-105(a)(1)(G), concerning proof of
16 service and notice for the acquisition of utilities by municipalities, is
17 amended to read as follows:

18 (G) Any other state agency or department or political
19 subdivision of this state designated by Arkansas Public Service Commission
20 ~~regulation~~ rule or order.

21
22 SECTION 1012. Arkansas Code § 14-206-108(a)(3) and (4), concerning the
23 burden of proof for an application for the acquisition of utilities by
24 municipalities, are amended to read as follows:

25 (3) That the acquisition of the properties, the gas or electric
26 public utility functions to be performed, the operating procedures, the
27 properties and equipment, and the use of the properties collectively provide
28 reasonable assurance that the municipality will comply with all applicable
29 laws, rules, and regulations and that the public health, safety, economy, and
30 convenience will not be adversely affected;

31 (4) That the municipality is technically and financially
32 qualified to acquire and operate the proposed properties in accordance with
33 all applicable laws, rules, and regulations;

34
35 SECTION 1013. Arkansas Code § 14-207-101(3), concerning the definition
36 of "franchise" or "franchise agreement" under the laws addressing valuation

1 of properties and facilities upon annexation, is amended to read as follows:

2 (3) "Franchise" or "franchise agreement" shall mean an agreement
3 between a municipality which owns or operates an electric utility system and
4 an electric public utility, including, but not limited to franchise
5 agreements within the meaning of Act 324 of 1935, as amended, whereby the
6 electric public utility continues to serve customers in its allocated service
7 area and pays to the municipality which owns or operates an electric utility
8 system franchise fees in accordance with applicable law and the rules ~~and~~
9 ~~regulations~~ of the Arkansas Public Service Commission.

10
11 SECTION 1014. Arkansas Code § 14-230-107(a), concerning applications
12 for grants under The Water, Sewer, and Solid Waste Management Systems Finance
13 Act of 1975, is amended to read as follows:

14 (a) The commission shall promulgate such rules, ~~regulations~~, and forms
15 as are needed for the efficient administration of the chapter.

16
17 SECTION 1015. Arkansas Code § 14-234-403(b), concerning injunctions
18 restraining operating authorities from permitting recreational activities, is
19 amended to read as follows:

20 (b) Any operating authority may obtain prohibitive and mandatory
21 injunctions against any person, firm, or corporation polluting its water
22 supply or refusing to obey lawful regulations or rules adopted by the
23 operating authority or the State Board of Health for the protection of any
24 municipal water supply.

25
26 SECTION 1016. Arkansas Code § 14-236-105 is amended to read as
27 follows:

28 14-236-105. Interpretation with other laws.

29 The provisions of any law or regulation of any municipality
30 establishing standards affording greater protection to the public health or
31 safety shall prevail within the jurisdiction of the municipality over the
32 provisions of this chapter and ~~regulations~~ rules adopted hereunder.

33
34 SECTION 1017. Arkansas Code § 14-236-106(a)(2), concerning penalties
35 for violations of the Arkansas Sewage Disposal Systems Act, is amended to
36 read as follows:

1 (2) Approval by the Division of Environmental Health Protection
2 of the Department of Health or its authorized agent of a requested variation
3 from the rules ~~and regulations~~ adopted pursuant to this chapter shall not be
4 construed as a violation of this chapter.

5
6 SECTION 1018. Arkansas Code § 14-236-106(c)(1), concerning penalties
7 for violations of the Arkansas Sewage Disposal Systems Act, is amended to
8 read as follows:

9 (c)(1) Any person, firm, corporation, or association who violates any
10 of the provisions of this chapter or any rules ~~and regulations~~ promulgated
11 under the authority of this chapter shall, upon conviction, be deemed guilty
12 of a misdemeanor and shall be punished by a fine of not less than one hundred
13 dollars (\$100) nor more than one thousand dollars (\$1,000).

14
15 SECTION 1019. Arkansas Code § 14-236-106(c)(2)(A), concerning
16 penalties for violations of the Arkansas Sewage Disposal Systems Act, is
17 amended to read as follows:

18 (2)(A) Every firm, person, or corporation who violates any of
19 the provisions of this chapter or rules, ~~regulations~~, or orders issued or
20 promulgated by the State Board of Health or who violates any condition of a
21 license, permit, certificate, or any other type of registration issued by the
22 board may be assessed a civil penalty by the board.

23
24 SECTION 1020. Arkansas Code § 14-236-106(c)(4), concerning penalties
25 for violations of the Arkansas Sewage Disposal Systems Act, is amended to
26 read as follows:

27 (4) Subject to such rules ~~and regulations~~ as may be implemented
28 by the Chief Fiscal Officer of the State, the disbursing officer for the
29 Department of Health is authorized to transfer all unexpended funds relative
30 to fines collected under this section, as certified by the Chief Fiscal
31 Officer of the State, to be carried forward and made available for
32 expenditures for the same purpose for any following fiscal year.

33
34 SECTION 1021. Arkansas Code § 14-236-107(a), concerning the powers and
35 duties of the Division of Sanitarian Services of the Department of Health, is
36 amended to read as follows:

1 (a) The Division of Sanitarian Services of the Department of Health or
2 its authorized agents shall have general supervision and authority over the
3 location, design, construction, installation, and operation of individual
4 sewage disposal systems, and shall be responsible for the administration of
5 this chapter and of the rules ~~and regulations~~ adopted pursuant to this
6 chapter.

7
8 SECTION 1022. Arkansas Code § 14-236-107(b), concerning the powers and
9 duties of the Division of Sanitarian Services of the Department of Health, is
10 amended to read as follows:

11 (b) In order to assure the effective and efficient administration of
12 the provisions and purposes of this chapter, the Division of Sanitarian
13 Services of the Department of Health is authorized to:

14 (1) After review by the House and Senate Interim Committees on
15 Public Health, Welfare, and Labor or appropriate subcommittees thereof adopt,
16 and from time to time amend, rules ~~and regulations~~ governing the review and
17 approval of subdivisions proposing to utilize individual sewage disposal
18 systems as the means of sewage disposal for part or all of the lots in the
19 subdivision and the location, design, construction, installation, and
20 operation of individual sewage disposal systems proposed for or located in
21 subdivisions or in platted or unplatted lots or tracts of land pursuant to
22 the procedures provided in the Arkansas Administrative Procedure Act, § 25-
23 15-201 et seq., in order that the wastes from the systems will not pollute
24 any potable water supply, or source of water used for public or domestic
25 supply purposes, or for recreational purposes, or other waters of this state,
26 and will not give rise to a public health hazard by being accessible to
27 insects, rodents, or other possible carriers which may come into contact with
28 food or potable water, or by being accessible to human beings, and will not
29 constitute a nuisance due to odor or unsightly appearance;

30 (2) Include a provision in all rules ~~and regulations~~ adopted or
31 amended under this chapter to encourage studies and alternate submissions by
32 engineers, sanitarians, institutions, agencies, and other persons of
33 economically feasible alternate systems for underground and above ground
34 individual sewage disposal systems for use in soils not suitable for normal
35 underground sewage disposal;

36 (3) Include in rules ~~and regulations~~ adopted pursuant to this

1 chapter, definitions and detailed descriptions of good management practices
2 and procedures which, when utilized in the construction of septic systems,
3 will:

4 (A) Justify variation in field size or in other standard
5 requirements;

6 (B) Promote the use of good management practices or
7 procedures in the construction of septic systems by adopting under the rules
8 ~~and regulations~~ promulgated under this chapter standard permissible
9 reductions in field size which may be applied when the management practices
10 or procedures are utilized in the construction of a septic system;

11 (C) Require the utilization of one (1) or more specific
12 management practices or procedures as a condition of approval of standard
13 septic systems where, in the opinion of the authorized agent, unusual site
14 conditions or problems require the additional management practices or
15 procedures to ensure the proper operation of an otherwise standard septic
16 system;

17 (4) Enforce the provisions of this chapter and any rules ~~and~~
18 ~~regulations~~ adopted pursuant thereto;

19 (5) Delegate, at its discretion, to any municipality or, in the
20 case of an unincorporated subdivision, the property owners association, any
21 of its authority under this chapter in the administration of the rules ~~and~~
22 ~~regulations~~ adopted pursuant to this chapter;

23 (6) Issue permits, and other documents, including the
24 establishment and collection of permit fees and of procedures and forms for
25 the submission, review, approval, and rejection of application for permits
26 required under this chapter.

27
28 SECTION 1023. Arkansas Code § 14-236-109 is amended to read as
29 follows:

30 14-236-109. Property owners' associations – Powers and duties.

31 Property owners' associations that construct and maintain or have
32 constructed and maintained sewage disposal facilities in accordance with the
33 standards and ~~regulations~~ rules established by the Division of Environmental
34 Health Protection of the Department of Health or the Arkansas Department of
35 Environmental Quality shall have jurisdiction over the disposal of sewage
36 within and for the subdivided area over which their authority extends and

1 shall have general supervision and authority over the location, design,
2 construction, installation, and operation of individual and community sewage
3 disposal systems to the extent that the general supervision and authority is
4 consistent with this chapter and the rules ~~and regulations~~ promulgated
5 thereunder.

6
7 SECTION 1024. Arkansas Code § 14-236-110 is amended to read as
8 follows:

9 14-236-110. Construction, alteration, repair prohibited.

10 No person shall construct, alter, repair, or extend or cause to be
11 constructed, altered, repaired, or extended any individual sewage disposal
12 system contrary to the provisions of this chapter and other applicable rules
13 ~~and regulations~~.

14
15 SECTION 1025. Arkansas Code § 14-236-111(a)(1), concerning the review
16 of proposals and inspections by the Division of Environmental Health
17 Protection of the Department of Health, is amended to read as follows:

18 (a)(1) The Division of Environmental Health Protection of the
19 Department of Health or its authorized agent is authorized and directed to
20 review proposals for individual sewage disposal systems and to make
21 inspections of individual sewage disposal systems as may be necessary to
22 determine substantial compliance with this chapter and ~~regulations~~ rules
23 adopted hereunder. The systems shall not be used unless a permit for
24 operation has been approved by the division or its authorized agent.

25
26 SECTION 1026. Arkansas Code § 14-236-113 is amended to read as
27 follows:

28 14-236-113. Applications for permits, etc. – Refusal.

29 (a) All applications for permits, licenses, or review certificates
30 shall be made on a form which includes such information as may be required by
31 the Division of Sanitarian Services of the Department of Health or its
32 authorized agent to establish compliance with the provisions of this chapter,
33 and any ~~regulations~~ rules adopted hereunder.

34 (b) Except as provided in § 14-236-104(a) and (b), a permit for the
35 construction, alteration, repair, extension, or operation of an individual
36 sewage disposal system or alternate and experimental system shall be refused

1 where community sewerage systems are reasonably available or economically
2 feasible, or in instances where the issuance of such permit is in conflict
3 with other applicable laws, rules, and regulations, or where the issuance of
4 the permit is in conflict with the public policy declared by this chapter.
5

6 SECTION 1027. Arkansas Code § 14-236-115(b), concerning the
7 registration of installers by the Division of Sanitarian Services of the
8 Department of Health, is amended to read as follows:

9 (b) The registration will be issued by the Division of Sanitarian
10 Services of the Department of Health or its authorized agent upon application
11 on proper forms and compliance with the provisions of this chapter and
12 ~~regulations~~ rules adopted pursuant to this chapter.
13

14 SECTION 1028. Arkansas Code § 14-236-116(g)(3), concerning the
15 permits, registration fee, transferability, annual training course, and
16 renewal of individual sewage disposal permit applications, is amended to read
17 as follows:

18 (3) Subject to such rules ~~and regulations~~ as may be implemented
19 by the Chief Fiscal Officer of the State, the disbursing officer for the
20 Department of Health is hereby authorized to transfer all unexpended funds
21 relative to the funds outlined in subdivision (g)(2) of this section that
22 pertain to fees collected, as certified by the Chief Fiscal Officer of the
23 State, to be carried forward and made available for expenditures for the same
24 purpose for any following fiscal year.
25

26 SECTION 1029. Arkansas Code § 14-236-119(b), concerning registration
27 of certified maintenance persons by the Division of Environmental Health
28 Protection of the Department of Health, is amended to read as follows:

29 (b) The registration shall be issued by the division or its authorized
30 agent upon compliance with this chapter and rules ~~and regulations~~ adopted
31 under this chapter.
32

33 SECTION 1030. Arkansas Code § 14-249-101 is amended to read as
34 follows:

35 14-249-101. Applicability.

36 Sections 14-249-103 – 14-249-106 are primarily intended to regulate

1 connections to sewer systems operating where there are now no regulations or
2 rules as to sewer connections and they shall not apply to connections made to
3 sewer lines located in cities or towns of the first or second class.

4
5 SECTION 1031. Arkansas Code § 14-251-105(b), concerning injunctions by
6 the State Board of Health for permitting a recreational activity by operating
7 authorities of municipally owned waterworks systems, is amended to read as
8 follows:

9 (b) Any operating authority may obtain prohibitive and mandatory
10 injunctions against any person, firm, or corporation polluting its water
11 supply or refusing to obey lawful rules and regulations adopted by the
12 operating authority or the State Board of Health for the protection of any
13 municipal water supply.

14
15 SECTION 1032. Arkansas Code § 14-251-108(b), concerning the
16 designation of an employee of the operating authority as a warden, is amended
17 to read as follows:

18 (b) Wardens shall have the authority to arrest or apprehend any person
19 whom they believe to have violated this chapter, or the boating laws of this
20 state, or the rules and regulations of the operating authority which are
21 authorized in this chapter, or the rules ~~and regulations~~ of the State Board
22 of Health pertaining to protection of municipal water supplies and may take
23 the offender when apprehended before any court having jurisdiction of the
24 offense. Wardens shall have no authority to make arrests for violation of the
25 game and fish laws, rules, and regulations of this state.

26
27 SECTION 1033. Arkansas Code § 14-262-101(b)(3) and (4), concerning
28 penalties for violations of licenses, permits, certificates, or registrations
29 issued by the State Board of Health, are amended to read as follows:

30 (3) Subject to such rules ~~and regulations~~ as may be implemented
31 by the Chief Fiscal Officer of the State, the disbursing officer for the
32 Department of Health is authorized to transfer all unexpended funds relative
33 to fines collected under this subsection, as certified by the Chief Fiscal
34 Officer of the State, to be carried forward and made available for
35 expenditures for the same purpose for any following fiscal year.

36 (4) All rules ~~and regulations~~ promulgated pursuant to this

1 subsection shall be reviewed by the House and Senate Interim Committees on
2 Public Health, Welfare, and Labor or appropriate subcommittees thereof.

3
4 SECTION 1034. Arkansas Code § 14-262-109(a)(1), concerning the powers
5 and duties of county or district health departments, is amended to read as
6 follows:

7 (1) To administer and enforce the laws pertaining to public
8 health and vital statistics and the orders, rules, ~~regulations~~, and standards
9 promulgated by the State Board of Health;

10
11 SECTION 1035. Arkansas Code § 14-262-112(1), concerning the powers and
12 duties of public health officers, is amended to read as follows:

13 (1) To administer and enforce the public health laws of the
14 State of Arkansas; the orders, rules, ~~regulations~~, and standards of the State
15 Board of Health; and the orders, rules, and regulations of the county or
16 district board of health;

17
18 SECTION 1036. Arkansas Code § 14-262-115(a)(2), concerning the powers
19 and duties of county or district boards of health, is amended to read as
20 follows:

21 (2) To determine general policies to be followed by the public
22 health officer in administering and enforcing the public health laws, rules,
23 and regulations of the board and the orders, rules, ~~regulations~~, and
24 standards promulgated by the State Board of Health;

25
26 SECTION 1037. Arkansas Code § 14-262-115(a)(4), concerning the powers
27 and duties of county or district boards of health, is amended to read as
28 follows:

29 (4) To issue from time to time such orders and to adopt such
30 rules and regulations, not inconsistent with the public health laws of this
31 state nor with the orders, and rules, ~~and regulations~~ of the State Board of
32 Health, as the board may deem necessary for the proper exercise of the powers
33 and duties vested in or imposed upon a county or district health department
34 or board of health by this act.

35
36 SECTION 1038. Arkansas Code § 14-262-116(c)(4)(C), concerning city

1 health departments, city boards of health, and city health officers in cities
2 with a population of 25,000 or more, is amended to read as follows:

3 (C) Such duties as shall be legally required of him by
4 general law and the city board of health, mayor, councils, or ordinances of
5 the city or town, or by the directions, rules, ~~regulations~~, and requirements
6 of the State Board of Health.

7
8 SECTION 1039. Arkansas Code § 14-266-102(a)(2), concerning the
9 legislative intent under the Ambulance Licensing Act, is amended to read as
10 follows:

11 (2) In addition, it is legislatively determined that, in order
12 to accomplish the purposes enumerated in this chapter, it may also be
13 necessary for the cities and counties, in addition to all other powers
14 granted in this chapter, to enact and establish standards, rules, and
15 regulations that are equal to, or greater than, the minimum standards, and
16 ~~rules, and regulations~~ established by the state, pursuant to §§ 20-13-201 –
17 20-13-209 and 20-13-211, concerning emergency medical services, emergency
18 medical technicians, ambulances, ambulance companies, their relative
19 properties, facilities, equipment, personnel, and all aspects attendant to
20 providing emergency medical services and ambulance operations within the
21 boundaries of their respective cities or in respect to the unincorporated
22 areas of the county.

23
24 SECTION 1040. Arkansas Code § 14-270-203 is amended to read as
25 follows:

26 14-270-203. Authorization.

27 The Arkansas Department of Parks and Tourism is herein authorized to
28 promulgate procedures, rules, or guidelines, ~~or regulations~~ necessary for the
29 administration of the FUN Park Grants Program.

30
31 SECTION 1041. Arkansas Code § 14-271-103 is amended to read as
32 follows:

33 14-271-103. Applicability.

34 (a) The Arkansas Public Service Commission shall, after public comment
35 and hearing as provided below, promulgate ~~regulations~~ rules providing for an
36 Arkansas one call center to be established and maintained by all operators

1 subject to the jurisdiction of the commission.

2 (b) The ~~regulations~~ rules shall at a minimum be consistent with the
3 requirements of any federal law relating to one call centers, and otherwise
4 shall provide standards and guidelines for the organization and
5 administration by operators of the Arkansas One Call Center consistent with
6 the terms, purposes, and requirements of this chapter, provided, however,
7 that nothing herein, nor in the rules to be promulgated by the commission,
8 shall be construed to restrict, diminish, or otherwise affect the ratemaking
9 authority and responsibility of the commission with respect to One Call
10 System expenditures by utilities or with respect to any other matter.

11
12 SECTION 1042. Arkansas Code § 14-284-304 is amended to read as
13 follows:

14 14-284-304. Powers and duties.

15 The Rural Fire Protection Service of the Arkansas Forestry Commission
16 shall have the following powers, functions, and duties to be performed under
17 appropriate policies, and rules, ~~and regulations~~ promulgated by the Arkansas
18 Forestry Commission:

19 (1) To develop rural fire protection plans for the providing of
20 fire protection services in the various rural areas of this state which do
21 not have available the benefits or services of an organized or voluntary fire
22 fighting program, and to assist existing organized or volunteer fire fighting
23 services;

24 (2) To encourage the establishment of rural fire protection
25 districts and to promulgate reasonable and necessary rules ~~and regulations~~
26 that rural communities must meet in order to become eligible to secure fire
27 fighting vehicles and equipment through the Arkansas Forestry Commission;

28 (3) To cooperate with and assist the Arkansas Fire Training
29 Academy in developing training programs designed to instruct and train fire
30 fighters employed or used by rural fire protection districts in the
31 suppression of fires, and to especially establish training programs designed
32 to prepare rural fire fighters in the methods of handling fire fighting
33 problems encountered in rural areas;

34 (4) To provide leadership and to cooperate with the Arkansas
35 Department of Emergency Management, the State Fire Marshal's office, and the
36 Arkansas Fire Training Academy in coordinating the efforts of these agencies

1 with the efforts and services of rural fire protection districts for the
2 purpose of coordinating and making maximum use of the services and resources
3 of this state in providing rural fire protection services in this state;

4 (5) To establish a program to obtain by acquisition, donation,
5 transfer, loan, or purchase, vehicles and other properties which are suitable
6 for repair, refurbishing, and renovation, to be used as fire trucks or other
7 fire fighting equipment, and to acquire the necessary tanks, pumps, water
8 hoses, and other equipment to convert and adapt the equipment for fire
9 fighting purposes, and to make the equipment available to rural fire
10 protection districts, under appropriate rules ~~and regulations~~ and eligibility
11 standards promulgated by the Arkansas Forestry Commission, to be used by
12 rural fire protection districts in the suppression of fires;

13 (6) To provide technical assistance and guidance to rural fire
14 protection districts, to cooperate with and assist persons interested in the
15 creation of the districts in the collection of data and providing other
16 resources or technical assistance to aid rural property owners in efforts to
17 establish rural fire protection services, and to provide technical advice and
18 assistance to rural fire protection districts to enable the districts to
19 obtain and operate the necessary equipment and training and operating
20 procedures to function efficiently as a rural fire protection district;

21 (7) To contract with public and private sources, including the
22 Department of Correction, for providing mechanical, painting, body work, or
23 other repair services relative to the conversion, painting, and adaptation of
24 vehicles being converted into fire protection vehicles, and to reimburse for
25 the cost of the services;

26 (8) To promulgate appropriate rules, ~~regulations~~, and forms for
27 the administration of the Rural Fire Protection Revolving Fund, which shall
28 consist of moneys made available for it to be used by the Arkansas Forestry
29 Commission in defraying the initial cost of equipment, repair, furnishing,
30 and adaptation of vehicles as fire trucks, or other fire fighting equipment,
31 with the cost to be reimbursed to the Arkansas Forestry Commission upon the
32 vehicle being made available to a rural fire protection district or similar
33 rural fire fighting agency which operates not for profit, and, in addition,
34 to make loans, as provided in this subchapter, to rural fire protection
35 districts to provide a portion of the moneys required to enable the districts
36 to acquire vehicles and equipment from the Arkansas Forestry Commission; and

1 (9) To perform such other functions and duties which may be
2 necessary to enable the Arkansas Forestry Commission to provide a program of
3 comprehensive services to encourage the development and availability of rural
4 fire protection services throughout this state.

5
6 SECTION 1043. Arkansas Code § 14-284-305(a)(2), concerning the Rural
7 Fire Protection Revolving Fund, is amended to read as follows:

8 (2) Making loans to rural fire protection districts which apply
9 therefor and which are qualified under rules ~~and regulations~~ promulgated by
10 the Arkansas Forestry Commission as qualified rural fire protection
11 districts.

12 (A) The loans shall be used by qualified rural fire
13 protection districts to provide moneys required to pay not more than seventy-
14 five percent (75%) of the cost of acquiring, repairing, renovating, or
15 equipping fire fighting vehicles which have been converted and adapted by the
16 Arkansas Forestry Commission for rural fire protection use.

17 (B) However, the moneys loaned to a rural fire protection
18 district from the Rural Fire Protection Revolving Fund shall be used
19 exclusively to defray a portion of the cost of acquiring the fire fighting
20 equipment from the Arkansas Forestry Commission.

21 (C) The Arkansas Forestry Commission may establish a
22 reasonable rate of interest to be charged on loans made from the revolving
23 fund.

24
25 SECTION 1044. Arkansas Code § 14-284-307(b) and (c), concerning
26 Arkansas Forestry Commission loans to eligible rural fire protection
27 districts for vehicle and equipment purchases, are amended to read as
28 follows:

29 (b) The Arkansas Forestry Commission may make loans to eligible rural
30 fire protection districts and other qualified districts, services, or
31 programs which provide fire protection to rural areas not-for-profit, who may
32 apply to the Arkansas Forestry Commission, upon forms and in accordance with
33 rules ~~and regulations~~ promulgated by the Arkansas Forestry Commission, for
34 loans not to exceed seventy-five percent (75%) of the cost of acquiring rural
35 fire protection vehicles or equipment.

36 (c) The loans shall be for such period as may be approved by

1 ~~regulation~~ rule of the Arkansas Forestry Commission, and in no event may any
2 loan be for more than three (3) years.

3
4 SECTION 1045. Arkansas Code § 14-303-204(9), concerning the power and
5 duty of the State Highway Commission to operate tollway projects, is amended
6 to read as follows:

7 (9) Establish rules ~~and regulations~~ for the use of each tollway
8 project;

9
10 SECTION 1046. Arkansas Code § 14-334-102(4), concerning the definition
11 of "public transit system" under the Public Transit System Act, is amended to
12 read as follows:

13 (4) "Public transit system" means a transit system owned and
14 operated by any municipality, county, regional authority, state, or other
15 governmental agency including school districts, and any transit system
16 created or licensed by a government agency or managed by a private management
17 firm under contract to the government agency owner. Excluded from the
18 jurisdiction of any public transit system created by this chapter is any
19 intercity bus transportation system subject to the ~~regulations~~ rules of the
20 Arkansas Transportation Commission and the regulations Interstate Commerce
21 Commission;

22
23 SECTION 1047. Arkansas Code § 14-357-106(b)(1), concerning the rules
24 of county airport commissions, is amended to read as follows:

25 (b)(1) The commissioners shall comply with, or cause to be complied
26 with, all civil air rules and regulations of the federal and state government
27 as to air worthiness, certification, and operation of aircraft.

28
29 SECTION 1048. Arkansas Code § 14-359-114(b)(1), concerning the rules
30 of municipal airport commissions under the Airport Commission Act, is amended
31 to read as follows:

32 (b)(1) The commissioners shall comply with, or cause to be complied
33 with, all civil air rules and regulations of the federal and state government
34 as to air worthiness, certification, and operation of aircraft.

35
36 SECTION 1049. Arkansas Code § 14-361-103(a), concerning construction

1 and interpretation under the Municipal Airports Act, is amended to read as
2 follows:

3 (a) This chapter shall be interpreted and construed so as to make
4 uniform so far as possible the laws, rules, and regulations of this state and
5 other states and of the government of the United States having to do with the
6 subject of municipal airports.

7

8 SECTION 1050. Arkansas Code § 15-3-108(d)(1), concerning the nature,
9 powers, and duties of the Division of Science and Technology of the Arkansas
10 Economic Development Commission, is amended to read as follows:

11 (1) Make, amend, and repeal bylaws, and rules, ~~and regulations~~
12 for the management of the affairs of the division;

13

14 SECTION 1051. Arkansas Code § 15-3-110(a), concerning the power to
15 promote basic and applied research at Arkansas colleges and universities, is
16 amended to read as follows:

17 (a) The Executive Director of the Arkansas Economic Development
18 Commission may make such rules ~~and regulations~~ as he or she may deem
19 appropriate to enable him or her to create and fund programs designed to
20 promote basic research and applied research at Arkansas colleges and
21 universities and to develop technology emerging from sources of innovation in
22 this state, including, but not limited to, colleges and universities, federal
23 laboratories, small businesses, and inventors.

24

25 SECTION 1052. Arkansas Code § 15-3-113(b), concerning studies,
26 planning, and recommendations by the Division of Science and Technology of
27 the Arkansas Economic Development Commission, is amended to read as follows:

28 (b) The Executive Director of the Arkansas Economic Development
29 Commission shall recommend to the General Assembly proposed laws and
30 ~~regulations~~ rules to support the growth and development of programs and
31 research in the sciences and specialized areas of high technology.

32

33 SECTION 1053. Arkansas Code § 15-3-203(a)(3), concerning the
34 administration of the Arkansas Research Matching Fund, is amended to read as
35 follows:

36 (3) A college or university shall adhere to the rules ~~and~~

1 ~~regulations~~ that may be promulgated by the commission for administration of
2 this fund.

3
4 SECTION 1054. Arkansas Code § 15-4-104(b), concerning bond guaranty
5 programs for employee stock purchases, is amended to read as follows:

6 (b) The commission and the authority shall promulgate ~~regulations~~
7 rules necessary for the implementation of this section.

8
9 SECTION 1055. Arkansas Code § 15-4-404 is amended to read as follows:

10 15-4-404. Promulgation of rules ~~and regulations~~ generally.

11 The Arkansas Economic Development Council shall promulgate rules,
12 ~~regulations~~, and procedures to be followed by the Division of Minority
13 Business Enterprise of the Arkansas Economic Development Commission:

14 (1) In administering the provisions of this subchapter; and

15 (2) In the making of loans to small business investment
16 companies or in the purchase from the companies of loans made to small
17 business concerns in compliance with the provisions of this subchapter.

18
19 SECTION 1056. Arkansas Code § 15-4-405(b), concerning companies
20 qualified for loan application and sale for small business investment
21 companies, is amended to read as follows:

22 (b) If applications for loans or applications to sell investment loans
23 filed with the division exceed the funds available for such purposes, the
24 Arkansas Economic Development Council shall promulgate appropriate rules ~~and~~
25 ~~regulations~~ to apportion to each such small business investment company its
26 pro rata share of available loan funds in accordance with guidelines and
27 standards promulgated by the council.

28
29 SECTION 1057. Arkansas Code § 15-4-604(b), concerning standards and
30 regulations for evaluations when bonds may be guaranteed, is amended to read
31 as follows:

32 (b) The Arkansas Economic Development Council shall promulgate
33 standards and ~~regulations~~ rules for the evaluation of the financial condition
34 and business history of users.

35
36 SECTION 1058. Arkansas Code § 15-4-609 is amended to read as follows:

1 15-4-609. ~~Regulations~~ Rules.

2 (a) The Arkansas Economic Development Council is authorized and
3 directed to conduct such investigation as it may determine necessary for the
4 promulgation of ~~regulations~~ rules to govern the operation of the guaranty
5 program authorized by this subchapter.

6 (b) These ~~regulations~~ rules shall include the restrictions and
7 conditions imposed by this subchapter, including particularly those set forth
8 in §§ 15-4-604 and 15-4-608. The ~~regulations~~ rules may include such other
9 additional provisions, restrictions, and conditions as the council, after the
10 investigation referred to in subsection (a) of this section, shall determine
11 to be proper to achieve the most effective utilization of the guaranty
12 program authorized by this subchapter. This may include, without limitation,
13 a detailing of the remedies that must be exhausted by the bondholders or a
14 trustee acting in their behalf prior to calling upon the council to perform
15 under its guaranty agreement and the subrogation or other rights of the
16 council with reference to the industrial project and its operation in the
17 event the council makes payment pursuant to the applicable guaranty
18 agreement.

19 (c) In this regard, the council is expressly authorized to enter into
20 such agreements and otherwise take such action as may be necessary to
21 exercise the authority conferred by this subchapter or to evidence the
22 exercise thereof.

23 (d) The ~~regulations~~ rules promulgated by the council to govern the
24 operation of the guaranty program shall contain specific provisions with
25 respect to the rights of the council to enter, take over, and manage the
26 industrial development properties upon default. These ~~regulations~~ rules shall
27 set forth the respective rights of the council and the bondholders in regard
28 thereto.

29 (e) Such ~~regulations~~ rules shall be in conformity with §§ 14-164-201 –
30 14-164-206, 14-164-208 – 14-164-224, 15-5-101 – 15-5-105, 15-5-201 – 15-5-
31 211, and 15-5-301 – 15-5-316.

32
33 SECTION 1059. Arkansas Code § 15-4-1218(b)(3), concerning loan limits
34 for financial institutions, is amended to read as follows:

35 (3) The total amount outstanding on loans to a company made by
36 any member at any one (1) time, when added to the amount of the investment in

1 the capital stock or the units of interest of the company then held by that
2 member, shall not exceed the limitation on loans established by law, rule, or
3 regulation applicable to the member or, in the absence of any limitation, the
4 amount approved by the board of directors or the management committee for
5 that member;

6
7 SECTION 1060. Arkansas Code § 15-4-1226(a)(2)(A), concerning the
8 supervision of companies by the Bank Commissioner, is amended to read as
9 follows:

10 (A) Make reasonable rules ~~and regulations~~ which may be
11 necessary to regulate the safety and soundness of the companies for making
12 this subchapter effective;

13
14 SECTION 1061. Arkansas Code § 15-4-1226(b)(1), concerning the
15 supervision of companies by the Securities Commissioner, is amended to read
16 as follows:

17 (1) Make reasonable rules ~~and regulations~~ which may be necessary
18 for making § 15-4-1220 effective;

19
20 SECTION 1062. Arkansas Code § 15-4-1228(a), concerning investigations
21 by the Bank Commissioner or Securities Commissioner, is amended to read as
22 follows:

23 (a) The Bank Commissioner may investigate, either upon complaint or
24 otherwise, when it appears that a county or regional industrial development
25 company is conducting its business in an unsafe and injurious manner or in
26 violation of this subchapter or the ~~regulations~~ rules promulgated under this
27 subchapter by the Bank Commissioner or when it appears that any person is
28 engaging in the business without being approved under the provisions of this
29 subchapter.

30
31 SECTION 1063. Arkansas Code § 15-4-1228(c)(1), concerning
32 investigations by the Bank Commissioner or Securities Commissioner, is
33 amended to read as follows:

34 (c)(1) Subject to the jurisdictional provisions of subsections (a) and
35 (b) of this section, whenever it appears upon sufficient grounds or evidence
36 satisfactory to the Bank Commissioner or the Securities Commissioner that any

1 county or regional industrial development company has engaged in or is about
2 to engage in any act or practice in violation of this subchapter or any rule
3 ~~or regulation~~ or order under this subchapter, or the assets or capital of any
4 county or regional industrial development company is impaired or the county
5 or regional industrial development company's affairs are in an unsafe
6 condition, the Bank Commissioner or the Securities Commissioner may:

7 (A) Refer the evidence which is available concerning
8 violations of this subchapter or any rule, ~~regulation~~, or order under this
9 subchapter to the appropriate agency, which may institute the appropriate
10 corrective action or proceedings with or without the reference; or

11 (B)(i) Summarily order the county or regional industrial
12 development company to cease and desist from the act or practice during the
13 time the Bank Commissioner or the Securities Commissioner may apply to the
14 Pulaski County Circuit Court to enjoin the act or practice and to enforce
15 compliance with this subchapter or any rule, ~~regulation~~, or order under this
16 subchapter.

17 (ii) However, the Bank Commissioner or the
18 Securities Commissioner may apply directly to the Pulaski County Circuit
19 Court for injunctive relief without issuing a cease and desist order.

20
21 SECTION 1064. Arkansas Code § 15-4-1404(a)(1), concerning the
22 authority of the Board of Trustees of the University of Arkansas, is amended
23 to read as follows:

24 (1) Enter into contracts on a competitive-bid basis or
25 noncompetitive-bid basis, consistent with state laws and ~~regulations~~ rules,
26 with public and private agencies, institutions, organizations, and
27 individuals for the purpose of providing assistance to and services for
28 inventors as required by this subchapter;

29
30 SECTION 1065. Arkansas Code § 15-4-1604(1), concerning the power and
31 duties of the Arkansas Economic Development Commission, is amended to read as
32 follows:

33 (1) To promulgate rules ~~and regulations~~ in accordance with the
34 Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to
35 carry out the provisions of this subchapter;

36

1 SECTION 1066. Arkansas Code § 15-4-1608(b), concerning verification of
2 information by the Department of Finance and Administration from the
3 Department of Workforce Services, is amended to read as follows:

4 (b) The Department of Finance and Administration may promulgate rules
5 ~~and regulations~~ necessary for the proper administration of the provisions of
6 this subchapter.

7
8 SECTION 1067. Arkansas Code § 15-4-1703(6), concerning the powers and
9 duties of the Arkansas Economic Development Commission, is amended to read as
10 follows:

11 (6) To promulgate rules ~~and regulations~~, in accordance with the
12 Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to
13 carry out the provisions of this subchapter.

14
15 SECTION 1068. Arkansas Code § 15-4-1903(1), concerning the powers and
16 duties of the Arkansas Economic Development Commission, is amended to read as
17 follows:

18 (1) To promulgate rules ~~and regulations~~ in accordance with the
19 Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to
20 carry out the provisions of this subchapter;

21
22 SECTION 1069. Arkansas Code § 15-4-1906(f)(1)(C), concerning the
23 refunding of sales and use tax as an income tax credit, is amended to read as
24 follows:

25 (C) Any rule ~~or regulation~~ promulgated pursuant to this
26 subchapter.

27
28 SECTION 1070. Arkansas Code § 15-4-2307(4), concerning the powers and
29 duties of the Arkansas Economic Development Commission, is amended to read as
30 follows:

31 (4) To promulgate rules ~~and regulations~~ in accordance with the
32 Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to
33 carry out the provisions of this subchapter.

34
35 SECTION 1071. Arkansas Code § 15-4-2504 is amended to read as follows:
36 15-4-2504. Supporting documents.

1 Each community lender requesting a participating loan shall submit to
2 the Arkansas Economic Development Commission an application, supporting
3 documents, and instruments as may be required by the ~~regulations~~ rules
4 promulgated by the commission.
5

6 SECTION 1072. Arkansas Code § 15-4-2506 is amended to read as follows:

7 15-4-2506. ~~Regulations~~ Rules.

8 The Arkansas Economic Development Commission shall promulgate
9 ~~regulations~~ rules to implement this subchapter.
10

11 SECTION 1073. Arkansas Code § 15-4-2703(23)(B), concerning the
12 definition of "modernization" under the Consolidated Incentive Act of 2003,
13 is amended to read as follows:

14 (B) "Modernization" does not include costs for routine
15 maintenance or the installation of equipment that does not improve efficiency
16 or productivity, except for expenditures for pollution control equipment
17 mandated by state laws or rules, or federal laws or regulations;
18

19 SECTION 1074. Arkansas Code § 15-4-2703(34), concerning the definition
20 of "qualified research expenditures" under the Consolidated Incentive Act of
21 2003, is amended to read as follows:

22 (34) "Qualified research expenditures" means the sum of any
23 amounts that are paid or incurred by an Arkansas taxpayer during the taxable
24 year in funding a qualified research program that has been approved for tax
25 credit treatment under rules ~~and regulations~~ promulgated by the commission;
26

27 SECTION 1075. Arkansas Code § 15-4-2710(1), concerning the powers and
28 duties of the Arkansas Economic Development Commission, is amended to read as
29 follows:

30 (1) Promulgate rules ~~and regulations~~ in accordance with the
31 Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to
32 carry out the provisions of this subchapter;
33

34 SECTION 1076. Arkansas Code § 15-4-3606(b)(2)(C)(i), concerning the
35 issuance of letter rulings by the Arkansas Economic Development Commission,
36 is amended to read as follows:

1 (i) The applicant requests the commission to
2 determine whether a statute is constitutional or a ~~regulation~~ rule is lawful;

3
4 SECTION 1077. Arkansas Code § 15-5-406 is amended to read as follows:

5 15-5-406. Standards and ~~regulations~~ rules for evaluations.

6 The Arkansas Development Finance Authority shall promulgate standards
7 and ~~regulations~~ rules for the evaluation of the financial condition and
8 business history of developers and may require the attachment to each
9 application for guaranty under this subchapter of a financial report and
10 evaluation by an independent certified public accounting firm, in addition to
11 such examination and evaluation as the authority may make, in determining
12 whether the developer meets prescribed minimum standards and qualifications
13 before entering into any guaranty under this subchapter.

14
15 SECTION 1078. Arkansas Code § 15-5-413 is amended to read as follows:

16 15-5-413. ~~Regulations~~ Rules – Remedies.

17 (a) The Arkansas Development Finance Authority is authorized and
18 directed to conduct such investigation as it may determine necessary for the
19 promulgation of ~~regulations~~ rules to govern the operation of the guaranty
20 program authorized by this subchapter. The ~~regulations~~ rules shall include
21 the restriction and conditions imposed by this subchapter, including
22 particularly those set forth in §§ 15-5-405 and 15-5-412, and may include
23 such other and additional provisions, restrictions, and conditions as the
24 authority, after the investigation referred to in this subsection, shall
25 determine to be proper to achieve the most effective utilization of the
26 guaranty program authorized by this subchapter, including, without
27 limitation, a detailing of:

28 (1) The remedies that must be exhausted by the bondholders or a
29 trustee acting in their behalf prior to calling upon the authority to perform
30 under its guaranty agreement; and

31 (2) The subrogation or other rights of the authority with
32 reference to the project and its operation in the event the authority makes
33 payment pursuant to the applicable guaranty agreement.

34 (b) In this regard, the authority is expressly authorized to take such
35 action and enter into such agreements and otherwise take such action as may
36 be necessary to exercise the authority conferred by this subchapter or to

1 evidence the exercise thereof.

2 (c) The ~~regulations~~ rules promulgated by the authority to govern the
3 operation of the guaranty program shall contain specific provisions with
4 respect to the rights of the authority to enter, take over, and manage the
5 project and its properties upon default, and shall set forth the respective
6 rights of the authority and the bondholders in regard thereto.

7 (d) Such ~~regulations~~ rules shall be in conformity with this
8 subchapter.

9

10 SECTION 1079. Arkansas Code § 15-5-603(c), concerning aggregate
11 percentages allocated by the Arkansas Development Finance Authority, is
12 amended to read as follows:

13 (c) The remaining thirty percent (30%) of the aggregate state ceiling
14 plus any amounts not used by September 1 in each year pursuant to subsection
15 (b) of this section is allocated to all other affected bonds issued by all
16 issuers of such affected bonds within the state, regardless of whether such
17 issuers are at the state level or at the local level, pursuant to rules ~~and~~
18 ~~regulations~~ established by the Arkansas Development Finance Authority
19 promulgated in compliance with the Arkansas Administrative Procedure Act, §
20 25-15-201 et seq., in the amounts set forth in filings made by or on behalf
21 of issuers.

22

23 SECTION 1080. Arkansas Code § 15-5-604(b)(1), concerning the filing by
24 an issuer of reservation of volume cap and notice of issuance of bonds, is
25 amended to read as follows:

26 (b)(1) Once accepted as a reservation of volume cap by the president
27 pursuant to the rules ~~and regulations~~ of the Arkansas Development Finance
28 Authority, a reservation filing shall be effective to allocate state volume
29 cap for purposes of compliance with federal tax law, subject only to the
30 timely issuance of the affected bonds.

31

32 SECTION 1081. Arkansas Code § 15-5-604(d)(2) and (3), concerning the
33 filing by an issuer of reservation of volume cap and notice of issuance of
34 bonds, are amended to read as follows:

35 (2) For reservation filings made on or after September 1 of each
36 calendar year, or for reservation filings made once a volume cap shortage has

1 been declared in accordance with the rules ~~and regulations~~ of the authority,
2 volume cap shall be reserved and allocated in accordance with the rules ~~and~~
3 ~~regulations~~ of the authority.

4 (3) The authority shall promulgate rules ~~and regulations~~ to
5 provide for the declaring of a volume cap shortage and to reserve and
6 allocate volume cap in cases of a shortage declaration in accordance with the
7 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

8
9 SECTION 1082. Arkansas Code § 15-5-604(e)(2), concerning the filing by
10 an issuer of reservation of volume cap and notice of issuance of bonds, is
11 amended to read as follows:

12 (2)(A) The president may extend the applicable period for
13 issuing the affected bonds by up to sixty (60) days in accordance with the
14 rules ~~and regulations~~ promulgated by the authority.

15 (B) The rules ~~and regulations~~ may provide for the
16 payment by the issuer of a fee to extend the issuance period and may provide
17 for the filing of an explanatory statement as to the reasons the affected
18 bonds were not issued during the original applicable period.

19 (C) The authority shall promulgate rules ~~and~~
20 ~~regulations~~ to provide for extending the applicable period for issuing the
21 affected bonds in accordance with the Arkansas Administrative Procedure Act,
22 § 25-15-201 et seq.

23
24 SECTION 1083. Arkansas Code § 15-5-605 is amended to read as follows:

25 15-5-605. Special rules for allocation of volume cap for multifamily
26 residential housing bonds.

27 (a) Notwithstanding § 15-5-604(c), the priority allocation of volume
28 cap to multifamily residential housing bonds, whether the bonds are issued by
29 the Arkansas Development Finance Authority or by any other issuer, shall not
30 be determined based solely on the date of the reservation filing.

31 (b) Multifamily residential housing bonds shall be granted a priority
32 based upon the decision of the authority in accordance with rules ~~and~~
33 ~~regulations~~ establishing criteria to determine priority for multifamily
34 residential housing bonds.

35 (c) The rules ~~and regulations~~ may provide for the priority of the
36 allocation to be based upon:

1 (1) The need for multifamily residential housing in the
2 particular area of the state in which the project is to be located;

3 (2) The characteristics of the proposed project; and

4 (3) Any other factors as determined necessary by the authority.

5 (d) The authority shall promulgate rules ~~and regulations~~ to establish
6 criteria to determine priority for multifamily residential housing bonds in
7 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
8 seq.

9
10 SECTION 1084. Arkansas Code § 15-5-703(13)(B), concerning the
11 definition of “small business” under the Arkansas Development Finance
12 Authority Small Business Act of 1989, is amended to read as follows:

13 (B) This definition is subject to change by standards and
14 ~~regulations~~ rules promulgated by the authority;

15
16 SECTION 1085. Arkansas Code § 15-5-706(a), concerning evaluation of
17 small-business persons by the Arkansas Development Finance Authority, is
18 amended to read as follows:

19 (a) The Arkansas Development Finance Authority shall promulgate
20 standards and ~~regulations~~ rules for the evaluation of the financial condition
21 and business history of the small-business person and may require the
22 attachment to each application for a loan or guaranty or qualified investment
23 under this subchapter of a financial report and evaluation by an independent
24 certified public accountant firm in addition to such examination and
25 evaluation as the authority may make in determining whether the small-
26 business person meets prescribed minimum standards and qualifications before
27 entering into any guaranty under this subchapter.

28
29 SECTION 1086. Arkansas Code § 15-5-708 is amended to read as follows:

30 15-5-708. Applications – Supporting documents.

31 Each small-business person requesting a loan or guaranty or qualified
32 investment under this subchapter shall submit to the Arkansas Development
33 Finance Authority an application, supporting documents, and instruments as
34 may be required by the rules ~~and regulations~~ promulgated by the authority
35 pursuant to this subchapter and approved by a majority vote of the Board of
36 Directors of the Arkansas Development Finance Authority.

1
2 SECTION 1087. Arkansas Code § 15-5-1303(g), concerning affordable
3 housing assistance activities and affordable housing units and the procedure
4 for approval and tax credit, is amended to read as follows:

5 (g) The authority or its delegate is authorized to promulgate rules
6 ~~and regulations~~ for:

7 (1) Establishing criteria for evaluating such proposals by
8 business firms for approval or disapproval;

9 (2) Establishing housing priorities for approval or disapproval
10 of such proposals by business firms; and

11 (3) The certification of eligibility for tax credits authorized
12 under this section.

13
14 SECTION 1088. Arkansas Code § 15-5-1305 is amended to read as follows:

15 15-5-1305. Rules ~~and regulations~~.

16 The Director of the Department of Finance and Administration and the
17 Arkansas Development Finance Authority shall promulgate rules ~~and regulations~~
18 necessary to administer the provisions of this subchapter. No rule or portion
19 of a rule promulgated under the authority of this subchapter shall become
20 effective until it has been approved by the director in accordance with the
21 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

22
23 SECTION 1089. Arkansas Code § 15-5-1409 is amended to read as follows:

24 15-5-1409. Powers of the Arkansas Development Finance Authority.

25 The Arkansas Development Finance Authority shall have the power to
26 promulgate ~~regulations~~ rules and make any contract, execute any document,
27 perform any act, or enter into any financial or other transaction necessary
28 to implement this subchapter.

29
30 SECTION 1090. Arkansas Code § 15-5-1511 is amended to read as follows:

31 15-5-1511. ~~Regulations~~ Rules.

32 The Arkansas Department of Environmental Quality may adopt ~~regulations~~
33 rules as necessary to implement this subchapter.

34
35 SECTION 1091. Arkansas Code § 15-5-1709(a)(3), concerning minimum
36 requirements for the distribution of funds and application evaluation

1 guidelines, is amended to read as follows:

2 (3) Housing to be funded must adhere to the universal design
3 criteria set forth in the rules ~~and regulations~~ of the authority;

4
5 SECTION 1092. Arkansas Code § 15-6-103(7), concerning the definition
6 of "rural development and revitalization" under the Arkansas Rural
7 Development Program Act, is amended to read as follows:

8 (7) "Rural development and revitalization" means those policies,
9 programs, laws, regulations, rules, or other matters having to do with rural
10 areas, including, but not limited to, economic development, employment, local
11 government services and management, business, agriculture, environment, land
12 use and natural resources, human services and community life, health care,
13 education, transportation, community facilities, and housing;

14
15 SECTION 1093. Arkansas Code § 15-10-205(a)(7), concerning the powers
16 and duties of the Arkansas Energy Office of the Arkansas Department of
17 Environmental Quality, is amended to read as follows:

18 (7) Monitoring and evaluating existing and proposed actions,
19 laws, policies, regulations, rules, and orders of the state and federal
20 governments in energy matters relevant to Arkansas;

21
22 SECTION 1094. Arkansas Code § 15-10-205(c), concerning the powers and
23 duties of the Arkansas Energy Office of the Arkansas Department of
24 Environmental Quality, is amended to read as follows:

25 (c) The Arkansas Pollution Control and Ecology Commission may
26 promulgate ~~regulations~~ rules necessary to administer this section for the
27 purposes of:

28 (1) Implementing and prescribing enforcement for thermal and
29 lighting efficiency standards for new building construction;

30 (2) Requiring a city or county that issues building permits for
31 new building construction to adopt the Arkansas Energy Code for New Building
32 Construction; and

33 (3) Administering emergency plans as referred to in subdivision
34 (a)(4) of this section.

35
36 SECTION 1095. Arkansas Code § 15-10-301(b), concerning the endorsement

1 of the United States Congress in enacting the Atomic Energy Act of 1954, is
2 amended to read as follows:

3 (b) The State of Arkansas recognizes that the development of
4 industries producing or utilizing atomic energy may result in new conditions
5 calling for changes in the laws of the state and in ~~regulations~~ rules issued
6 thereunder with respect to health and safety; working conditions; workers'
7 compensation; transportation; public utilities; life, health, accident, fire,
8 and casualty insurance; the conservation of natural resources, including
9 wildlife; and the protection of streams, rivers, and airspace from pollution,
10 and therefore declares the policy of the state to be to:

11 (1) Adapt its laws and ~~regulations~~ rules to meet the new
12 conditions in ways that will encourage the healthy development of industries
13 or utilizing atomic energy while at the same time protecting the public
14 interest;

15 (2) Initiate continuing studies of the need for changes in the
16 relevant laws and ~~regulations~~ rules of the state by the respective
17 departments and agencies of the state which are responsible for their
18 administration; and

19 (3) Assure the coordination of the studies thus undertaken,
20 particularly with other atomic industrial development activities of the state
21 and with the development and regulatory activities of other states and of the
22 United States Government.

23
24 SECTION 1096. Arkansas Code § 15-10-304 is amended to read as follows:
25 15-10-304. Studying the need for changes in law.

26 (a) Each of the following departments and agencies of state government
27 is directed to initiate and to pursue continuing studies as to the need, if
28 any, for changes in the laws and ~~regulations~~ rules administered by it that
29 would arise from the presence within the state of special nuclear material
30 and by-product material and from the operation herein of production
31 facilities or utilization facilities.

32 (b) On the basis of such studies, each of these departments and
33 agencies is to make recommendations for the enactment of laws or amendments
34 to laws administered by it and proposals for amendments to the ~~regulations~~
35 rules issued by it, as may appear necessary and appropriate:

36 (1) The State Board of Health, particularly as to hazards, if

1 any, to the public health and safety;

2 (2) The Department of Labor, particularly as to hazardous
3 working conditions, if any;

4 (3) The Workers' Compensation Commission, particularly as to the
5 time and character of proof of claims of injuries and the extent of the
6 compensation allowable therefor;

7 (4) The Arkansas Department of Transportation, particularly as
8 to the transportation of special nuclear material and by-product material on
9 highways of the state;

10 (5) The Arkansas Public Service Commission, particularly as to
11 the transportation of special nuclear materials and by-product materials by
12 common carriers not in interstate commerce and as to the participation by
13 public utilities subject to its jurisdiction in projects looking to the
14 development of production facilities or utilization facilities for industrial
15 or commercial use;

16 (6) The State Insurance Department, particularly as to the
17 insurance of persons and property from hazards to life and property resulting
18 from atomic development;

19 (7) The Arkansas Geological Survey, particularly as to the
20 hazards, if any, to the natural resources of the state, including wildlife,
21 and as to the protection, if necessary, of rivers, streams, and airspace from
22 pollution; and

23 (8) Such other departments and agencies, including departments
24 and agencies of political subdivisions of the state, as the Governor may
25 direct and for the purposes specified by him or her.

26
27 SECTION 1097. Arkansas Code § 15-10-305(c)(2), concerning the
28 coordinator of Atomic Development Activities, is amended to read as follows:

29 (2) No ~~regulation rule~~ or amendment to a ~~regulation rule~~
30 applying specifically to an atomic energy matter which any such department or
31 agency may propose to issue shall become effective until thirty (30) days
32 after it has been submitted to the coordinator unless, upon a finding of
33 emergency need, the Governor by order waives all or any part of this thirty-
34 day period.

35
36 SECTION 1098. Arkansas Code § 15-11-101(7), concerning the publicity

1 duties of the Director of the Department of Parks and Tourism, is amended to
2 read as follows:

3 (7) Assist and aid the various departments of state in the
4 preparation and distribution of pamphlets, booklets, folders, etc., when it
5 may be deemed advisable to give publicity to the activities of any department
6 or to inform the public of the activities, rules, ~~regulations~~, or
7 requirements of the state government.

8

9 SECTION 1099. Arkansas Code § 15-11-205(a), concerning the Director of
10 the Department of Parks and Tourism, is amended to read as follows:

11 (a) The State Parks, Recreation, and Travel Commission, with the
12 approval of the Governor, shall employ a Director of the Department of Parks
13 and Tourism who shall be charged with the duty of administering the
14 provisions of this subchapter and the rules, ~~regulations~~, and orders
15 established thereunder.

16

17 SECTION 1100. Arkansas Code § 15-11-206(a)(2), concerning the
18 functions, powers, and duties of the State Parks, Recreation, and Travel
19 Commission, is amended to read as follows:

20 (2) For the purpose of regulating its own procedure and carrying
21 out its functions, have the authority from time to time to make, amend, and
22 enforce all reasonable rules ~~or regulations~~ not inconsistent with law which
23 will aid in the performance of any of the functions, powers, or duties
24 conferred or imposed upon it by law.

25

26 SECTION 1101. Arkansas Code § 15-11-303(4), concerning State Parks,
27 Recreation, and Travel Commission duties, is amended to read as follows:

28 (4) Make reasonable rules ~~and regulations~~ and perform such other
29 duties as may be in furtherance of the purposes of this subchapter.

30

31 SECTION 1102. Arkansas Code § 15-11-402(a)(1), concerning the
32 formation of a regional tourist promotion agency, is amended to read as
33 follows:

34 (a)(1) Any group of interested citizens and residents of counties
35 composing a natural planning region of this state and who are residents of
36 counties representing not less than fifty percent (50%) of the total

1 population of the region, but in no event fewer than fifteen (15)
2 individuals, who shall form a nonprofit corporation pursuant to the
3 provisions of the Arkansas Nonprofit Corporation Act, § 4-28-201 et seq., for
4 the purpose of promoting tourist travel and vacation business in the counties
5 composing the natural planning region and whose charters, bylaws, and
6 purposes are in compliance with the rules ~~and regulations~~ promulgated by the
7 State Parks, Recreation, and Travel Commission or the Department of Parks and
8 Tourism pursuant to the provisions of this subchapter may apply for
9 recognition by the commission as a regional tourist promotion agency under
10 this subchapter.

11

12 SECTION 1103. Arkansas Code § 15-11-403(a)(1), concerning the
13 designation of a regional tourist promotion agency, is amended to read as
14 follows:

15 (1) That the applying agency is established under the Arkansas
16 Nonprofit Corporation Act, § 4-28-201 et seq., and has a constitution and
17 bylaws governing the activities and purposes of the corporation which are in
18 compliance with the rules ~~and regulations~~ of the commission established in
19 furtherance of the purposes of this subchapter;

20

21 SECTION 1104. Arkansas Code § 15-11-408(a)(1), concerning matching
22 state funds for regional tourist promotion agencies, is amended to read as
23 follows:

24 (a)(1) The State Parks, Recreation, and Travel Commission shall
25 promulgate reasonable rules ~~and regulations~~ regarding the use of matching
26 funds that are available to the respective regional tourist promotion
27 agencies.

28

29 SECTION 1105. Arkansas Code § 15-11-504(a), concerning evaluation
30 standards of tourism attraction project applications, is amended to read as
31 follows:

32 (a) The Executive Director of the Arkansas Economic Development
33 Commission shall establish standards for the making of applications for
34 inducements to eligible companies and their tourism attraction projects by
35 the promulgation of administrative ~~regulations~~ rules in accordance with the
36 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

1
2 SECTION 1106. Arkansas Code § 15-11-505(a), concerning standards for
3 approval of tourism attraction projects, is amended to read as follows:

4 (a) The Executive Director of the Arkansas Economic Development
5 Commission shall establish standards for final approval of eligible companies
6 and their tourism attraction projects by the promulgation of administrative
7 ~~regulations~~ rules in accordance with the Arkansas Administrative Procedure
8 Act, § 25-15-201 et seq.

9
10 SECTION 1107. Arkansas Code § 15-11-507(f)(1), concerning tourism
11 attraction project sales tax credits, is amended to read as follows:

12 (f)(1) The Director of the Department of Finance and Administration
13 may promulgate administrative ~~regulations~~ rules as are necessary for the
14 proper administration of this subchapter.

15
16 SECTION 1108. Arkansas Code § 15-13-205 is amended to read as follows:
17 15-13-205. Rules.

18 The Director of the Department of Finance and Administration shall
19 promulgate rules ~~and regulations~~ to provide for the administration of this
20 subchapter.

21
22 SECTION 1109. Arkansas Code § 15-14-108 is amended to read as follows:
23 15-14-108. Rules ~~and regulations~~.

24 The Arkansas Association of Development Organizations, after having
25 received input from the Department of Parks and Tourism, the Department of
26 Arkansas Heritage, and the Arkansas Economic Development Commission, shall
27 promulgate rules ~~and regulations~~ to implement this chapter.

28
29 SECTION 1110. Arkansas Code § 15-20-205(b), concerning the Executive
30 Director of the Arkansas Natural Resources Commission, is amended to read as
31 follows:

32 (b) The executive director shall be charged with the duty of
33 administering the provisions of this subchapter and the rules, ~~regulations,~~
34 and orders established thereunder.

35
36 SECTION 1111. Arkansas Code § 15-20-206(a), concerning rules,

1 meetings, oaths, subpoenas and judicial review of the Arkansas Natural
2 Resources Commission, is amended to read as follows:

3 (a) For the purpose of carrying out its functions, the Arkansas
4 Natural Resources Commission shall have authority to make and amend and
5 enforce all necessary or desirable rules, ~~regulations~~, and orders not
6 inconsistent with law.

7
8 SECTION 1112. Arkansas Code § 15-20-206(g), concerning rules,
9 meetings, oaths, subpoenas and judicial review of the Arkansas Natural
10 Resources Commission, is amended to read as follows:

11 (g) Any rule, ~~regulation~~, or order made by the commission shall be
12 subject to judicial review pursuant to the Arkansas Administrative Procedure
13 Act, § 25-15-201 et seq.

14
15 SECTION 1113. Arkansas Code § 15-20-308(4), concerning the Arkansas
16 Natural Heritage Commission, is amended to read as follows:

17 (4)(A) To establish and from time to time amend such policies,
18 and rules, ~~and regulations~~ for the selection, acquisition, management,
19 protection, and use of the system as it may find necessary or appropriate to
20 preserve the lands or interests therein acquired under this subchapter and
21 carry out the policies of this subchapter.

22 (B) These policies, and rules, ~~and regulations~~ shall
23 prevail, in the event of conflict, over any policies, rules, ~~regulations~~, and
24 practices of any agency or department that may receive title to any portion
25 of the system;

26
27 SECTION 1114. Arkansas Code § 15-20-308(8), concerning the Arkansas
28 Natural Heritage Commission, is amended to read as follows:

29 (8) To supervise the protection, management, and use of the
30 system and to administer and enforce its policies, and rules, ~~and~~
31 ~~regulations~~;

32
33 SECTION 1115. Arkansas Code § 15-20-410(a)(1) concerning easements
34 held by Old State House Commission, is amended to read as follows:

35 (a)(1) Approval of the creation, modification, or termination of a
36 conservation easement held by the Old State House Commission shall be

1 executed by the Director of the Old State House Commission in accordance with
2 the rules ~~and regulations~~ promulgated by the Old State House Commission to
3 assure that conservation easements shall be in the public interest.
4

5 SECTION 1116. Arkansas Code § 15-20-904(c), concerning the Arkansas
6 Natural Resources Commission registration program, is amended to read as
7 follows:

8 (c) The commission shall promulgate ~~regulations~~ rules that require a
9 poultry feeding operation to submit, at a time and in a manner determined by
10 the commission, information regarding:

11 (1) The number and kind of poultry housed or maintained in the
12 poultry feeding operation;

13 (2) The location of the poultry feeding operation;

14 (3) The litter management system used;

15 (4) The litter storage system used and the amount of litter
16 stored;

17 (5) The acreage owned or controlled by the poultry feeding
18 operation and used for land application of litter;

19 (6) The land application practices used by the poultry feeding
20 operation and the amount of litter applied;

21 (7) The amount of litter transferred or otherwise utilized by
22 the poultry feeding operation and the type of transfer or utilization;

23 (8) The poultry processor or processors with which the poultry
24 feeding operation has contracted to provide poultry; and

25 (9) Any other relevant information necessary to effect the
26 purposes of this subchapter.
27

28 SECTION 1117. Arkansas Code § 15-20-904(e), concerning the Arkansas
29 Natural Resources Commission registration program, is amended to read as
30 follows:

31 (e) All ~~regulations~~ rules shall be promulgated pursuant to the
32 Arkansas Administrative Procedure Act, § 25-15-201 et seq.
33

34 SECTION 1118. Arkansas Code § 15-20-1004(c), concerning the Arkansas
35 Natural Resources Commission nutrient planner program, is amended to read as
36 follows:

1 (c) The commission shall promulgate ~~regulations~~ rules that:

2 (1) Specify qualifications and standards for a person to be
 3 deemed competent in nutrient management plan preparation and provide for the
 4 issuance of documentation of certification to the person;

5 (2) Specify the conditions under which a certification issued
 6 may be suspended or revoked;

7 (3) Establish fees to be paid by a person enrolling in the
 8 training and certification programs;

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

13 (5) Give due consideration to relevant existing agricultural or
 14 other certification programs.

15
 16 SECTION 1119. Arkansas Code § 15-20-1005(c), concerning the Arkansas
 17 Natural Resources Commission nutrient applicator program, is amended to read
 18 as follows:

19 (c) The commission shall promulgate ~~regulations~~ rules that:

20 (1) Specify the qualifications and standards for a person to be
 21 deemed competent in nutrient application and provide for the issuance of
 22 documentation of certification to the person;

23 (2) Specify the conditions under which a certification issued
 24 may be suspended or revoked;

25 (3) Establish fees to be paid by persons enrolling in the
 26 training and certification programs; and

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

31
 32 SECTION 1120. Arkansas Code § 15-20-1006(a), concerning the Arkansas
 33 Natural Resources Commission procedure for records related to the nutrient
 34 planner program and the nutrient application program, is amended to read as
 35 follows:

36 (a) The process for the development of ~~regulations~~ rules and the

1 imposition of administrative penalties shall be conducted pursuant to the
2 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

3
4 SECTION 1121. Arkansas Code § 15-20-1008(a), concerning the
5 administrative penalties of the Arkansas Soil Nutrient Management Planner and
6 Applicator Certification Act, is amended to read as follows:

7 (a) The Arkansas Natural Resources Commission may impose
8 administrative penalties not to exceed one thousand dollars (\$1,000) per
9 violation against any person violating this subchapter or ~~regulations~~ rules
10 adopted pursuant to this subchapter.

11
12 SECTION 1122. Arkansas Code § 15-20-1105 is amended to read as
13 follows:

14 15-20-1105. Regulatory considerations.

15 In developing ~~regulations~~ rules to implement this subchapter, the
16 Arkansas Natural Resources Commission shall consider:

17 (1) The current and projected level of nutrients in the soil
18 within the area;

19 (2) The current or potential impacts of surplus nutrients within
20 the area;

21 (3) Litter produced and applied in the area;

22 (4) Commercial fertilizer, compost, and other sources of
23 nutrients applied within the area;

24 (5) The current or projected nutrient needs within the area,
25 including the nutrient level necessary to maintain soil fertility, current
26 and future cropping patterns, and those crops' demands for nutrients;

27 (6) The soil type, geology, hydrology, and other physical
28 characteristics of the area;

29 (7) The types of water bodies and the uses of the waters within
30 the area; and

31 (8) Any other relevant information necessary to effect the
32 purposes of this subchapter.

33
34 SECTION 1123. Arkansas Code § 15-20-1111(a), concerning the
35 implementation of the Arkansas Soil Nutrient Application and Poultry Litter
36 Utilization Act, is amended to read as follows:

1 (a)(1) The Arkansas Natural Resources Commission may develop all
2 ~~regulations~~ rules necessary to implement this subchapter.

3 (2) ~~Regulations~~ Rules shall be adopted pursuant to the Arkansas
4 Administrative Procedure Act, § 25-15-201 et seq.

5
6 SECTION 1124. Arkansas Code § 15-20-1114(a)(1), concerning no conflict
7 between the Arkansas Soil Nutrient Application and Poultry Litter Utilization
8 Act and the Arkansas Water and Air Pollution Control Act, is amended to read
9 as follows:

10 (a)(1) This subchapter shall not supersede the requirement that liquid
11 animal waste management systems comply with the Arkansas Water and Air
12 Pollution Control Act, § 8-4-101 et seq., or ~~regulations~~ rules adopted under
13 the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

14
15 SECTION 1125. Arkansas Code § 15-20-1114(b), concerning no conflict
16 between the Arkansas Soil Nutrient Application and Poultry Litter Utilization
17 Act and the Arkansas Water and Air Pollution Control Act, is amended to read
18 as follows:

19 (b) Except as provided in subsection (a) of this section, nutrient and
20 litter management activities conducted in compliance with this subchapter
21 shall not be subject to regulation under the Arkansas Water and Air Pollution
22 Control Act, § 8-4-101 et seq., or ~~regulations~~ rules adopted under the
23 Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

24
25 SECTION 1126. Arkansas Code § 15-20-1114(c)(2), concerning no conflict
26 between the Arkansas Soil Nutrient Application and Poultry Litter Utilization
27 Act and the Arkansas Water and Air Pollution Control Act, is amended to read
28 as follows:

29 (2) The nutrient and litter-management activities so determined
30 shall be subject to regulation under the Arkansas Water and Air Pollution
31 Control Act, § 8-4-101 et seq., and ~~regulations~~ rules adopted under the
32 Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

33
34 SECTION 1127. Arkansas Code § 15-21-403(5), concerning the duties of
35 the University of Arkansas to each state agricultural plan, is amended to
36 read as follows:

1 (5) Prescribe such rules ~~and regulations~~ as may be necessary or
2 expedient with reference to the administration of such state agricultural
3 plans.
4

5 SECTION 1128. Arkansas Code § 15-21-504(j)(2)(A), concerning the
6 duties, responsibilities, and authority of the Arkansas Geographic
7 Information Systems Board, is amended to read as follows:

8 (2)(A) Agreements will be interagency service agreements and are
9 exempt from the provisions of the Arkansas Procurement Law, § 19-11-201 et
10 seq., and ~~regulations~~ rules.
11

12 SECTION 1129. Arkansas Code § 15-22-204(b), concerning penalties and
13 enforcement by the Arkansas Natural Resources Commission, is amended to read
14 as follows:

15 (b) The Arkansas Natural Resources Commission shall enforce its
16 ~~regulations~~ rules and orders by any or all of the following means:

- 17 (1) Revocation of any permit or suspension from any program
18 administered by the commission;
19 (2) Suit for injunction or for damages, or both; and
20 (3) Civil penalties not to exceed ten thousand dollars
21 (\$10,000).
22

23 SECTION 1130. Arkansas Code § 15-22-205(b), concerning the powers of
24 the Arkansas Natural Resources Commission regarding water, is amended to read
25 as follows:

26 (b) To that end, the commission shall conduct hearings and promulgate
27 rules, ~~regulations~~, and orders under the procedure prescribed in this
28 subchapter.
29

30 SECTION 1131. Arkansas Code § 15-22-206(a)(1)(A), concerning the
31 procedure for making rules and orders by the Arkansas Natural Resources
32 Commission, is amended to read as follows:

33 (a)(1)(A) No rule, ~~regulation~~, or order, including a change, renewal,
34 or extension thereof, shall be made by the Arkansas Natural Resources
35 Commission except after reasonable notice and public hearing with respect
36 thereto.

1
2 SECTION 1132. Arkansas Code § 15-22-206(c), concerning the procedure
3 for making rules and orders by the Arkansas Natural Resources Commission, is
4 amended to read as follows:

5 (c)(1) Each rule, ~~regulation~~, and order made by the commission shall
6 be in writing and shall be entered in full in a book to be kept by the
7 commission for such a purpose. The book shall be a public record and be open
8 to inspection at all times during reasonable office hours.

9 (2) A copy of any such rule, ~~regulation~~, or order, certified by
10 a member of the commission or the Executive Director of the Arkansas Natural
11 Resources Commission, shall be received in evidence in all courts of this
12 state with the same effect as the original.

13
14 SECTION 1133. Arkansas Code § 15-22-209 is amended to read as follows:

15 15-22-209. Appellate review.

16 Any person affected by any rule, ~~regulation~~, or order made by the
17 Arkansas Natural Resources Commission or action taken may obtain review of
18 such an action pursuant to the Arkansas Administrative Procedure Act, § 25-
19 15-201 et seq.

20
21 SECTION 1134. Arkansas Code § 15-22-221(c)(1), concerning the
22 delegation of allocation authority by the Arkansas Natural Resources
23 Commission, is amended to read as follows:

24 (c)(1) The commission shall have all the necessary power to effectuate
25 this delegation, including, but not limited to, the power to determine
26 disputes between, approve or disapprove regulations or rules of, and hear
27 appeals from decisions of districts to which the commission has delegated
28 powers.

29
30 SECTION 1135. Arkansas Code § 15-22-503(a), concerning the Arkansas
31 Water Plan, is amended to read as follows:

32 (a) Under such rules ~~and regulations~~ as it may adopt, the Arkansas
33 Natural Resources Commission is charged with the duty of preparing,
34 developing, formulating, and engaging in a comprehensive program for the
35 orderly development and management of the state's water and related land
36 resources, to be referred to as the "Arkansas Water Plan".

1
2 SECTION 1136. Arkansas Code § 15-22-505(7), concerning the powers and
3 duties of the Arkansas Natural Resources Commission, is amended to read as
4 follows:

5 (7)(A) To adopt and enforce such rules ~~and regulations~~ as are
6 necessary for the proper and efficient administration of this subchapter.

7 (B) However, all rules ~~and regulations~~ adopted by the
8 commission are subject to judicial review in accordance with the Arkansas
9 Administrative Procedure Act, § 25-15-201 et seq.; and

10
11 SECTION 1137. Arkansas Code § 15-22-804(3), concerning the duties of
12 the Arkansas Natural Resources Commission, is amended to read as follows:

13 (3) In accordance with the Arkansas Administrative Procedure
14 Act, § 25-15-201 et seq., promulgate such rules ~~and regulations~~ and
15 procedures necessary for the operation of this program.

16
17 SECTION 1138. Arkansas Code § 15-22-806(c), concerning loans, grants,
18 applications, awards, and the eligibility of local governments entering into
19 cooperative agreements with the Arkansas Natural Resources Commission, is
20 amended to read as follows:

21 (c) The Arkansas Natural Resources Commission, by ~~regulation~~ rule,
22 shall specify the form and style of any forms needed for application by the
23 local governments for loans or grants.

24
25 SECTION 1139. Arkansas Code § 15-22-904(1), concerning the powers of
26 the Arkansas Natural Resources Commission to promulgate rules for groundwater
27 classification and aquifer use, is amended to read as follows:

28 (1) Promulgate rules ~~and regulations~~ for groundwater
29 classification and aquifer use, well spacing, issuance of groundwater rights
30 within critical groundwater areas, and assessment of fees;

31
32 SECTION 1140. Arkansas Code § 15-22-904(6), concerning the powers of
33 the Arkansas Natural Resources Commission to promulgate rules for groundwater
34 classification and aquifer use, is amended to read as follows:

35 (6) Issue orders to implement or enforce any of the provisions
36 of this subchapter or regulations or rules under this subchapter;

1
2 SECTION 1141. Arkansas Code § 15-22-904(10), concerning the powers of
3 the Arkansas Natural Resources Commission to promulgate rules for groundwater
4 classification and aquifer use, is amended to read as follows:

5 (10) Resolve disputes between, approve ~~regulations~~ rules of, and
6 hear appeals from decisions of districts to which the commission has
7 delegated powers; and

8
9 SECTION 1142. Arkansas Code § 15-22-1212(a)(15), concerning the powers
10 of each Sparta Aquifer critical groundwater county conservation board, is
11 amended to read as follows:

12 (15) Accept appropriations and grants from the State of Arkansas
13 and from the United States upon such terms and conditions as may be imposed
14 by law, rule, or regulation;

15
16 SECTION 1143. Arkansas Code § 15-23-104(c)(2), concerning the Kings
17 River, is amended to read as follows:

18 (2) Any business or industry located on or near the Kings River
19 to engage in any dumping or drainage or to permit any seepage into the Kings
20 River that would affect the quality of the waters of the Kings River in
21 violation of any ~~regulation~~ rule of the Arkansas Pollution Control and
22 Ecology Commission;

23
24 SECTION 1144. Arkansas Code § 15-23-313(d)(1), concerning specific
25 designations of the Arkansas Natural and Scenic Rivers System Act, is amended
26 to read as follows:

27 (d)(1) The Arkansas Natural Heritage Commission is authorized to apply
28 for and the court is authorized to grant a temporary or permanent injunction
29 restraining any person from violating or continuing to violate any provision
30 of this section or any ~~rule or regulation~~ rule promulgated under this section,
31 notwithstanding the existence of other remedies at law.

32
33 SECTION 1145. Arkansas Code § 15-23-904 is amended to read as follows:
34 15-23-904. Authority to establish programs.

35 (a) The Arkansas Waterways Commission, working in partnership with the
36 Arkansas Economic Development Commission, may establish by ~~rules and~~

1 ~~regulations~~ rule the criteria of eligibility for awarding funds to any public
2 port authority to aid in the development of port infrastructure, including
3 the engineering and construction costs.

4 (b) The rules ~~and regulations~~ shall be reviewed by the House Committee
5 on Public Transportation and the Senate Committee on Public Transportation,
6 Technology, and Legislative Affairs.

7
8 SECTION 1146. Arkansas Code § 15-23-905 is amended to read as follows:
9 15-23-905. Port Priority Improvement Program.

10 The Arkansas Waterways Commission's rules ~~and regulations~~ for the Port
11 Priority Improvement Program shall, as a minimum:

12 (1) Provide for the commission to administer the program
13 authorized under this subchapter;

14 (2) Require the commission to take the necessary actions to
15 ensure that the funds are used for the purposes for which they are to be
16 awarded and that they are expended in accordance with all state laws and
17 local ordinances and procedures and regulations;

18 (3) Specify:

19 (A) The procedure for receiving applications;

20 (B) Who is eligible to apply;

21 (C) The goals and objectives of the program for public
22 port infrastructure development; and

23 (D) The procedures for awarding funds;

24 (4) Require the public port authority to file a performance
25 review report with the commission for three (3) consecutive years following
26 completion of the project comparing actual benefits with the projected
27 benefits associated with the project as stated in the application for
28 funding;

29 (5) Require that each public port authority provide matching
30 funds equal to at least ten percent (10%) of the estimated cost of the port
31 infrastructure project for which an application is made;

32 (6) Provide that eligible port infrastructure development
33 projects shall be only for capital improvement projects and shall not be used
34 for any routine maintenance or operational expenses; and

35 (7) Provide that no individual port shall receive more than
36 twenty percent (20%) of the total amount available for public port

1 infrastructure development projects.

2
3 SECTION 1147. Arkansas Code § 15-23-906(b), concerning the Arkansas
4 Waterways Commission application and award for the Port Priority Improvement
5 Program, is amended to read as follows:

6 (b) All applications shall be submitted as required by the
7 establishing rules ~~and regulations~~.

8
9 SECTION 1148. Arkansas Code § 15-31-104(2)(A), concerning the duties
10 of the State Forester, is amended to read as follows:

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

13
14 SECTION 1149. Arkansas Code § 15-31-106(a)(2), concerning the
15 functions, powers, and duties of the Arkansas Forestry Commission, is amended
16 to read as follows:

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

20
21 SECTION 1150. Arkansas Code § 15-31-106(b)(2), concerning the
22 functions, powers, and duties of the Arkansas Forestry Commission, is amended
23 to read as follows:

24 (2) For the purpose of regulating the commission's own procedure
25 and carrying out its transferred or newly provided functions, the commission
26 shall have the authority, from time to time, to make and amend and enforce
27 all reasonable rules ~~or regulations~~ not inconsistent with law which will aid
28 in the performance of any of the functions, powers, or duties conferred or
29 imposed upon it by law.

30
31 SECTION 1151. Arkansas Code § 15-31-111(c), concerning the fees of the
32 Arkansas Forestry Commission, is amended to read as follows:

33 (c) The commission is authorized to promulgate such rules ~~and~~
34 ~~regulations~~ necessary to administer the fees, rates, tolls, or charges for
35 services established by this section and is directed to prescribe and collect
36 such fees, rates, tolls, or charges for the services delivered by the

1 commission in such manner as may be necessary to support the programs of the
2 commission as directed by the Governor and General Assembly.

3
4 SECTION 1152. Arkansas Code § 15-31-112 is amended to read as follows:

5 15-31-112. Enforcement of Poison Springs State Forest ~~Regulations~~
6 Rules.

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

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

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

19
20 SECTION 1153. Arkansas Code § 15-55-204(b)(1), concerning the duties
21 of the State Geologist, is amended to read as follows:

22 (1) Be charged with the duty of administering the provisions of
23 this subchapter and the rules, ~~regulations~~, and orders established
24 thereunder;

25
26 SECTION 1154. Arkansas Code § 15-57-304(a)(1), concerning violations
27 of the rules or orders of the Arkansas Pollution Control and Ecology
28 Commission or the Arkansas Department of Environmental Quality, is amended to
29 read as follows:

30 (1) Violate any provision of this subchapter or any rule,
31 ~~regulation~~, or order of the Arkansas Pollution Control and Ecology Commission
32 or the Arkansas Department of Environmental Quality issued pursuant to this
33 subchapter;

34
35 SECTION 1155. Arkansas Code § 15-57-305(a)(1), concerning civil and
36 administrative penalties of the Arkansas Department of Environmental Quality,

1 is amended to read as follows:

2 (1) To restrain any violation of or to compel compliance with
3 the provisions of this subchapter or of any order, rule, ~~regulation~~, permit,
4 or reclamation plan issued pursuant thereto;

5

6 SECTION 1156. Arkansas Code § 15-57-305(a)(4), concerning civil and
7 administrative penalties of the Arkansas Department of Environmental Quality,
8 is amended to read as follows:

9 (4) To assess civil penalties for violations of this subchapter
10 or of any order, rule, ~~regulation~~, permit, or reclamation plan issued
11 pursuant thereto in an amount not to exceed:

12 (A) One thousand dollars (\$1,000) for the first violation;

13 (B) Two thousand five hundred dollars (\$2,500) for a
14 second separate violation of the same offense within two (2) years; and

15 (C) Five thousand dollars (\$5,000) for a third separate or
16 subsequent violation of the same offense within two (2) years;

17

18 SECTION 1157. Arkansas Code § 15-57-305(b)(1), concerning civil and
19 administrative penalties of the Arkansas Department of Environmental Quality,
20 is amended to read as follows:

21 (1) Any person who engages in open-cut mining without first
22 securing a permit as required by this subchapter or who fails to reclaim
23 affected lands in accordance with this subchapter or who violates any
24 provision of this or any order, ~~regulation~~, rule, permit, or reclamation plan
25 issued pursuant thereto, may be assessed an administrative civil penalty by
26 the department not to exceed:

27 (A) One thousand dollars (\$1,000) for the first violation;

28 (B) Two thousand five hundred dollars (\$2,500) for a
29 second separate violation of the same offense within two (2) years; and

30 (C) Five thousand dollars (\$5,000) for a third separate or
31 subsequent violation of the same offense within two (2) years.

32

33 SECTION 1158. Arkansas Code § 15-57-305(b)(3), concerning civil and
34 administrative penalties of the Arkansas Department of Environmental Quality,
35 is amended to read as follows:

36 (3) The amount of the administrative civil penalty shall be

1 determined in accordance with ~~regulations~~ rules adopted by the Arkansas
2 Pollution Control and Ecology Commission, including, but not limited to, the
3 ~~regulations~~ rules on civil penalties.

4
5 SECTION 1159. Arkansas Code § 15-57-305(c), concerning civil and
6 administrative penalties of the Arkansas Department of Environmental Quality,
7 is amended to read as follows:

8 (c) All hearings and appeals arising under this subchapter shall be
9 conducted in accordance with the procedures described in §§ 8-4-218 – 8-4-229
10 and in accordance with ~~regulations~~ rules adopted by the commission,
11 including, but not limited to, the ~~regulations~~ rules on administrative
12 procedures.

13
14 SECTION 1160. Arkansas Code § 15-57-307 is amended to read as follows:

15 15-57-307. Rules ~~and regulations~~.

16 The Arkansas Pollution Control and Ecology Commission may adopt and
17 promulgate rules ~~and regulations~~ necessary to administer the provisions of
18 this subchapter.

19
20 SECTION 1161. Arkansas Code § 15-57-310(g)(1), concerning the
21 necessity of a permit for open-cut mining, is amended to read as follows:

22 (g)(1) The Arkansas Department of Environmental Quality shall develop
23 ~~regulations~~ rules to implement the provisions of this chapter.

24
25 SECTION 1162. Arkansas Code § 15-57-315(1)(B), concerning the duties
26 of an operator of an open-cut mine, is amended to read as follows:

27 (B) The Director of the Arkansas Department of
28 Environmental Quality shall develop ~~regulations~~ rules which will allow the
29 department the discretion to permit deviations from certain reclamation
30 standards, including final slope steepness requirements within this
31 subdivision (1), because of unique mining situations, provided the deviations
32 are consistent with the declaration of policy in this subchapter;

33
34 SECTION 1163. Arkansas Code § 15-57-316(a)(1)(A), concerning the bond
35 of an operator under the Arkansas Open-Cut Land Reclamation Act, is amended
36 to read as follows:

1 (a)(1)(A) Any bond provided in this subchapter to be filed with the
2 Arkansas Department of Environmental Quality by the operator shall be in such
3 form as the department shall prescribe, payable to the State of Arkansas
4 through the department, conditioned that the operator shall faithfully
5 perform all requirements of this subchapter and comply with all rules,
6 ~~regulations~~, and orders made in accordance with the provisions of this
7 subchapter.

8
9 SECTION 1164. Arkansas Code § 15-57-316(a)(4), concerning the bond of
10 an operator under the Arkansas Open-Cut Land Reclamation Act, is amended to
11 read as follows:

12 (4) The Arkansas Pollution Control and Ecology Commission shall
13 promulgate ~~regulations~~ rules concerning bonds and substituted security which
14 will attempt to ensure that small operators are not precluded from
15 development of mineral resources as a result of high bond amounts, but which
16 will provide reasonable security.

17
18 SECTION 1165. Arkansas Code § 15-57-316(e)(1), concerning the bond of
19 an operator under the Arkansas Open-Cut Land Reclamation Act, is amended to
20 read as follows:

21 (e)(1) The department shall give written notice to the operator of any
22 violation of this subchapter or noncompliance with any of the rules,
23 ~~regulations~~, or orders promulgated under this subchapter.

24
25 SECTION 1166. Arkansas Code § 15-57-317(a)(1), concerning bond
26 forfeiture proceedings under the Arkansas Open-Cut Land Reclamation Act, is
27 amended to read as follows:

28 (1) Failure to abate any violation of this subchapter or any
29 rule ~~or regulation~~ promulgated thereunder;

30
31 SECTION 1167. Arkansas Code § 15-57-319(c), concerning Land
32 Reclamation Fund permit fees under the Arkansas Open-Cut Land Reclamation
33 Act, is amended to read as follows:

34 (c) The Arkansas Pollution Control and Ecology Commission may by
35 ~~regulation~~ rule prescribe an annual permit fee on affected lands.

36

1 SECTION 1168. Arkansas Code § 15-57-403(g), concerning the
2 notification, filing, public notice and response related to quarries, is
3 amended to read as follows:

4 (g) On completion of a notification, the department will issue the
5 operator a notice which will be posted on quarry premises at all times when
6 the quarry is in operation and which will state:
7 “Name of company _____ has completed the requirements, as set out by the
8 ‘Arkansas Quarry Operation, Reclamation and Safe Closure Act’ of 1997, and
9 has the unconditional authorization to quarry at this site, so long as the
10 quarry is in compliance with all laws, rules, and regulations for up to five
11 (5) years.”
12

13 SECTION 1169. Arkansas Code § 15-57-404(a)(6)(B), concerning
14 notification of intent to quarry, is amended to read as follows:

15 (B) The following right to quarry, signed and notarized:
16 “I, the operator of [quarry name] located at [legal description in
17 county], have the legal right by deeds, leases, or other instruments to
18 conduct quarry operations for commercial and other purposes at this location.
19 I will comply with all state and federal laws, rules, and regulations in this
20 operation. Company Name _____ President _____ Secretary _____”;
21

22 SECTION 1170. Arkansas Code § 15-57-405(a)(2), concerning notification
23 of temporarily closed quarry, is amended to read as follows:

24 (2) Right to temporarily close as follows:
25 “I, operator of [quarry name], located at [legal description in
26 County], have the legal right by deeds, leases, or other instruments to
27 temporarily close this quarry operation until such time as it becomes
28 necessary to reactivate this operation. I will comply with all state and
29 federal laws, rules, and regulations during this temporary closure and
30 inactive status.”
31

32 SECTION 1171. Arkansas Code § 15-58-102(3), concerning legislative
33 findings and the Arkansas Surface Coal Mining and Reclamation Act of 1979, is
34 amended to read as follows:

35 (3) Because surface coal mining in this state takes place in
36 areas where the terrain, climate, biological, chemical, and other physical

1 conditions are peculiar to this state and because the Arkansas Department of
2 Environmental Quality is familiar with these conditions, the department has
3 the primary responsibility to develop, issue, and enforce ~~regulations~~ rules
4 for surface mining and reclamation operations in this state pursuant to this
5 chapter and in compliance with applicable federal laws, rules, and
6 regulations;

7
8 SECTION 1172. Arkansas Code § 15-58-103(7), concerning the declaration
9 of policy under the Arkansas Surface Coal Mining and Reclamation Act of 1979,
10 is amended to read as follows:

11 (7) Assure that appropriate procedures are provided for public
12 participation in the development, revision, and enforcement of ~~regulations~~
13 rules, standards, reclamation plans, or programs established pursuant to this
14 subchapter;

15
16 SECTION 1173. Arkansas Code § 15-58-103(10), concerning the
17 declaration of policy under the Arkansas Surface Coal Mining and Reclamation
18 Act, is amended to read as follows:

19 (10) Promote reclamation of mined areas in this state, which
20 were left without adequate reclamation prior to August 3, 1977, and which
21 continue in their unreclaimed condition to substantially degrade the quality
22 of the environment, prevent or damage the beneficial use of the land or water
23 resources, or endanger the health or safety of the public by developing and
24 implementing a state abandoned mine reclamation program pursuant to Public
25 Law 95-87 which complies with the requirements for a state abandoned mine
26 reclamation program set forth therein and which shall generally identify the
27 areas to be reclaimed, the purposes for which the reclamation is proposed,
28 the relationship of the lands to be reclaimed and of the proposed reclamation
29 to surrounding areas, the specific criteria for ranking and identifying
30 projects to be funded, and by issuing ~~regulations~~ rules which will supply the
31 legal authority and programmatic capability to perform such work in
32 conformance with the provisions of Title IV, Public Law 95-87;

33
34 SECTION 1174. Arkansas Code § 15-58-104(18), concerning the definition
35 of "unwarranted failure to comply" under the Arkansas Surface Coal Mining and
36 Reclamation Act, is amended to read as follows:

1 (18) "Unwarranted failure to comply" means the failure of a
2 permittee to prevent the occurrence of any violation of his or her permit or
3 any requirement of this chapter or the ~~regulations~~ rules issued pursuant to
4 this chapter due to indifference, lack of diligence, or lack of reasonable
5 care, or the failure to abate any violation of a permit, this chapter, or the
6 ~~regulations~~ rules issued pursuant to this chapter due to indifference, lack
7 of diligence, or lack of reasonable care.

8
9 SECTION 1175. Arkansas Code § 15-58-105 is amended to read as follows:
10 15-58-105. Public agencies, utilities, and corporations.

11 Any agency, unit, or instrumentality of federal, state, or local
12 government, including any publicly owned utility or publicly owned
13 corporation of federal, state, or local government, which proposes to engage
14 in surface coal mining operations which are subject to the requirements of
15 this chapter shall comply with the provisions of this chapter and the
16 ~~regulations~~ rules issued pursuant to this chapter.

17
18 SECTION 1176. Arkansas Code § 15-58-106(3), concerning exempt
19 activities under the Arkansas Surface Coal Mining and Reclamation Act, is
20 amended to read as follows:

21 (3) The extraction of coal as an incidental part of federal,
22 state, or local government-financed highway or other construction under
23 ~~regulations~~ rules established by the Arkansas Pollution Control and Ecology
24 Commission; or

25
26 SECTION 1177. Arkansas Code § 15-58-201(a), concerning the
27 jurisdiction and powers and duties of the Arkansas Department of
28 Environmental Quality under the Arkansas Surface Coal Mining and Reclamation
29 Act, is amended to read as follows:

30 (a) The Arkansas Department of Environmental Quality is designated as
31 the official agency whose duty it is to establish policies and guidelines, to
32 administer the guidelines contained in this chapter, and to institute other
33 reasonable ~~regulations~~ rules and guidelines as they become necessary pursuant
34 to this chapter. The rules ~~and regulations~~ may provide differing terms and
35 provisions for particular conditions, particular mining techniques, types of
36 coal, particular areas of the state, surface mines, and the surface impacts

1 of underground mines or any other differences which appear relevant and
2 necessary so long as the action taken is consistent with attainment of the
3 general intent and purposes of this chapter.

4
5 SECTION 1178. Arkansas Code § 15-58-202 is amended to read as follows:
6 15-58-202. Commission – Powers and duties.

7 (a) The authority shall be vested in the Arkansas Pollution Control
8 and Ecology Commission to establish policies and guidelines and take such
9 other actions as are necessary to ensure the development, administration, and
10 enforcement of a state program which meets the requirements of the Surface
11 Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, and, in doing
12 so, shall have the following duties and powers:

13 (1) To adopt, amend, and issue rules ~~and regulations~~ in
14 accordance with the procedures set forth herein pertaining to surface coal
15 mining and reclamation operations in accordance with but no more restrictive
16 than the Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-
17 87, consistent with the general intent and purposes of this chapter and
18 consistent with but no more restrictive than the regulations issued by the
19 Secretary of the Interior pursuant to the Surface Mining Control and
20 Reclamation Act of 1977, Pub. L. No. 95-87, as required for the state to
21 develop an approved state program and to assume and retain exclusive
22 jurisdiction over the regulation of surface coal mining and reclamation
23 operations pursuant to section 503 of the Surface Mining Control and
24 Reclamation Act of 1977, Pub. L. No. 95-87;

25 (2) To adopt, amend, and issue rules ~~and regulations~~ in
26 accordance with the procedures set forth in this subchapter pertaining to the
27 reclamation of abandoned mines in this state in accordance with the Surface
28 Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, as required
29 for the state to develop an approved state abandoned mine reclamation program
30 and to assume and retain exclusive jurisdiction over the regulation of
31 abandoned mine reclamation in this state pursuant to Title IV of the Surface
32 Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87;

33 (3) To conduct administrative hearings and to perform all
34 necessary functions pursuant thereto and exercise discretionary review
35 pursuant to the provisions of this chapter over all aspects of surface coal
36 mining and reclamation operations performed within this state;

1 (4) To designate lands unsuitable for all or certain types of
2 surface coal mining in accordance with provisions of this chapter and the
3 ~~regulations~~ rules issued pursuant to this chapter; and

4 (5) To perform other duties and acts required by and provided
5 for in this chapter or reasonably necessary to carry out the purposes of this
6 chapter or the ~~regulations~~ rules issued pursuant to this chapter.

7 (b) The commission shall have the authority to promulgate ~~regulations~~
8 rules to amend the provisions of this chapter when such amendments are
9 permitted by an amendment to the Surface Mining Control and Reclamation Act
10 of 1977, Pub. L. No. 95-87, subsequent to the enactment of this chapter.

11
12 SECTION 1179. Arkansas Code § 15-58-203(a)(6) and (7), concerning the
13 powers and duties of the Director of the Arkansas Department of Environmental
14 Quality under the Arkansas Surface Coal Mining and Reclamation Act, are
15 amended to read as follows:

16 (6) To issue or modify orders requiring an operator to take
17 actions that are reasonably necessary to comply with this chapter or rules
18 ~~and regulations~~ issued pursuant to this chapter;

19 (7) To issue an order ordering a cessation of surface coal
20 mining or reclamation operations or revoking the permit of an operator who
21 has failed to comply with an order of the director to take action required by
22 this chapter or rules ~~and regulations~~ issued pursuant to this chapter; or, in
23 the event the permit is revoked, to cause the operator's performance bond,
24 cash, or collateral securities to be forfeited if it is determined that it is
25 necessary to reclaim the area of land affected by the operator's surface coal
26 mining operation;

27
28 SECTION 1180. Arkansas Code § 15-58-203(a)(20) and (21), concerning
29 the powers and duties of the Director of the Arkansas Department of
30 Environmental Quality under the Arkansas Surface Coal Mining and Reclamation
31 Act, are amended to read as follows:

32 (20) To apply for, receive, and segregate the state abandoned
33 mine reclamation funds into a special account, to spend the moneys in
34 accordance with the provisions of this chapter and the ~~regulations~~ rules
35 issued by the commission, and to prepare and submit to the Secretary of the
36 Interior information as required in the administration of the state abandoned

1 mine reclamation program;

2 (21) To sell land acquired pursuant to the state abandoned mine
3 reclamation program by public sale under a system of competitive bidding at
4 not less than fair market value and in accordance with ~~regulations~~ rules
5 issued by the commission;

6

7 SECTION 1181. Arkansas Code § 15-58-203(a)(23), concerning the powers
8 and duties of the Director of the Arkansas Department of Environmental
9 Quality under the Arkansas Surface Coal Mining and Reclamation Act, is
10 amended to read as follows:

11 (23) To perform other duties and acts required by and provided
12 for in this chapter or reasonably necessary to carry out the purposes of this
13 chapter or the ~~regulations~~ rules issued pursuant to this chapter.

14

15 SECTION 1182. Arkansas Code § 15-58-203(b), concerning the powers and
16 duties of the Director of the Arkansas Department of Environmental Quality
17 under the Arkansas Surface Coal Mining and Reclamation Act, is amended to
18 read as follows:

19 (b) The director shall have the right to grant variances to the
20 requirements of this chapter and the ~~regulations~~ rules issued pursuant to
21 this chapter in the issuance of any permit pursuant to this chapter or, upon
22 application of a permittee to amend an issued permit to allow a variance when
23 variances are permitted by an amendment to the Surface Mining Control and
24 Reclamation Act of 1977, Pub. L. No. 95-87, subsequent to the enactment of
25 this chapter.

26

27 SECTION 1183. Arkansas Code § 15-58-204 is amended to read as follows:
28 15-58-204. Adoption of rules ~~and regulations~~.

29 (a) Before the adoption, amendment, or repeal of any rule ~~or~~
30 ~~regulation~~, the Arkansas Pollution Control and Ecology Commission shall give
31 public notice and the opportunity for a public hearing under §§ 15-58-207 and
32 15-58-208.

33 (b)(1) If the commission finds that imminent peril to the public
34 health, safety, or welfare requires adoption of a rule upon fewer than twenty
35 (20) days' notice and states in writing its reasons for that finding, it may
36 proceed without prior notice or hearing, or upon any abbreviated notice and

1 hearing that it may choose, to adopt an emergency rule ~~or regulation~~.

2 (2) The rule ~~or regulation~~ may be effective for no longer than
3 one hundred eighty (180) days.

4 (c)(1) A person has the right to petition for the issuance, amendment,
5 or repeal of any rule ~~or regulation~~.

6 (2) Within ninety (90) days after submission of a petition, the
7 commission either shall deny the petition, stating in writing its reasons for
8 the denial, or shall initiate rulemaking proceedings in accordance with
9 subsection (a) of this section.

10 (d)(1) The commission shall file with the Secretary of State a
11 certified copy of each rule ~~or regulation~~ adopted by it.

12 (2) The Secretary of State shall keep a permanent register of
13 the rule ~~or regulation~~ open to public inspection.

14 (3)(A) Each rule ~~or regulation~~ shall be effective twenty (20)
15 days after filing, unless a later date is specified by law or in the rule ~~or~~
16 ~~regulation itself~~.

17 (B) However, an emergency rule ~~or regulation~~ may become
18 effective immediately upon filing or at a stated time less than twenty (20)
19 days after filing if the commission finds that this effective date is
20 necessary because of imminent peril to the public health, safety, or welfare.

21 (C) The commission's finding and a brief statement of the
22 reasons shall be filed with the rule ~~or regulation~~.

23 (D) The commission shall take appropriate measures to make
24 emergency rules ~~or regulations~~ known to the persons who may be affected by
25 them.

26 (e) A rule ~~or regulation~~ shall not be valid unless adopted and filed
27 in substantial compliance with this chapter.

28
29 SECTION 1184. Arkansas Code § 15-58-205(a) and (b), concerning
30 inspections by the Arkansas Department of Environmental Quality under the
31 Arkansas Surface Coal Mining and Reclamation Act, are amended to read as
32 follows:

33 (a) The Director of the Arkansas Department of Environmental Quality
34 shall require such monitoring and reporting, shall cause to be made such
35 inspections of any surface coal mining and reclamation operations, shall
36 require the maintenance of such signs and markers, and shall take such other

1 actions as are necessary to administer, enforce, and evaluate the
2 administration of this chapter and to meet the state program requirements.
3 For these purposes, the director or his or her authorized representatives,
4 upon presentation of appropriate identifying credentials, shall have a right
5 of entry to, upon, or through any surface coal mining and reclamation
6 operations and, at reasonable times and without delay, may have access to and
7 copy any records and inspect any monitoring equipment or method of operation
8 required under this chapter or the ~~regulations~~ rules issued pursuant to this
9 chapter.

10 (b) The Arkansas Pollution Control and Ecology Commission shall issue
11 ~~regulations~~ rules which provide for informing the operator of violations
12 detected by an inspector, for making public all inspection and monitoring
13 reports and other records and reports adequate to enforce the requirements of
14 and to carry out the terms and purpose of this chapter. The ~~regulations~~ rules
15 shall also provide at a minimum for inspections without prior notice to the
16 permittee or his or her agents or employees, except for necessary on site
17 meetings with the permittee, on an irregular basis averaging not less than
18 one (1) partial inspection per month and one (1) complete inspection per
19 calendar quarter for the surface coal mining and reclamation operation
20 covered by the permit.

21
22 SECTION 1185. Arkansas Code § 15-58-205(c)(3), concerning inspections
23 by the Arkansas Department of Environmental Quality under the Arkansas
24 Surface Coal Mining and Reclamation Act, is amended to read as follows:

25 (3) The commission shall by ~~regulation~~ rule establish procedures
26 ensuring that adequate and complete inspections have been made and for the
27 review of reports from interested persons. The ~~regulations~~ rules shall
28 provide that the interested persons are furnished a written statement of the
29 reasons for the final disposition of the matter.

30
31 SECTION 1186. Arkansas Code § 15-58-206(b), concerning the prohibition
32 on enforcement personnel having a financial interest in underground or
33 surface coal mining operations, is amended to read as follows:

34 (b) The commission shall publish ~~regulations~~ rules to establish
35 methods by which the provisions of this section will be monitored and
36 enforced, including appropriate provisions for the persons to file for the

1 director's review, statements, and supplements thereto concerning any
2 financial interest which may be affected by this section.

3
4 SECTION 1187. Arkansas Code § 15-58-207(b), concerning public hearing
5 procedures under the Arkansas Surface Coal Mining and Reclamation Act, is
6 amended to read as follows:

7 (b) Notice shall be circulated in accordance with the ~~regulations~~
8 rules issued by the commission to inform interested and potentially
9 interested persons of the pending action.

10
11 SECTION 1188. Arkansas Code § 15-58-207(c)(3), concerning public
12 hearing procedures under the Arkansas Surface Coal Mining and Reclamation
13 Act, is amended to read as follows:

14 (3) If a public hearing is requested by an interested person on
15 or before ten (10) days of receipt of the objections and in accordance with
16 the ~~regulations~~ rules issued by the commission, public notice shall be given
17 in accordance with the ~~regulations~~ rules issued by the commission.

18
19 SECTION 1189. Arkansas Code § 15-58-207(g), concerning public hearing
20 procedures under the Arkansas Surface Coal Mining and Reclamation Act, is
21 amended to read as follows:

22 (g)(1) If there has been no public hearing held pursuant to this
23 section, the director or the commission shall grant or deny, in whole or in
24 part, the requested or proposed action within a reasonable time and in
25 accordance with ~~regulations~~ rules issued by the commission.

26 (2) Parties shall be notified by mail with a copy of the
27 decision.

28 (3) Public notice shall be given of the decision in accordance
29 with the ~~regulations~~ rules issued by the commission.

30
31 SECTION 1190. Arkansas Code § 15-58-208(b)(1)(B), concerning public
32 hearing examiners under the Arkansas Surface Coal Mining and Reclamation Act,
33 is amended to read as follows:

34 (B) Public notice of the information shall be circulated
35 in accordance with ~~regulations~~ rules issued by the commission;

36

1 SECTION 1191. Arkansas Code § 15-58-209(b), concerning adjudicatory
2 hearing procedures under the Arkansas Surface Coal Mining and Reclamation
3 Act, is amended to read as follows:

4 (b) Application for review must be made within thirty (30) days of
5 official notification of the action taken in subsection (a) of this section
6 or within thirty (30) days after the director or his or her authorized agent
7 issues his or her decision pursuant to the informal mine site hearing
8 provided in §§ 15-58-301(c) and 15-58-302 as determined in ~~regulations~~ rules
9 issued by the commission.

10
11 SECTION 1192. Arkansas Code § 15-58-210(c)(1), concerning adjudicatory
12 hearing presiding officers under the Arkansas Surface Coal Mining and
13 Reclamation Act, is amended to read as follows:

14 (1) To set the time and place for the public hearing in
15 accordance with ~~regulations~~ rules issued by the commission;

16
17 SECTION 1193. Arkansas Code § 15-58-210(c)(9), concerning adjudicatory
18 hearing presiding officers under the Arkansas Surface Coal Mining and
19 Reclamation Act, is amended to read as follows:

20 (9) To grant stays or temporary relief under conditions they
21 prescribe in accordance with ~~regulations~~ rules issued by the commission
22 pursuant to this chapter;

23
24 SECTION 1194. Arkansas Code § 15-58-212(a)(4), concerning judicial
25 review of administrative proceedings under the Arkansas Surface Coal Mining
26 and Reclamation Act, is amended to read as follows:

27 (4) The promulgation of rules ~~or regulations~~ by the commission
28 pursuant to §§ 15-58-207 and 15-58-208.

29
30 SECTION 1195. Arkansas Code § 15-58-301(a)-(c), concerning cessation
31 orders for violations not causing imminent danger or harm issued by the
32 Arkansas Department of Environmental Quality, are amended to read as follows:

33 (a) If the Director of the Arkansas Department of Environmental
34 Quality or his or her authorized representative determines on the basis of an
35 inspection or other available information that a permittee is in violation of
36 a requirement of this chapter or of the ~~regulations~~ rules issued pursuant to

1 this chapter or a permit condition required by this chapter or the
2 ~~regulations~~ rules issued pursuant to this chapter but the violation does not
3 create an imminent danger to the health or safety of the public or is not
4 causing or reasonably expected to cause significant imminent environmental
5 harm to land, air, or water resources, the director or his or her authorized
6 representative shall issue a notice of violation to the permittee or his or
7 her agent fixing a reasonable time, but not more than ninety (90) days, for
8 the abatement of the violation in accordance with the procedures set out in
9 ~~regulations~~ rules issued by the Arkansas Pollution Control and Ecology
10 Commission pursuant to this chapter.

11 (b) If, on expiration of the period of time as originally set in the
12 notice of violation for abatement of the violation, or as subsequently
13 extended, for good cause shown, and on written findings of the director or
14 his or her authorized representative, the director or his or her authorized
15 agent finds that the violation has not been abated, he or she shall
16 immediately issue a cessation order for surface mining operations in
17 accordance with the procedures set out in ~~regulations~~ rules issued by the
18 commission pursuant to this chapter on that portion of the area relevant to
19 the violation.

20 (c) The cessation order shall remain in effect until the director or
21 his or her authorized agent determines that the violation has been abated or
22 until modified, vacated, or terminated by the director or his or her
23 authorized agent. The cessation order shall expire within thirty (30) days of
24 actual notice to the operator unless an informal hearing is held in
25 accordance with ~~regulations~~ rules issued by the commission at the site or
26 within such reasonable proximity to the site that any viewings of the site
27 can be conducted during the course of the public hearing.

28
29 SECTION 1196. Arkansas Code § 15-58-302(a) and (b), concerning
30 cessation orders for violations causing imminent danger or harm issued by the
31 Arkansas Department of Environmental Quality, are amended to read as follows:

32 (a) If the Arkansas Department of Environmental Quality or his or her
33 authorized representative determines, on the basis of an inspection or other
34 available information, that a condition or practice exists or that a
35 permittee is in violation of a requirement of this chapter or of the
36 ~~regulations~~ rules issued pursuant to this chapter or of a permit condition

1 required by this chapter or the ~~regulations~~ rules issued pursuant to this
2 chapter, and that this condition, practice, or violation also creates an
3 imminent danger to the health or safety of the public or is causing or can
4 reasonably be expected to cause significant imminent environmental harm to
5 land, air, or water resources, the director or his or her authorized
6 representative or agent shall immediately issue a cessation order in
7 accordance with the procedures set out in ~~regulations~~ rules issued by the
8 Arkansas Pollution Control and Ecology Commission pursuant to this chapter
9 requiring the immediate termination of all surface coal mining and
10 reclamation operations or the portion thereof relevant to the condition,
11 practice, or violation.

12 (b) The cessation order shall remain in effect until the director or
13 his or her authorized representative determines that the condition, practice,
14 or violation has been abated or until the order has been modified, vacated,
15 or terminated by the director or his or her authorized representative. The
16 cessation order shall expire within thirty (30) days of actual notice to the
17 operator unless an informal hearing is held in accordance with ~~regulations~~
18 rules issued by the commission at the site or within such reasonable
19 proximity to the site that any viewings of the site can be conducted during
20 the course of public hearing.

21

22 SECTION 1197. Arkansas Code § 15-58-303(a), concerning an order to
23 show cause for pattern violations issued by the Arkansas Department of
24 Environmental Quality, is amended to read as follows:

25 (a) On the basis of an inspection, if the Director of the Arkansas
26 Department of Environmental Quality or his or her authorized agent has reason
27 to believe that a pattern of violations of any requirements of this chapter
28 or the ~~regulations~~ rules issued pursuant to this chapter or any permit
29 conditions required by this chapter or by the ~~regulations~~ rules issued
30 pursuant to this chapter exists or has existed and if the director or his or
31 her authorized agent also finds that these violations are caused by the
32 unwarranted failure of the permittee to comply with requirements of this
33 chapter or permit conditions or that the violations are willfully caused by
34 the permittee, the director or his or her authorized agent shall issue to the
35 permittee forthwith an order to show cause as to why the permit should not be
36 suspended or revoked in accordance with the procedures set out in ~~regulations~~

1 rules issued by the Arkansas Pollution Control and Ecology Commission
2 pursuant to this chapter.

3
4 SECTION 1198. Arkansas Code § 15-58-304 is amended to read as follows:
5 15-58-304. Violating a condition of a permit or order – Criminal
6 penalties.

7 (a) Any person who willfully and knowingly violates a condition of a
8 permit issued under this chapter or fails or refuses to comply with an order
9 authorized by §§ 15-58-301 – 15-58-303 or any order incorporated in a final
10 decision issued by the Arkansas Pollution Control and Ecology Commission or
11 its authorized representative pursuant to this chapter and the ~~regulations~~
12 rules issued pursuant to this chapter or any person engaging in surface coal
13 mining operations without a permit issued under this chapter shall be guilty
14 of a misdemeanor and may be upon conviction punished by a criminal penalty of
15 not more than ten thousand dollars (\$10,000) or by imprisonment for not more
16 than one (1) year, or by both. Each day during which violation or
17 noncompliance exists shall be deemed to be a separate violation.

18 (b) If a corporate permittee violates a condition of a permit issued
19 under this chapter or fails or refuses to comply with an order issued
20 pursuant to §§ 15-58-301 – 15-58-303 or any order incorporated in a final
21 decision issued by the commission or its authorized representative pursuant
22 to this chapter and the ~~regulations~~ rules issued pursuant to this chapter, a
23 director, officer, or agent of the corporation who willfully and knowingly
24 authorized, ordered, or carried out the violation, failure, or refusal shall
25 be guilty of a misdemeanor and upon conviction may be punished by a criminal
26 penalty of not more than ten thousand dollars (\$10,000) or by imprisonment
27 for not more than one (1) year or by both. Each day during which the
28 violation or noncompliance exists shall be deemed to be a separate violation.

29
30 SECTION 1199. Arkansas Code § 15-58-307(a), concerning penalties
31 issued by the Arkansas Pollution Control and Ecology Commission, is amended
32 to read as follows:

33 (a) Any person who violates any permit condition or who violates any
34 other provision of this chapter or the ~~regulations~~ rules issued pursuant to
35 this chapter may in accordance with the ~~regulations~~ rules issued by the
36 Arkansas Pollution Control and Ecology Commission be assessed a civil penalty

1 by the commission, except that if such violation leads to the issuance of a
2 cessation order, the civil penalty shall be assessed. The penalty shall not
3 exceed five thousand dollars (\$5,000) for each violation and shall be based
4 on a schedule which the commission shall issue by ~~regulation~~ rule. Each day
5 of continuing violation may be deemed a separate violation for purposes of
6 penalty assessments.

7
8 SECTION 1200. Arkansas Code § 15-58-307(c), concerning penalties
9 generally issued by the Arkansas Pollution Control and Ecology Commission, is
10 amended to read as follows:

11 (c) Any operator who fails to complete the corrective measures
12 designated in a notice of violation or a cessation order within the period
13 designated for correction, which period shall not end until the entry of a
14 final order by the commission if administrative review proceedings are
15 initiated, and the presiding officer orders, after an expedited hearing, the
16 suspension of the abatement requirements of the citation after determining
17 that the operator will suffer irreparable loss or damage from the application
18 of those requirements, or until the entry of a final order of the circuit
19 court, in the case of any judicial review proceedings wherein the court
20 orders suspension of the abatement requirements of the citation, shall, in
21 accordance with ~~regulations~~ rules issued by the commission, be assessed a
22 civil penalty of not less than seven hundred fifty dollars (\$750) for each
23 day during which such failure continues.

24
25 SECTION 1201. Arkansas Code § 15-58-308(b), concerning requesting the
26 Attorney General to institute civil actions and injunctions on behalf of the
27 Arkansas Pollution Control and Ecology Commission, is amended to read as
28 follows:

29 (b) The civil action may be instituted whenever the person or his or
30 her agent:

31 (1) Violates or fails or refuses to comply with any order or
32 decision issued by the director or his or her authorized representative under
33 this chapter or under the ~~regulations~~ rules issued pursuant to this chapter;

34 (2) Interferes with, hinders, or delays the director or his or
35 her authorized representatives in carrying out the provisions of this chapter
36 or the ~~regulations~~ rules issued pursuant to this chapter;

1 (3) Refuses to permit inspection of the mine by the authorized
2 representative;

3 (4) Refuses to furnish any information or report requested by
4 the director in furtherance of the provisions of this chapter or the
5 ~~regulations~~ rules issued pursuant to this chapter; or

6 (5) Refuses to permit access to, and copying of, records the
7 director determines necessary to carry out the provisions of this chapter or
8 the ~~regulations~~ rules issued pursuant to this chapter.

9
10 SECTION 1202. Arkansas Code § 15-58-309(a), concerning a private right
11 of action under the Arkansas Surface Coal Mining and Reclamation Act, is
12 amended to read as follows:

13 (a) Any person having an interest which is or may be adversely
14 affected may commence a civil action on his or her own behalf to compel
15 compliance with this chapter or the ~~regulations~~ rules issued pursuant to this
16 chapter:

17 (1) Against the State of Arkansas or any other state
18 instrumentality or agency which is alleged to be in violation of the
19 provisions of this chapter or of any rule, ~~regulation~~, order, or permit
20 issued pursuant thereto, or against any other person who is alleged to be in
21 violation of any rule, ~~regulation~~, order, or permit issued pursuant to this
22 chapter; or

23 (2) Against the Director of the Arkansas Department of
24 Environmental Quality or the Arkansas Pollution Control and Ecology
25 Commission where there is alleged a failure of the director or the commission
26 to perform any act or duty under this chapter which is not discretionary with
27 the director or with the commission.

28
29 SECTION 1203. Arkansas Code § 15-58-309(b)(1)(B), concerning a private
30 right of action under the Arkansas Surface Coal Mining and Reclamation Act,
31 is amended to read as follows:

32 (B) If the director has commenced and is diligently
33 prosecuting a civil action to require compliance with the provisions of this
34 chapter, or any rule, ~~regulation~~, order, or permit issued pursuant to this
35 chapter, but in any such action any person may intervene as a matter of
36 right; or

1
2 SECTION 1204. Arkansas Code § 15-58-309(b)(2), concerning a private
3 right of action under the Arkansas Surface Coal Mining and Reclamation Act,
4 is amended to read as follows:

5 (2) Under subdivision (a)(2) of this section prior to sixty (60)
6 days after the plaintiff has given notice in writing of the action to the
7 director in such manner as the commission shall by ~~regulation~~ rule prescribe,
8 or to the commission, except that the action may be brought immediately after
9 notification in the case where the violation or order complained of
10 constitutes an imminent threat to the health or safety of the plaintiff or
11 would immediately affect a legal interest of the plaintiff.

12
13 SECTION 1205. Arkansas Code § 15-58-309(c)(1), concerning a private
14 right of action under the Arkansas Surface Coal Mining and Reclamation Act,
15 is amended to read as follows:

16 (c)(1) Any action respecting a violation of this chapter or the
17 ~~regulations~~ rules thereunder may be brought only in the Pulaski County
18 Circuit Court if the action is filed against the State of Arkansas, the
19 commission, the director, or any other state instrumentality or agency, and
20 in Pulaski County or in the county in which the greater part of the surface
21 coal mining operation complained of is located if the action is filed against
22 any other person.

23
24 SECTION 1206. Arkansas Code § 15-58-309(e) and (f), concerning a
25 private right of action under the Arkansas Surface Coal Mining and
26 Reclamation Act, are amended to read as follows:

27 (e) Nothing in this section shall restrict any right which any person
28 or class of persons may have under any statute or common law to seek
29 enforcement of any of the provisions of this chapter and the ~~regulations~~
30 rules thereunder or to seek any other relief, including relief against the
31 director, the commission, or the department.

32 (f) Any person who is injured in his or her person or property through
33 the violation by any operation of any rule, ~~regulation~~, order, or permit
34 issued pursuant to this chapter may bring an action for damages, including
35 reasonable attorney and expert witness fees only in the judicial district in
36 which the surface coal mining operation complained of is located. Nothing in

1 this subsection shall affect the rights established by or limits imposed
2 under the Workers' Compensation Law, § 11-9-101 et seq.

3
4 SECTION 1207. Arkansas Code § 15-58-404(c)(2)(A), concerning the
5 abatement of adverse effects determination by the Director of the Arkansas
6 Department of Environmental Quality, is amended to read as follows:

7 (2)(A) The lien under subdivision (c)(1) of this section is
8 effective upon the filing by the director of a notice of lien with the
9 circuit clerk of the county in which the land is located and in accordance
10 with the ~~regulations~~ rules issued by the Arkansas Pollution Control and
11 Ecology Commission.

12
13 SECTION 1208. Arkansas Code § 15-58-404(d)(2), concerning the
14 abatement of adverse effects determination by the Director of the Arkansas
15 Department of Environmental Quality, is amended to read as follows:

16 (2) The commission by ~~regulations~~ rule shall establish
17 procedures for determining the amount of the lien.

18
19 SECTION 1209. Arkansas Code § 15-58-407(b), concerning the use of
20 acquired lands through an approved state abandoned mine reclamation program,
21 is amended to read as follows:

22 (b) The hearing shall be held in accordance with procedures
23 established by the commission through ~~regulations~~ rules and at a time which
24 shall afford local citizens and governments the maximum opportunity to
25 participate in the decision concerning the use or disposition of the lands
26 after restoration, reclamation, abatement, control, or prevention of the
27 adverse effects of past coal mining practices.

28
29 SECTION 1210. Arkansas Code § 15-58-501(a), concerning the designation
30 of land as unsuitable by the Arkansas Pollution Control and Ecology
31 Commission, is amended to read as follows:

32 (a) The Arkansas Pollution Control and Ecology Commission shall issue
33 ~~regulations~~ rules that adopt appropriate procedures for identifying and
34 designating land in this state as unsuitable for all or certain types of
35 surface mining, which ~~regulations~~ rules shall:

36 (1) Prevent surface coal mining operations on those lands upon

1 which surface coal mining operations are prohibited by Public Law 95-87;

2 (2) Adopt a procedure for development of a database and
3 inventory system which will permit proper evaluation of the capacity of
4 different land areas of this state to support and permit reclamation of
5 surface coal mining operations and which includes methods for integrating and
6 implementing federal, state, and local land use planning decisions;

7 (3) Integrate into the procedure as closely as possible present
8 and future land use planning and regulation processes at the federal, state,
9 and local levels; and

10 (4) Provide that any person having an interest which is or may
11 be adversely affected may petition the commission to have an area designated
12 as unsuitable for all or certain types of surface coal mining operations or
13 to have a designation terminated. Within ten (10) months after the filing of
14 the petition, the commission shall hold a public hearing in accordance with
15 §§ 15-58-207 and 15-58-208.

16
17 SECTION 1211. Arkansas Code § 15-58-502(b), concerning the necessity
18 of a permit from the Arkansas Department of Environmental Quality for surface
19 coal mining, is amended to read as follows:

20 (b) No person shall engage in or carry out on lands within the state
21 any surface coal mining operations unless that person has first obtained a
22 permit issued by the Director of the Arkansas Department of Environmental
23 Quality pursuant to this chapter and in accordance with the ~~regulations~~ rules
24 issued pursuant to this chapter.

25
26 SECTION 1212. Arkansas Code § 15-58-503 is amended to read as follows:

27 15-58-503. ~~Regulations~~ Rules generally.

28 (a)(1) The Arkansas Pollution Control and Ecology Commission shall
29 issue ~~regulations~~ rules as are required pursuant to the state program
30 requirements of the Surface Mining Control and Reclamation Act of 1977, Pub.
31 L. No. 95-87, designating the required information, the criteria, and the
32 procedures for submitting, processing, and issuing or denying initial or
33 revised applications for permits and renewals thereof to conduct surface coal
34 mining and reclamation operations in this state.

35 (2) The ~~regulations~~ rules shall require inclusion of all the
36 documents, permits, notices, maps, reports, schedules, test results,

1 reclamation and blasting plans, bonds, insurance certificates, and other
2 information as is reasonably necessary to process the application, to ensure
3 compliance with the provisions of this chapter and the ~~regulations~~ rules
4 issued pursuant to this chapter and to meet the state program requirements.

5 (3)(A) The ~~regulations~~ rules shall specifically provide that all
6 applications shall include a determination of the probable hydrologic
7 consequences of the mining and reclamation operations, both on and off the
8 mine site, with respect to the hydrologic regime, quantity, and quality of
9 water in surface and groundwater systems, including the dissolved and
10 suspended solids under seasonal flow conditions and the collection of
11 sufficient data for the mine site and surrounding surface areas so that an
12 assessment can be made by the Director of the Arkansas Department of
13 Environmental Quality of the probable cumulative impacts of all anticipated
14 mining in the area upon the hydrology of the area and particularly upon water
15 availability. However, this determination shall not be required until
16 hydrologic information on the general area prior to mining is made available
17 from an appropriate federal or state agency. The permit shall not be approved
18 until the information is available and is incorporated into the application.

19 (B) The costs of the following activities, which shall be
20 performed by a qualified public or private laboratory or other public or
21 private qualified entity designated by the Arkansas Department of
22 Environmental Quality shall be borne, upon written request of the small
23 operator, by the department in accordance with ~~regulations~~ rules issued by
24 the commission:

25 (i) The determination of the probable hydrologic
26 consequences required by this subdivision (a)(2), including the engineering
27 analysis and designs necessary for the determination;

28 (ii) The development of cross-sections, maps, and
29 plans of land to be affected by an application for a surface coal mining and
30 reclamation permit which shall be prepared by or under the direction of a
31 qualified registered professional engineer or geologist with assistance from
32 experts in related fields such as land surveying and landscape architecture,
33 showing pertinent elevation and location of test borings or core samplings
34 and depicting the following information:

35 (a) The nature and depth of the various strata
36 of overburden;

- 1 (b) The location of subsurface water, if
2 encountered, and its quality;
- 3 (c) The nature and thickness of any coal or
4 rider seam above the coal seam to be mined;
- 5 (d) The nature of the stratum immediately
6 below the coal seam to be mined;
- 7 (e) All mineral crop lines and the strike and
8 dip of the coal to be mined, within the area of the land to be affected;
- 9 (f) Existing or previous surface mining
10 limits;
- 11 (g) The location and extent of known workings
12 of any underground mines, including mine openings to the surface;
- 13 (h) The location of aquifers;
- 14 (i) The estimated elevation of the water
15 table;
- 16 (j) The location of spoil, waste, or refuse
17 areas and topsoil preservation areas;
- 18 (k) The locations of all impoundments for
19 waste or erosion control;
- 20 (l) Any settling or water treatment facility;
- 21 (m) Constructed or natural drainways and the
22 location of any discharges to any surface body of water on the area of land
23 to be affected or adjacent thereto; and
- 24 (n) Profiles at appropriate cross-sections of
25 the anticipated final surface configuration that will be achieved pursuant to
26 the operator's proposed reclamation plan;
- 27 (iii) The geologic drilling and a statement of the
28 result of the test borings or core samplings from the permit area, including:
- 29 (a) Logs of the drill holes;
- 30 (b) The thickness of the coal seam found, and
31 an analysis of the chemical properties of the coal;
- 32 (c) The sulfur content of any coal seam;
- 33 (d) Chemical analysis of potentially acid or
34 toxic-forming sections of the overburden; and
- 35 (e) Chemical analysis of the stratum lying
36 immediately underneath the coal to be mined,

1 except that the provisions of this subdivision (a)(2)(B)(iii) may be waived
2 by the director with respect to the specific application by a written
3 determination that such requirements are unnecessary;

4 (iv) The collection of archeological information and
5 any other historical information sufficient to prepare accurate maps to an
6 appropriate scale clearly showing all man-made features and significant known
7 archeological sites existing on the date of application, and the preparation
8 of plans necessitated thereby;

9 (v) Preblast surveys, as requested by a resident or
10 owner of a man-made dwelling or structure within one-half ($\frac{1}{2}$) mile of any
11 portion of the permitted area. The applicant or permittee shall conduct the
12 preblast survey of such structures and submit the survey to the director and
13 a copy to the resident or owner making the request;

14 (vi) The collection of site-specific resource
15 information and production of protection and enhancement plans for fish and
16 wildlife habitats and other environmental values required by the director
17 under this chapter; and

18 (vii) The department shall provide or assume the
19 cost of training small operators concerning the preparation of permit
20 applications and compliance with the regulatory program and shall ensure that
21 small operators are aware of the assistance available under this subdivision
22 (a)(2).

23 (C) A coal operator that has received assistance pursuant
24 to this subdivision (a)(2) shall reimburse the department for the cost of the
25 services rendered if the director finds that the operator's actual and
26 attributed annual production of coal for all locations exceeds three hundred
27 thousand (300,000) tons during the twelve (12) months immediately following
28 the date on which the operator is issued the surface coal mining and
29 reclamation permit.

30 (4) The ~~regulations~~ rules shall provide that no initial or
31 revised permit will be approved unless the application affirmatively
32 demonstrates and the director finds in writing on the basis of the
33 information set forth in the application or from information otherwise
34 available which will be documented in the approval and made available to the
35 applicants, that:

36 (A) The permit application is accurate and complete and

1 that all the requirements of this chapter and the ~~regulations~~ rules issued
2 pursuant to this chapter have been complied with;

3 (B) The applicant has demonstrated that reclamation as
4 required by this chapter and the ~~regulations~~ rules issued pursuant to this
5 chapter can be accomplished under the reclamation plan contained in the
6 permit application;

7 (C) The assessment of the probable cumulative impact of
8 all anticipated mining in the area on the hydrologic balance specified in
9 subdivision (a)(2) of this section has been made by the director and the
10 proposed operation thereof has been designed to prevent material damage to
11 the hydrologic balance outside the permit area;

12 (D) The area proposed to be mined is not included within
13 an area designated unsuitable for surface coal mining pursuant to § 15-58-501
14 or is not within an area under study for the designation in an administrative
15 proceeding commenced pursuant to §§ 15-58-207 and 15-58-208;

16 (E) Any violation of this chapter or the ~~regulations~~ rules
17 issued pursuant to this chapter or any law, rule, or regulation of this
18 state, the United States, or agencies of this state or the United States
19 pertaining to air or water environmental protection incurred by the applicant
20 in connection with any surface coal mining operation during the three-year
21 period prior to the date of application has been corrected or is in the
22 process of being corrected to the satisfaction of the director, department,
23 or agency which has jurisdiction over the violation. No permit shall be
24 issued to an applicant after a finding by the director after opportunity for
25 hearing that the applicant, or the operator specified in the application,
26 controls or has controlled mining operations with a demonstrated pattern of
27 willful violations of this chapter or the ~~regulations~~ rules issued pursuant
28 to this chapter of a nature and duration with resulting irreparable damage to
29 the environment as to indicate an intent not to comply with the provisions of
30 this chapter or the ~~regulations~~ rules issued pursuant to this chapter;

31 (F) If the area proposed to be mined contains prime
32 farmland, the operator has the technological capability to restore the mined
33 area, within a reasonable time to equivalent or higher levels of yield as
34 nonmined prime farmland in the surrounding area under equivalent levels of
35 management and can meet the soil reconstruction standards established by the
36 commission by ~~regulation~~ rule;

1 (G) After March 1, 1995, the prohibition of subdivision
2 (a)(3)(E) of this section shall not apply to a permit application due to any
3 violation resulting from an unanticipated event or condition at a surface
4 coal mining operation on lands eligible for remining under a permit held by
5 the person making the application. As used in this subdivision (a)(3)(G), the
6 term "violation" has the same meaning as the term has under subdivision
7 (a)(3)(E) of this section.

8 (5) The ~~regulations~~ rules shall provide that all permits shall
9 be issued for a term not to exceed five (5) years unless the applicant
10 demonstrates that a specified longer term is reasonably needed to allow the
11 applicant to obtain necessary financing for equipment and the opening of
12 operation.

13 (6) The ~~regulations~~ rules shall provide that any extensions to
14 the area covered by the permit except incidental boundary revisions must be
15 made by application for another permit.

16 (7) The ~~regulations~~ rules shall provide that no transfer,
17 assignment, or sale of the rights granted under any permit issued under this
18 chapter shall be made without the written approval of the director. However,
19 the commission may issue ~~regulations~~ rules providing for a review of
20 outstanding permits, and the director may, in accordance with the ~~regulations~~
21 rules, and based upon written findings after notice and public hearing,
22 require reasonable revisions or modifications of the permit during the term
23 of the permit.

24 (b) The commission shall develop by ~~regulation~~ rule procedures for
25 coordinating the issuance of permits required by federal, state, and local
26 agencies for surface coal mining operations.

27 (c) The commission shall issue ~~regulations~~ rules to protect
28 confidential information which is submitted to the department as part of a
29 permit application or pursuant to the coal exploration requirements.

30
31 SECTION 1213. Arkansas Code § 15-58-504 is amended to read as follows:
32 15-58-504. Exploration operations.

33 (a) Coal exploration operations which substantially disturb the
34 natural land surface shall be conducted in accordance with coal exploration
35 ~~regulations~~ rules issued by the Arkansas Pollution Control and Ecology
36 Commission.

1 (b) Coal exploration ~~regulations~~ rules shall provide, at a minimum,
2 that prior to conducting any exploration under this subchapter, any person
3 must file with the Arkansas Department of Environmental Quality notice of
4 intention to explore, and that no operator shall remove more than two hundred
5 fifty (250) tons of coal pursuant to an exploration permit without the
6 specific written approval of the department.

7 (c) Coal exploration operations which substantially disturb the
8 natural land surface in violation of this chapter or in violation of the
9 ~~regulations~~ rules issued pursuant to this chapter shall be subject to the
10 civil and criminal penalties and enforcement provisions of this chapter.

11
12 SECTION 1214. Arkansas Code § 15-58-505 is amended to read as follows:
13 15-58-505. Filing objections to permits.

14 Any person having an interest which is or may be adversely affected, or
15 the officer or head of any federal, state, or local affected governmental
16 agency may, in accordance with §§ 15-58-207 and 15-58-208 and the ~~regulations~~
17 rules promulgated by the Arkansas Pollution Control and Ecology Commission,
18 file written objections to a proposed initial or revised permit for surface
19 coal mining and reclamation operations, or renewal thereof.

20
21 SECTION 1215. Arkansas Code § 15-58-506(a)(2), concerning permit
22 renewal under the Arkansas Surface and Coal Mining and Reclamation Act, is
23 amended to read as follows:

24 (2) The present surface coal mining and reclamation operation is
25 not in compliance with the environmental protection standards of this chapter
26 and the ~~regulations~~ rules issued pursuant to this chapter;

27
28 SECTION 1216. Arkansas Code § 15-58-508(a), concerning the fees for
29 the Surface Coal Mining Operation Fund, is amended to read as follows:

30 (a) Each application for a surface coal mining permit or renewal of
31 that permit shall be accompanied by an initial application fee as determined
32 by the Director of the Arkansas Department of Environmental Quality in
33 accordance with a fee schedule which the Arkansas Pollution Control and
34 Ecology Commission shall develop and issue by ~~regulation~~ rules.

35
36 SECTION 1217. Arkansas Code § 15-58-509(a), concerning performance

1 bonds under the Arkansas Surface and Coal Mining and Reclamation Act, is
2 amended to read as follows:

3 (a) After a surface coal mining and reclamation permit application has
4 been approved but before the permit is issued, the applicant shall file a
5 bond with the Arkansas Department of Environmental Quality. This bond shall
6 be on a form furnished by the department in accordance with the ~~regulations~~
7 rules issued by the Arkansas Pollution Control and Ecology Commission. It
8 shall be for performance or acceptable alternative payable, as appropriate,
9 to the department of and conditioned upon faithful performance of all the
10 requirements of this chapter, the ~~regulations~~ rules issued pursuant to this
11 chapter, and the permit.

12
13 SECTION 1218. Arkansas Code § 15-58-509(c) and (d), concerning
14 performance bonds under the Arkansas Surface and Coal Mining and Reclamation
15 Act, are amended to read as follows:

16 (c) The ~~regulations~~ rules shall include provisions for posting a bond
17 sufficient to cover that area of land within the permit area upon which the
18 operator will initiate and conduct surface coal mining and reclamation
19 operations within the initial term of the permit and for filing additional
20 bonds to cover succeeding increments of area within the permit upon which the
21 operator intends to conduct surface coal mining and reclamation operations.

22 (d) Liability under the bond shall be for the duration of the surface
23 coal mining and reclamation operation and for that period required to
24 establish successful revegetation in accordance with the ~~regulations~~ rules
25 issued by the commission.

26
27 SECTION 1219. Arkansas Code § 15-58-509(f), concerning performance
28 bonds under the Arkansas Surface and Coal Mining and Reclamation Act, is
29 amended to read as follows:

30 (f) The commission shall issue ~~regulations~~ rules setting out the
31 criteria and procedures for processing requests for the release of all or any
32 part of a performance bond provided that no bond shall be fully released
33 until all reclamation requirements of this chapter and the ~~regulations~~ rules
34 issued pursuant to this chapter are fully met. ~~Regulations~~ Rules shall
35 include provisions for public notice of all requests for full or partial
36 releases, an inspection and evaluation of the reclamation work, and a

1 schedule for partial releases.

2
3 SECTION 1220. Arkansas Code § 15-58-510 is amended to read as follows:
4 15-58-510. Environmental protection performance standards.

5 (a) Any permit issued pursuant to this chapter to conduct surface coal
6 mining operations and any authorization to conduct coal exploration
7 operations shall require that operations will meet all applicable performance
8 standards of this chapter and the ~~regulations~~ rules issued pursuant to this
9 chapter.

10 (b) The commission shall issue ~~regulations~~ rules which are consistent
11 with and in accordance with, but no more restrictive than, all the applicable
12 environmental protection performance standards found in Public Law 95-87 and
13 in the regulations issued pursuant to Public Law 95-87.

14 (c) The commission shall issue ~~regulations~~ rules requiring the
15 training, examination, and certification of persons engaging in or directly
16 responsible for blasting or use of explosives in surface coal mining
17 operations.

18 (d) All departures, variances, and exceptions from the performance
19 standards which are provided in Public Law 95-87 and in the regulations
20 issued pursuant to that chapter and other departures, variances, and
21 exceptions which may be granted through a state program shall be provided for
22 in the ~~regulations~~ rules issued by the commission pursuant to this chapter.
23 The departures, variances, and exceptions provided for in Public Law 95-87
24 and in the regulations issued pursuant to that law shall be granted or
25 allowed upon a showing of the same circumstances and conditions required in
26 Public Law 95-87 or in the regulations issued pursuant to that law.

27
28 SECTION 1221. Arkansas Code § 15-71-103(d), concerning the
29 organization of the Oil and Gas Commission, is amended to read as follows:

30 (d)(1) A majority of the commission shall constitute a quorum, and a
31 majority of those voting for and against the adoption or promulgation of any
32 rule, ~~regulation~~, or order shall be necessary for the adoption or
33 promulgation of the rule, ~~regulation~~, or order.

34 (2) However, in no event shall any rule, ~~regulation~~, or order be
35 adopted or promulgated without receiving at least five (5) affirmative votes.

36

1 SECTION 1222. Arkansas Code § 15-71-105(c)(5)(B), concerning the
2 duties and powers of the Director of Production and Conservation of the Oil
3 and Gas Commission, is amended to read as follows:

4 (B) An order, or rule, ~~or regulation~~ issued by the
5 commission;

6
7 SECTION 1223. Arkansas Code § 15-71-105(c)(7), concerning the duties
8 and powers of the Director of Production and Conservation of the Oil and Gas
9 Commission, is amended to read as follows:

10 (7) Perform any other duty or act required or authorized by law
11 or the rules, ~~regulations~~, or orders of the commission.

12
13 SECTION 1224. The introductory language of Arkansas Code § 15-71-
14 110(d), concerning the powers, duties, and rules of the Oil and Gas
15 Commission, is amended to read as follows:

16 (d) After hearing and notice as provided in this act, the commission
17 may make such reasonable rules, ~~regulations~~, and orders as are necessary from
18 time to time in the proper administration and enforcement of this act,
19 including rules, ~~regulations~~, or orders for the following purposes:

20
21 SECTION 1225. Arkansas Code § 15-71-110(d)(14)(B), concerning the
22 powers, duties, and rules of the Oil and Gas Commission, is amended to read
23 as follows:

24 (B) To require that casing and cementing of supply wells
25 and injection wells be done in accordance with such rules ~~and regulations~~ as
26 may be promulgated by the commission;

27
28 SECTION 1226. Arkansas Code § 15-71-111(c), concerning the procedural
29 rules, orders, and hearings of the Oil and Gas Commission, is amended to read
30 as follows:

31 (c)(1) In the event an emergency is found to exist by the commission
32 which in its judgment requires the making, changing, renewal, or extension of
33 a rule, ~~regulation~~, or order without first having a hearing, the emergency
34 rule, ~~regulation~~, or order shall have the same validity as if a hearing with
35 respect to that rule, ~~regulation~~, or order had been held after due notice.

36 (2) The emergency rule, ~~regulation~~, or order permitted by this

1 subsection is effective until the date of the next regular commission hearing
2 set to be held after the emergency rule, ~~regulation~~, or order was issued.

3 (3) In any event, it shall expire when the rule, ~~regulation~~, or
4 order made after due notice and hearing with respect to the subject matter of
5 the emergency rule, ~~regulation~~, or order becomes effective.

6
7 SECTION 1227. Arkansas Code § 15-71-111(e), concerning the procedural
8 rules, orders, and hearings of the Oil and Gas Commission, is amended to read
9 as follows:

10 (e) All rules, ~~regulations~~, and orders made by the commission shall be
11 in writing and shall be entered in full by the Director of Production and
12 Conservation in a book to be kept for such purpose by the commission. This
13 book shall be a public record and shall be open to inspection at all times
14 during reasonable office hours. A copy of the rule, ~~regulation~~, or order,
15 certified by the director, shall be received in evidence in all courts of
16 this state with the same effect as the original.

17
18 SECTION 1228. Arkansas Code § 15-71-113(b), concerning the authority
19 of the Oil and Gas Commission to acquire and maintain unmarked cars, is
20 amended to read as follows:

21 (b) Since marked cars sometimes prove a hindrance to the commission in
22 carrying out its inspection, investigation, and enforcement responsibilities,
23 the commission is exempted from any and all laws and administrative
24 ~~regulations~~ rules regarding special registration tags and special decals for
25 state-owned vehicles.

26
27 SECTION 1229. Arkansas Code § 15-71-114(a)(2)(B), concerning the
28 permit required for field seismic operations from the Oil and Gas Commission,
29 is amended to read as follows:

30 (B) The application shall include the name and principal
31 business address of the applicant, the location in the state where the
32 applicant plans to conduct field seismic operations, a designated agent for
33 service of process in Arkansas, and such other information as may be
34 prescribed by ~~regulation~~ rule of the commission.

35
36 SECTION 1230. Arkansas Code § 15-71-114(a)(3)(D)(ii), concerning the

1 permit required for field seismic operations from the Oil and Gas Commission,
2 is amended to read as follows:

3 (ii) However, the claim shall be subordinate to the
4 rights of the commission under the financial assurance to secure compliance
5 by the permittee with the provisions of this section and the rules ~~and~~
6 ~~regulations~~ of the commission promulgated under this section.

7
8 SECTION 1231. Arkansas Code § 15-71-114(b), concerning the permit
9 required for field seismic operations from the Oil and Gas Commission, is
10 amended to read as follows:

11 (b) The commission shall have authority to make such reasonable rules,
12 ~~regulations~~, and orders as necessary from time to time for the proper
13 administration and enforcement of this section and to require the payment of
14 a registration fee of two hundred fifty dollars (\$250) or such sum as the
15 commission may prescribe for each application for registration filed under
16 this section. However, in no event shall the fee exceed five hundred dollars
17 (\$500).

18
19 SECTION 1232. Arkansas Code § 15-71-114(d), concerning the permit
20 required for field seismic operations from the Oil and Gas Commission, is
21 amended to read as follows:

22 (d)(1) Any person who conducts any field seismic operation in the
23 state without having obtained a permit under this section or without having
24 fully complied with the provisions of this section or any rules ~~and~~
25 ~~regulations~~ adopted by the commission under this section is subject to a
26 civil penalty of two thousand five hundred dollars (\$2,500) for each day the
27 operation continues.

28 (2) Any person who, for the purpose of evading this section or
29 any rule, ~~regulation~~, or order made under this section, intentionally makes
30 or causes to be made any false entry or statement of fact in any application
31 report required to be made by this section or by any rule, ~~regulation~~, or
32 order made under this section, or who, for such a purpose, omits to make or
33 causes to be omitted, any entry, statement of fact, or report required to be
34 made by this section or any rule, ~~regulation~~, or order made under this
35 section, or who, for such a purpose, moves out of the jurisdiction of the
36 state, shall be guilty of a misdemeanor and shall be subject to a fine of not

1 more than five thousand dollars (\$5,000) or imprisonment for a term of not
2 more than six (6) months, or to both such fine and imprisonment.

3
4 SECTION 1233. Arkansas Code § 15-71-117(c)(1), concerning an
5 exploration and production fluid transportation system and natural gas
6 pipeline system operator fees, is amended to read as follows:

7 (c)(1) Each application for a hearing shall be accompanied by a fee as
8 determined by the commission in an amount up to two dollars (\$2.00) for each
9 person whose address is provided by the applicant and the applicant has
10 identified in the application or requested to receive a copy of the order
11 from the hearing under the Oil and Gas Commission's General Rules ~~and~~
12 ~~Regulations~~ Rule A-2(a)(5).

13
14 SECTION 1234. Arkansas Code § 15-72-102(4), concerning the definition
15 of "illegal gas" under the statutes addressing oil and gas production and
16 conservation, is amended to read as follows:

17 (4) "Illegal gas" means gas which has been produced within the
18 State of Arkansas from any well during any time that that well has produced
19 in excess of the amount allowed by any rule, ~~regulation~~, or order of the
20 commission, as distinguished from gas produced within the State of Arkansas
21 from a well not producing in excess of the amount so allowed, which is "legal
22 gas";

23
24 SECTION 1235. Arkansas Code § 15-72-102(5), concerning the definition
25 of "illegal oil" under the statutes addressing oil and gas production and
26 conservation, is amended to read as follows:

27 (5) "Illegal oil" means oil which has been produced within the
28 State of Arkansas from any well during any time that that well has produced
29 in excess of the amount allowed by rule, ~~regulation~~, or order of the
30 commission, as distinguished from oil produced within the State of Arkansas
31 from a well not producing in excess of the amount so allowed, which is "legal
32 oil";

33
34 SECTION 1236. Arkansas Code § 15-72-103(a)(1)(B), concerning penalties
35 under the statutes addressing oil and gas production and conservation, is
36 amended to read as follows:

1 (B) A person who transports a liquid or other substance
2 and violates a rule,~~regulation~~, or order of the commission by dumping or
3 disposing of the liquid or other substance improperly or without
4 authorization at a well or well site is subject to a penalty not to exceed
5 one hundred thousand dollars (\$100,000) for each violation.

6
7 SECTION 1237. Arkansas Code § 15-72-103(c), concerning penalties under
8 the statutes addressing oil and gas production and conservation, is amended
9 to read as follows:

10 (c) Any person knowingly and willfully aiding or abetting any other
11 person in the violation of any statute of this state relating to the
12 conservation of oil or gas, or the violation of any provision of this act, or
13 any rule,~~regulation~~, or order made thereunder shall be subject to the same
14 penalties as are prescribed herein for the violation by the other person.

15
16 SECTION 1238. Arkansas Code § 15-72-104(a), concerning willful
17 violation of the Safe Drinking Water Act and falsifying or failing to keep
18 records, is amended to read as follows:

19 (a) Any person shall be deemed guilty of a misdemeanor and shall be
20 subject, upon conviction in any court of competent jurisdiction, to a fine of
21 not more than five thousand dollars (\$5,000), or to imprisonment for a term
22 of not more than six (6) months, or to both fine and imprisonment if that
23 person, for the purpose of evading this act, or of evading any rule,
24 ~~regulation~~, or order made hereunder:

25 (1) Shall intentionally make or cause to be made any false entry
26 or statement of fact in any report required to be made by this act or by any
27 rule,~~regulation~~, or order made hereunder;

28 (2) Shall make or cause to be made any false entry in any
29 account, record, or memorandum kept by any person in connection with the
30 provisions of this act or of any rule,~~regulation~~, or order made hereunder;

31 (3) Shall omit to make, or cause to be omitted, full, true, and
32 correct entries in the accounts, records, or memoranda, of all facts and
33 transactions pertaining to the interest or activities in the petroleum
34 industry of that person as may be required by the commission under authority
35 given in this act or by any rule,~~regulation~~, or order made hereunder;

36 (4) Shall remove out of the jurisdiction of the state or shall

1 mutilate, alter, or by any other means falsify any book, record, or other
2 paper pertaining to the transactions regulated by this act, or by any rule,
3 ~~regulation~~, or order made hereunder.

4
5 SECTION 1239. Arkansas Code § 15-72-106(a), concerning an injunction
6 and a court review by an aggrieved person against the Oil and Gas Commission,
7 is amended to read as follows:

8 (a) Any interested person adversely affected by any statute of this
9 state with respect to conservation of oil or gas, or both; by any provisions
10 of this act; by any rule,~~regulation~~, or order made by the Oil and Gas
11 Commission hereunder; or by any act done or threatened hereunder, and who has
12 exhausted his or her administrative remedy, may obtain court review and seek
13 relief by a suit for injunction against the commission as defendant or
14 against the members of the commission by suit in the circuit court of the
15 county in which the property involved is located.

16
17 SECTION 1240. Arkansas Code § 15-72-106(d) and (e), concerning an
18 injunction and a court review by an aggrieved person against the Oil and Gas
19 Commission, are amended to read as follows:

20 (d) The statute, provision of this act, or the rule,~~regulation~~, or
21 order complained of shall be taken as prima facie valid, and such presumption
22 shall not be overcome in connection with any application for injunctive
23 relief, including temporary restraining order, by verified bill or affidavit
24 of or in behalf of the applicant.

25 (e) The right of review accorded by this section shall be inclusive of
26 all other remedies, but the right of appeal shall lie as hereinafter set
27 forth.

28
29 SECTION 1241. Arkansas Code § 15-72-107(a), concerning notice as a
30 prerequisite to a temporary order or injunction against the Oil and Gas
31 Commission, is amended to read as follows:

32 (a) No temporary restraining order or injunction of any kind shall be
33 granted against the commission or members thereof, or against the Attorney
34 General, or against any agent, employee, or representative of the Oil and Gas
35 Commission, restraining the commission or any of its members, agents,
36 employees, or representatives, or the Attorney General from enforcing any

1 statute of this state or any rule, ~~regulation~~, or order made thereunder
2 except after three (3) days' notice served upon some person in the principal
3 office of the commission of the time, place, and court before which
4 application for the order shall be made.

5
6 SECTION 1242. Arkansas Code § 15-72-108(a), concerning injunctions for
7 enforcement regarding the violation of any statute regarding the conservation
8 of oil or gas, is amended to read as follows:

9 (a) Whenever it shall appear that any person is violating, or
10 threatening to violate, any statute of this state with respect to the
11 conservation of oil or gas, or both, or any provision of this act, or any
12 rule, ~~regulation~~, or order made thereunder by any act done in the operation
13 of any well producing oil or gas or by omitting any act required to be done
14 thereunder, the Oil and Gas Commission through its counsel or the Attorney
15 General may bring suit against that person in the circuit court in the county
16 in which the well in question is located, to restrain the person from
17 continuing the violation or from carrying out the threat of violation.

18
19 SECTION 1243. Arkansas Code § 15-72-110 is amended to read as follows:
20 15-72-110. Appeals.

21 In all proceedings brought under authority of this act, of any oil or
22 gas conservation statute of this state, or of any rule, ~~regulation~~, or order
23 issued thereunder and in all proceedings instituted for the purpose of
24 contesting the validity of any provision of the act, of any oil or gas
25 conservation statute, or of any rule, ~~regulation~~, or order issued thereunder,
26 appeals may be taken in accordance with the general laws of the State of
27 Arkansas relating to appeals. However, in all appeals from judgments or
28 decrees in suits to contest the validity of any provision of this act, or any
29 rule ~~or regulation~~ of the Oil and Gas Commission hereunder, the appeals when
30 docketed in the Supreme Court shall take precedence over other cases on the
31 docket of that court and may be advanced as that court may order and direct.

32
33 SECTION 1244. Arkansas Code § 15-72-203(c)(2) and (3), concerning
34 notice to a surface owner as a prerequisite to exploring or drilling, are
35 amended to read as follows:

36 (2) The Oil and Gas Commission shall promulgate rules,

1 ~~regulations,~~ and orders consistent with this section to require an operator
 2 intending to conduct shale operations to provide a single enhanced written
 3 notice as described in subdivision (c)(3) of this section in lieu of the
 4 written notice required under subsection (a) of this section.

5 (3) The rules, ~~regulations,~~ and orders of the commission shall
 6 require the enhanced written notice to:

7 (A) Describe:

8 (i) The proposed shale operations; and

9 (ii) The location of the proposed well and the pad
 10 location, including the section, township, range, and plat of the pad
 11 location, if available;

12 (B) Be given to the surface owner at least fourteen (14)
 13 days before the operator proposes to begin shale operations on the surface
 14 owner's property;

15 (C) Contain a statement that the operator has a pending or
 16 approved drilling permit for the proposed shale operations on the surface
 17 owner's property and that the permit shall be available for inspection by the
 18 surface owner on request by the surface owner;

19 (D) Contain the name, address, telephone number, fax
 20 number, and electronic mailing address of the operator or the operator's
 21 agent; and

22 (E) Be sent by certified United States mail or delivered
 23 personally to the surface owner at the address of the surface owner stated in
 24 the public records of the county collector of the county in which the surface
 25 owner's property is located.

26
 27 SECTION 1245. Arkansas Code § 15-72-214(b), concerning a surface
 28 owner's claim for damages caused by operator neglect, is amended to read as
 29 follows:

30 (b) Any surface owner seeking to recover thereunder for damages caused
 31 by the neglect of the operator must file written notice of claim therefor
 32 with the commission within one (1) year of the date of issuance of the permit
 33 for such drilling operations. However, that claim shall be subordinate to the
 34 rights of the commission under the proof of financial responsibility to
 35 secure compliance by the operator with the provisions of §§ 15-71-101 – 15-
 36 71-112, 15-72-101 – 15-72-110, 15-72-205, 15-72-212, 15-72-216, 15-72-301 –

1 15-72-324, and 15-72-401 – 15-72-407, as amended, and the rules ~~and~~
2 ~~regulations~~ of the commission promulgated thereunder.

3
4 SECTION 1246. Arkansas Code § 15-72-216(a), concerning the requirement
5 that dry or abandoned wells be plugged and a notice of abandonment provided
6 to the Oil and Gas Commission, is amended to read as follows:

7 (a) Each abandoned well and each dry hole promptly shall be plugged in
8 the manner and within the time required by ~~regulations~~ rules to be prescribed
9 by the Oil and Gas Commission. The owner of the well shall give notice upon a
10 form the commission may prescribe of the drilling of each dry hole and of the
11 owner's intention to abandon.

12
13 SECTION 1247. Arkansas Code § 15-72-219(b)-(d), concerning
14 compensation of surface owners and surface tenants for damages for the
15 restoration of land, are amended to read as follows:

16 (b) In addition to any compensation or damages paid by the operator
17 under subsection (a) of this section, the operator shall restore the damaged
18 land in accordance with all applicable rules ~~and regulations~~ of the:

- 19 (1) Arkansas Department of Environmental Quality; or
20 (2) Oil and Gas Commission.

21 (c) Any rules ~~or regulations~~ adopted by the department or the
22 commission pertaining to spills of crude oil or produced water shall:

23 (1) Provide, as nearly as practicable, for remediation of any
24 spill of crude oil or produced water to the condition of the real property
25 before the spill; and

26 (2) Specify a reasonable time frame for commencing and
27 completing remediation of any spill of crude oil or produced water to the
28 condition of the real property before the spill.

29 (d) If the party responsible for damage to real property caused by a
30 spill of crude oil or produced water fails to restore the real property in
31 accordance with applicable rules ~~and regulations~~, then the surface owner or
32 surface tenant may bring an action for restoration or remediation:

33 (1) In that action, if the surface owner or surface tenant
34 proves by a preponderance of the evidence that the party responsible for the
35 damage has failed to restore and remediate the real property, then the
36 surface owner or surface tenant is entitled to an order requiring restoration

1 or remediation to appropriate standards of the applicable agency; and

2 (2) In addition to the relief provided in subdivision (d)(1) of
3 this section, the surface owner or surface tenant may be allowed a reasonable
4 attorney's fee together with costs associated with maintaining an action for
5 restoration or remediation.

6
7 SECTION 1248. Arkansas Code § 15-72-219(f), concerning compensation of
8 surface owners and surface tenants for damages for the restoration of land,
9 is amended to read as follows:

10 (f) Nothing contained in this section is intended to limit or restrict
11 the rights of any surface owner or surface tenant to maintain a cause of
12 action for any damage to real property that is not addressed by the rules ~~and~~
13 ~~regulations~~ adopted by the department or the commission pertaining to spills
14 of crude oil or produced water.

15
16 SECTION 1249. Arkansas Code § 15-72-302(a), concerning the Oil and Gas
17 Commission, drilling units, just and equitable shares, preventing waste, and
18 avoiding risks, is amended to read as follows:

19 (a) Whether or not the total production from a pool is limited or
20 prorated, no rule, ~~regulation~~, or order of the Oil and Gas Commission shall
21 be such in terms or effect:

22 (1) That it shall be necessary at any time for the producer from
23 or the owner of a tract of land in the pool, in order that he or she may
24 obtain the tract's just and equitable share of the production of the pool, as
25 the share is set forth in this section, to drill and operate any well or
26 wells on the tract in addition to the well or wells as can without waste
27 produce the share; or

28 (2) As to occasion net drainage from a tract unless there is
29 drilled and operated upon the tract a well or wells in addition to the wells
30 thereon as can without waste produce the tract's just and equitable share, as
31 set forth in this section, of the production of the pool.

32
33 SECTION 1250. Arkansas Code § 15-72-302(d)(2), concerning the Oil and
34 Gas Commission, drilling units, just and equitable shares, preventing waste,
35 and avoiding risks, is amended to read as follows:

36 (2) To that end, the rules, ~~regulations~~, permits, and orders of

1 the commission shall be such as will prevent or minimize reasonably avoidable
2 net drainage from each developed unit, that is, drainage that is not
3 equalized by counter drainage and will give to each producer the opportunity
4 to use his or her just and equitable share of the reservoir energy.

5
6 SECTION 1251. Arkansas Code § 15-72-305(a)(3)(A)(iii)(b), concerning
7 the allocation of production and cost following an integration order of the
8 Oil and Gas Commission, is amended to read as follows:

9 (b) File an application with the commission,
10 setting forth sufficient facts to identify the well concerned and the
11 responsible working interest owner, requesting that the commission issue an
12 order requiring the working interest owner to appear at the next regularly
13 scheduled hearing and show cause with respect to its failure to timely comply
14 with the provisions of this section. Subsequent to the hearing, the
15 commission shall impose upon a working interest owner who has failed to meet
16 its obligations hereunder such sanctions as are reasonably calculated to
17 enforce compliance with this section. These sanctions shall include, but not
18 be limited to, a penalty under § 15-74-709. The commission shall have the
19 authority to suspend the imposition of any sanction for a maximum period of
20 sixty (60) days in order to allow the noncompliant owner the opportunity to
21 furnish proof to the commission of his or her compliance with any commission
22 order. All penalties levied by the commission as a result of this provision
23 shall be collected by the commission and shall be deposited in the State
24 Treasury to the credit of the Oil and Gas Commission Fund. The commission may
25 promulgate such other rules ~~and regulations~~ as it deems appropriate and
26 necessary to carry out the purposes of this section;

27
28 SECTION 1252. Arkansas Code § 15-72-305(a)(3)(B)(i), concerning the
29 allocation of production and cost following an integration order of the Oil
30 and Gas Commission, is amended to read as follows:

31 (B)(i) Commencing no later than six (6) months after the
32 date of first sale, and thereafter no later than the earlier of thirty (30)
33 days after first payment is received or thirty (30) days after the sixty-day
34 period within which the first purchaser is to make payment pursuant to §§ 15-
35 74-501 and 15-74-601 – 15-74-603, or a total of ninety (90) days after the
36 end of the calendar month within which subsequent production is sold, each

1 working interest owner or marketing party who has sold gas shall remit or
2 cause to be remitted to the operator one-eighth (1/8) of the revenue realized
3 or royalty moneys from gas sales computed at the mouth of the well, less all
4 lawful deductions, including, but not limited to, all federal and state taxes
5 levied upon the production or proceeds and shall indemnify and hold the other
6 working interest owner free from any liability therefor. However, if any
7 portion of the price received by a marketing party is subject to possible
8 refund to the gas purchaser pursuant to the regulations, rules, or orders of
9 any governmental authority, the refundable portion need not be included in
10 the amount remitted to the operator for distribution hereunder until the
11 possibility of refund has terminated. The funds or amounts as so remitted
12 shall be held in trust by the operator for the account of the royalty owner
13 or owners entitled thereto until distributed and paid as provided in this
14 section;

15
16 SECTION 1253. Arkansas Code § 15-72-305(a)(3)(B)(ii)(a), concerning
17 the allocation of production and cost following an integration order of the
18 Oil and Gas Commission, is amended to read as follows:

19 (a) File an application with the commission,
20 setting forth sufficient facts to identify the well concerned and the
21 responsible operator, requesting that the commission issue an order requiring
22 the operator to appear at the next regularly scheduled hearing and show cause
23 with respect to its failure to timely comply with the provisions of this
24 section. Subsequent to the hearing, the commission shall impose upon an
25 operator who has failed to meet its obligations hereunder such sanctions as
26 are reasonably calculated to enforce compliance with this section. The
27 sanctions shall include, but not be limited to, a penalty under § 15-74-709.
28 The commission shall have the authority to suspend the imposition of any
29 sanction for a maximum period of sixty (60) days in order to allow the
30 noncompliant the opportunity to furnish proof to the commission of his or her
31 compliance with any commission order. All civil penalties levied by the
32 commission as a result of this provision shall be collected by the commission
33 and deposited in the State Treasury to the credit of the fund. The commission
34 may promulgate such other rules ~~and regulations~~ as it deems appropriate and
35 necessary to carry out the purposes of this section; or

36

1 SECTION 1254. Arkansas Code § 15-72-305(a)(5)(E), concerning the
2 allocation of production and cost following an integration order of the Oil
3 and Gas Commission, is amended to read as follows:

4 (E) The commission may promulgate such other rules ~~and~~
5 ~~regulations~~ as it deems appropriate and necessary to carry out the purposes
6 of this section.

7
8 SECTION 1255. Arkansas Code § 15-72-324(c), concerning the limitation
9 on the production of oil or gas by the Oil and Gas Commission, is amended to
10 read as follows:

11 (c) After the effective date of any rule, ~~regulation~~, or order of the
12 commission fixing the allowable production of oil or gas, or both, for any
13 pool, no person shall produce from any well, lease, or property more than the
14 allowable production which is applicable, nor shall such amount be produced
15 in a different manner than that which may be authorized.

16
17 SECTION 1256. Arkansas Code § 15-72-401(b)(3), concerning the
18 prohibition on dealing in illegal oil and gas, is amended to read as follows:

19 (3) It shall likewise be a violation for which penalties shall
20 be imposed for any person to sell, purchase, or acquire or to transport,
21 refine, process, or handle in any other way any oil, gas, or any product
22 without complying with any rule, ~~regulation~~, or order of the commission
23 relating thereto.

24
25 SECTION 1257. Arkansas Code § 15-72-604(b), concerning condemnation by
26 any natural gas public utility of subsurface strata or formations, is amended
27 to read as follows:

28 (b) The right of condemnation granted in this section shall be without
29 prejudice to the rights of the owner of the lands, or of other rights or
30 interests therein, to drill or bore through the underground stratum or
31 formation so appropriated in a manner as shall comply with orders, and rules,
32 ~~and regulations~~ of the commission issued for the purpose of protecting
33 underground storage strata or formations against pollution and against the
34 escape of natural gas therefrom and shall be without prejudice to the rights
35 of the owner of the lands or other rights or interests therein as to all
36 other uses.

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SECTION 1258. Arkansas Code § 15-72-608 is amended to read as follows:
15-72-608. Rules ~~and regulations~~.

(a) The Oil and Gas Commission shall have authority to make reasonable rules ~~and regulations~~ and exercise such powers as are granted to it by the Conservation Act, §§ 15-71-101 – 15-71-112, 15-72-101 – 15-72-110, 15-72-205, 15-72-212, 15-72-216, 15-72-301 – 15-72-324, and 15-72-401 – 15-72-407, as may be necessary in the administration of this subchapter.

(b) The Director 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 1259. Arkansas Code § 15-72-704 is amended to read as follows:
15-72-704. Approval of application.

The application shall be approved by the Oil and Gas Commission if it determines from the application and such investigation as it may deem proper:

(1) That the location of the proposed discovery well is not within the geographical confines of a known producing oil field; and

(2) That the application has complied with the provisions of this subchapter and all rules ~~and regulations~~ of the commission in respect thereto.

SECTION 1260. Arkansas Code § 15-72-705 is amended to read as follows:
15-72-705. Certificate of discovery of commercial pool.

Upon receipt by the commission, within one (1) year from the date of the approval of the application, of evidence from which the Oil and Gas Commission finds that a commercial oil pool has been discovered by that person in the drilling of the discovery well and that compliance has been had with this subchapter and the rules ~~and regulations~~ of the commission, it shall issue to that person a certificate to that effect. This certificate shall entitle the person to the benefits of this subchapter. However, not more than one (1) certificate shall be issued for each field, nor more than one (1) pool in any field.

SECTION 1261. Arkansas Code § 15-72-804(a)(1), concerning the establishment of state emergency petroleum set-aside by the Arkansas

1 Pollution Control and Ecology Commission, is amended to read as follows:

2 (a)(1) The Arkansas Pollution Control and Ecology Commission shall
3 promulgate ~~regulations~~ rules establishing a set-aside system for petroleum
4 products and reporting requirements for prime suppliers and brokers.

5
6 SECTION 1262. Arkansas Code § 15-74-201(b), concerning accurate
7 measurement of crude petroleum oil, is amended to read as follows:

8 (b) The Oil and Gas Commission shall have supervision and control of
9 the measurement of crude petroleum oil produced in this state as set forth in
10 subsection (a) of this section. The commission shall make a daily record of
11 the measurement of the crude petroleum oil, and it is authorized and
12 empowered to make reasonable and necessary rules ~~and regulations~~ for the
13 enforcement of the purposes of this section.

14
15 SECTION 1263. Arkansas Code § 15-74-401(a)(2), concerning the penalty
16 for sale of oils or fluids not compliant with rules promulgated by the
17 Director of the Department of Finance and Administration, is amended to read
18 as follows:

19 (2) Fails to comply with all the requirements of any section of
20 this subchapter or rules ~~and regulations~~ promulgated by the Director of the
21 Department of Finance and Administration under authority of this subchapter.

22
23 SECTION 1264. Arkansas Code § 15-74-402 is amended to read as follows:
24 15-74-402. Rules ~~and regulations~~.

25 The Director of the Department of Finance and Administration shall have
26 authority to promulgate such rules ~~and regulations~~ in regard to the
27 enforcement of this subchapter as shall not be inconsistent with the
28 provisions of the subchapter which in his or her judgment will best serve to
29 carry out the purpose thereof.

30
31 SECTION 1265. Arkansas Code § 15-75-103 is amended to read as follows:
32 15-75-103. Penalty.

33 Any person violating any of the provisions of this act or any
34 ~~regulation~~ rule adopted pursuant thereto shall be guilty of a misdemeanor and
35 upon conviction shall be fined in a sum of not less than twenty-five dollars
36 (\$25.00) nor more than one thousand dollars (\$1,000) and, in addition, may be

1 imprisoned for not more than one (1) year, or both.

2
3 SECTION 1266. Arkansas Code § 15-75-110 is amended to read as follows:
4 15-75-110. Reports.

5 Reports of the sales, shipment, and installation of containers and
6 systems shall be made by manufacturers, jobbers, and dealers on such forms
7 and in such manner as may be provided by ~~regulation~~ rule of the Liquefied
8 Petroleum Gas Board.

9
10 SECTION 1267. Arkansas Code § 15-75-207 is amended to read as follows:
11 15-75-207. Rules ~~and regulations~~.

12 (a) The Liquefied Petroleum Gas Board is empowered to make reasonable
13 rules ~~and regulations~~ to carry out the provisions of this subchapter. Such
14 rules ~~and regulations~~ shall have the force and effect of law.

15 (b) In addition to the functions, powers, and duties conferred and
16 imposed upon the board by this subchapter, and the regulation of its own
17 procedure and carrying out its functions, powers, and duties, it shall have
18 the authority from time to time to make, amend, and enforce all reasonable
19 rules ~~and regulations~~ not inconsistent with law, which will aid in the
20 performance of any of the functions, powers, or duties conferred or imposed
21 upon it by law.

22 (c) All permanent rules ~~and regulations~~ promulgated for the regulation
23 of liquefied petroleum gases as published in the state code governing
24 liquefied petroleum gas containers and equipment dated May 1, 1964, shall
25 remain in full force and effect until changed, altered, amended, or abolished
26 by the board.

27
28 SECTION 1268. Arkansas Code § 15-75-208 is amended to read as follows:
29 15-75-208. Standards for containers, systems, etc.

30 The Liquefied Petroleum Gas Board shall provide additional standards or
31 specifications for containers, systems, appliances, and appurtenances, as may
32 be reasonably necessary for the public safety. The standards or
33 specifications are to be set forth in the rules ~~and regulations~~ of the state
34 code governing liquefied petroleum gas containers and equipment.

35
36 SECTION 1269. Arkansas Code § 15-75-304(a)(1), concerning certificates

1 of competency and qualifications in the liquefied petroleum gas business, is
2 amended to read as follows:

3 (1) Have satisfactory experience in the liquefied petroleum gas
4 business or give proof of previous on-the-job training in the liquefied
5 petroleum gas business satisfactory to the Liquefied Petroleum Gas Board as
6 prescribed by its rules ~~and regulations~~;

7
8 SECTION 1270. Arkansas Code § 15-75-305(j), concerning applicants for
9 permits to engage in the liquefied petroleum gas business, is amended to read
10 as follows:

11 (j) In addition to the foregoing, the board shall have the power to
12 make reasonable application requirements by ~~rules and regulations~~ rule and
13 shall adopt rules ~~and regulations~~ as it shall deem necessary to govern the
14 procedures in any hearing to review the issuance or denial of permits.

15
16 SECTION 1271. Arkansas Code § 15-75-319(d), concerning reinstatement
17 or transfer of permits and the automatic revocation upon suspension of
18 business, is amended to read as follows:

19 (d) A transfer of an existing permit or a reinstatement of an
20 automatic revocation of an existing permit pursuant to this subchapter may be
21 made only upon compliance with this subchapter and rules ~~and regulations~~
22 pertaining to new applications, and the proposed transfers or reinstatements
23 shall meet all requirements for new applications.

24
25 SECTION 1272. Arkansas Code § 15-75-321(b), concerning the suspension
26 or revocation of a certificate of competency, is amended to read as follows:

27 (b) The Liquefied Petroleum Gas Board, upon sufficient proof, may
28 revoke, suspend, reprimand, place on probation, refuse to renew, or refuse to
29 issue the permit or certificate of competency of any holder or person for
30 cause or willful violation of any of the laws or rules ~~and regulations~~ as
31 promulgated by the board after due notice, provided that all persons shall be
32 entitled to a hearing before the board to show cause why the permit or
33 certificate of competency should not be revoked. Any person whose certificate
34 of competency has been temporarily suspended by the director or an inspector
35 of the board shall be entitled to a hearing before the board at its next
36 meeting to show cause why the certificate of competency should not be

1 permanently revoked. No person whose permit or certificate of competency is
2 suspended temporarily or permanently revoked hereunder shall engage in any
3 phase of the liquefied petroleum gas business until authorized to do so by
4 order of the board.

5
6 SECTION 1273. Arkansas Code § 15-75-322(c), concerning shortage
7 emergencies of liquefied petroleum gas, is amended to read as follows:

8 (c) The waiver of Arkansas licensing, permitting, and certification
9 laws and ~~regulations~~ rules regarding liquefied petroleum gas trucks and
10 operators thereof shall be valid only during the time of the emergency.

11
12 SECTION 1274. Arkansas Code § 15-75-323(a), concerning civil penalties
13 of the Liquefied Petroleum Gas Board, is amended to read as follows:

14 (a) In addition to any other penalty provided in this chapter, any
15 person who violates any provision of this chapter, or any rule ~~or regulation~~
16 pertaining thereto, shall pay to the Liquefied Petroleum Gas Board a civil
17 penalty of not more than five thousand dollars (\$5,000) for each offense.

18
19 SECTION 1275. Arkansas Code § 15-75-404(b), concerning inspection of
20 containers used for the storage or transportation of liquefied petroleum
21 gases, is amended to read as follows:

22 (b) Each container which is to be used or connected as a part of a
23 plant or to a system for the utilization of liquefied petroleum gases shall
24 have a state registration tag of approval attached before installation and
25 shall be inspected thereafter at such times and in such manner as may be
26 determined under the rules ~~and regulations~~ of the Liquefied Petroleum Gas
27 Board.

28
29 SECTION 1276. Arkansas Code § 15-75-407(c), concerning the requirement
30 that retail sellers furnish liquefied petroleum gas account statements to
31 certain customers, is amended to read as follows:

32 (c) The failure of any person, corporation, partnership, association,
33 or other entity to comply with the provisions of this section or the rules
34 ~~and regulations~~ of the board adopted pursuant to the provisions of this
35 section shall constitute grounds for the revocation or suspension of the
36 license or permit of each person or entity to engage in the business of

1 selling liquefied petroleum gas at retail in this state.

2
3 SECTION 1277. Arkansas Code § 15-76-303 is amended to read as follows:
4 15-76-303. Penalties.

5 (a) Any person shall be deemed guilty of a misdemeanor and shall be
6 subject, upon conviction in any court of competent jurisdiction, to a fine of
7 not more than five hundred dollars (\$500) or imprisonment for a term of not
8 more than six (6) months, or to both fine and imprisonment, who, for the
9 purpose of evading this subchapter or of evading any rule, ~~regulation~~, or
10 order made thereunder, shall:

11 (1) Intentionally make or cause to be made any false entry or
12 statement of fact in any report required to be made by this subchapter or by
13 any rule, ~~regulation~~, or order made hereunder; or

14 (2) Make or cause to be made any false entry in any account,
15 record, or memorandum kept by any person in connection with the provisions of
16 this subchapter or of any rule, ~~regulation~~, or order made hereunder; or

17 (3) Omit to make, or cause to be omitted, full, true, and
18 correct entries in those accounts, records, or memoranda, of all facts and
19 transactions pertaining to the interest or activities in the brine industry
20 of that person as may be required by the Oil and Gas Commission under
21 authority given in this subchapter or by any rule, ~~regulation~~, or order made
22 hereunder; or

23 (4) Remove out of the jurisdiction of the state, or who shall
24 mutilate, alter, or by any other means falsify, any book, record, or other
25 paper made under this subchapter.

26 (b) Any person who knowingly and willfully violates any provision of
27 this subchapter or of any rule, ~~regulation~~, or order of the commission made
28 hereunder shall, in the event a penalty for the violation is not otherwise
29 provided in this subchapter, be subject to a penalty of not to exceed one
30 thousand dollars (\$1,000) a day for each and every day of the violation. For
31 each and every act of violation, the penalty shall be recovered in a suit in
32 the circuit court of the county where the defendant resides, or in the county
33 of the residence of any defendant if there is more than one (1) defendant, or
34 in the circuit court of the county where the violation took place. The place
35 of suit shall be selected by the commission, and the suit, by direction of
36 the commission, shall be instituted and conducted in the name of the

1 commission by the attorney for the commission or by the Attorney General or
2 under his or her direction by the prosecuting attorney of the county where
3 the suit is instituted.

4 (c) Any person knowingly and willfully aiding or abetting any other
5 person in the violation of any provision of this subchapter or any rule,
6 ~~regulation~~, or order made hereunder shall be subject to the same penalties as
7 are prescribed herein for the violation by the other person.

8
9 SECTION 1278. Arkansas Code § 15-76-304(a), concerning injunctions by
10 the Oil and Gas Commission, is amended to read as follows:

11 (a) Whenever it shall appear that any person is violating, or
12 threatening to violate, any provision of this subchapter or any rule,
13 ~~regulation~~, or order made thereunder by any act done in the operation of any
14 well for the production of brine or the injection of effluent into an aquifer
15 for disposal or injection purposes or by omitting any act required to be done
16 thereunder, the Oil and Gas Commission, through its counsel or the Attorney
17 General, may bring suit against that person in the circuit court in the
18 county in which the well in question is located to restrain the person from
19 continuing the violation or from carrying out the threat of violation. In
20 that suit, the commission may obtain injunctions, prohibitory and mandatory,
21 including temporary restraining orders and temporary injunctions as the facts
22 may warrant, including, when appropriate, an injunction restraining any
23 person from producing brine or injecting effluent into an aquifer.

24
25 SECTION 1279. Arkansas Code § 15-76-306(c), concerning the authority
26 of the Oil and Gas Commission, is amended to read as follows:

27 (c) The commission shall have the authority to make, after hearing and
28 notice as provided in this section, such reasonable rules, ~~regulations~~, and
29 orders as may be necessary from time to time in the proper administration and
30 enforcement of this subchapter, including rules, ~~regulations~~, or orders for
31 the following purposes:

- 32 (1) To form brine production units and brine expansion units;
33 (2) To require the drilling, casing, and plugging of wells to be
34 done in such a manner as to prevent the escape of brine and effluent from one
35 stratum to another, to prevent the pollution of fresh water supplies by brine
36 and effluent, and to require reasonable financial assurance acceptable to the

1 commission conditioned for the performance of the duty to plug each dry hole
2 or abandoned well;

3 (3) To require the making of reports showing the location of
4 brine wells utilized for production and of injection wells used for disposal
5 and the filing of logs and drilling records for those wells;

6 (4) To require the return of the brine to the same formation
7 from which it was produced unless the commission authorizes the disposal of
8 effluent into one (1) or more other formations upon finding that neither
9 underground damage nor waste results from the disposal;

10 (5) To prevent the drowning by brine and effluent of any stratum
11 or part of a stratum capable of producing oil or gas in paying quantities;

12 (6) To prevent "blowouts", "caving", and "seepage" in the sense
13 that conditions indicated by these terms are generally understood;

14 (7) To identify the ownership of all wells utilized for
15 producing brine and of all injection wells and all pipelines, plants, ponds,
16 structures, and storage facilities;

17 (8) To regulate the "shooting", perforating, and chemical
18 treatment of wells;

19 (9) To regulate the introduction or injection of effluent and
20 other substances into an aquifer;

21 (10)(A) To regulate the spacing of wells for the production of
22 brine and injection wells for the introduction of effluent into an aquifer.

23 (B) However, the commission shall have no authority to
24 allow wells or other installations on the surface of lands without the
25 consent of the surface owner;

26 (11) To formulate rules ~~and regulations~~ for the proper
27 transportation of brine from the producing wells to the plant and from the
28 plant to the injection wells and for the maintenance and surveillance of the
29 transportation facilities; and

30 (12) To prevent, so far as is practical, reasonably avoidable
31 drainage between brine production units and brine expansion units.

32
33 SECTION 1280. Arkansas Code § 15-76-307(a)-(c), concerning procedure
34 and rules of the Oil and Gas Commission, are amended to read as follows:

35 (a) The Oil and Gas Commission shall prescribe its rules of order and
36 procedure with respect to all hearings or proceedings hereunder in accordance

1 with and as limited by the laws of this state applicable to hearings and
2 proceedings before the commission under other acts of this state, including
3 provisions of law regarding notice and hearing and provisions of law
4 regarding the promulgation by the commission of rules, ~~regulations~~, and
5 orders, including changes, renewals, or extensions thereof, and including
6 emergency promulgations.

7 (b) No rule, ~~regulation~~, or order, including change, renewal, or
8 extension thereof, shall, in the absence of an emergency, be made by the
9 commission under the provisions of this subchapter except after a public
10 hearing upon at least twenty (20) days' notice given in the manner and form
11 as may be prescribed by the commission. Such public hearing shall be held at
12 such time and place and in such manner as may be prescribed by the
13 commission. Any person having any interest in the subject matter of the
14 hearing shall be entitled to be heard.

15 (c) In the event an emergency is found to exist by the commission
16 which, in its judgment, requires the making, changing, renewal, or extension
17 of a rule, ~~regulation~~, or order without first having a hearing, such
18 emergency rule, ~~regulation~~, or order shall have the same validity as if a
19 hearing with respect to the rule, ~~regulation~~, or order had been held after
20 due notice. The emergency rule, ~~regulation~~, or order permitted by this
21 section shall remain in force no longer than sixty (60) days from its
22 effective date, and, in any event, it shall expire when the rule, ~~regulation~~,
23 or order made after due notice and hearing with respect to the subject matter
24 of such emergency rule, ~~regulation~~, or order becomes effective.

25
26 SECTION 1281. Arkansas Code § 15-76-307(e), concerning the procedure
27 and rules of the Oil and Gas Commission, is amended to read as follows:

28 (e) All rules, ~~regulations~~, and orders made by the commission shall be
29 in writing and shall be entered in full by the director in a book to be kept
30 for such purpose by the commission. This book shall be a public record and be
31 open to inspection at all times during reasonable office hours. A copy of
32 such rule, ~~regulation~~, or order, certified by the director, shall be received
33 in evidence in all courts of this state with the same effect as the original.

34
35 SECTION 1282. Arkansas Code § 15-76-319(a), concerning Oil and Gas
36 Commission rules regarding abandoned wells, is amended to read as follows:

1 (a) Each abandoned well shall be plugged in the manner and within the
2 time required by ~~regulations~~ rules prescribed by the Oil and Gas Commission,
3 and the owner of the well shall give notice, upon the form the commission may
4 prescribe, of the owner's intention to abandon any well.

5
6 SECTION 1283. Arkansas Code § 15-76-321(a), concerning judicial review
7 of rules and orders of the Oil and Gas Commission, is amended to read as
8 follows:

9 (a) Any interested person adversely affected by any provisions of this
10 subchapter or by any rule, ~~regulation~~, or order made by the Oil and Gas
11 Commission hereunder, or by any act done or threatened hereunder, and who has
12 exhausted his or her administrative remedy, may obtain court review and seek
13 relief by a suit for injunction against the commission, as defendant, or the
14 members thereof, by suit in the circuit court of the county in which the
15 property involved is located.

16
17 SECTION 1284. Arkansas Code § 15-76-321(d), concerning judicial review
18 of rules and orders of the Oil and Gas Commission, is amended to read as
19 follows:

20 (d) The statute, provision of this subchapter, or rule, ~~regulation~~, or
21 order complained of shall be taken as prima facie valid, and the presumption
22 shall not be overcome, in connection with any application for injunctive
23 relief, including a temporary restraining order, by a verified bill or
24 affidavit of, or in behalf of, the applicant.

25
26 SECTION 1285. Arkansas Code § 15-76-322 is amended to read as follows:

27 15-76-322. Appellate procedure.

28 In all proceedings brought under authority of this subchapter or of any
29 rule, ~~regulation~~, or order issued hereunder, and in all proceedings
30 instituted for the purpose of contesting the validity of any provisions of
31 this subchapter or of any rule, ~~regulation~~, or order issued hereunder,
32 appeals may be taken in accordance with the general laws of the State of
33 Arkansas relating to appeals. However, in all appeals from judgments or
34 decrees in suits to contest the validity of any provision of this subchapter
35 or any rule, ~~regulation~~, or order of the Oil and Gas Commission hereunder,
36 the appeals, when docketed in the Supreme Court, shall take precedence over

1 other cases on the docket of the court and may be advanced as the court may
2 order and direct.

3
4 SECTION 1286. The introductory language of Arkansas Code § 16-6-
5 201(c)(2), concerning the regulations for indigent care by volunteer health
6 care professionals, is amended to read as follows:

7 (2) The ~~regulations~~ rules shall require that each person to whom
8 health care services are provided:

9
10 SECTION 1287. Arkansas Code § 16-7-102(d), concerning the
11 establishment, terms of members, meetings, rules, and quorum of the Arkansas
12 Alternative Dispute Resolution Commission, is amended to read as follows:

13 (d) The commission may issue rules ~~and regulations~~ and shall publish
14 rules for the regulation of its proceedings.

15
16 SECTION 1288. Arkansas Code § 16-7-104(3)(B), concerning the powers
17 and duties of the Arkansas Alternative Dispute Resolution Commission, is
18 amended to read as follows:

19 (B) However, nothing in this subchapter or in the
20 standards and ~~regulations~~ rules promulgated by the commission shall in any
21 way prevent the parties to the litigation from utilizing any recognized
22 voluntary or nonprofit program of dispute resolution;

23
24 SECTION 1289. Arkansas Code § 16-10-101(b)(1), concerning the
25 administrative responsibilities of the Supreme Court, is amended to read as
26 follows:

27 (b)(1) Under rules prescribed by the Supreme Court, the Chief Justice
28 may require reports from all courts of the state and may issue such orders,
29 rules, and regulations as may be necessary for the efficient operation of
30 those courts to ensure the prompt and proper administration of justice and
31 may assign, reassign, and modify assignments of circuit and district court
32 judges to hold, upon a temporary basis, regular or special sessions for the
33 transaction of civil or criminal business within any other such court.

34
35 SECTION 1290. Arkansas Code § 16-10-102(e)(9), concerning the creation
36 and duties of the Administrative Office of the Courts, the duties of the

1 Director of the Administrative Office of the Courts, and the cooperation of
2 the court officers, is amended to read as follows:

3 (9) Attend to the other nonjudicial business of the judicial
4 branch under such rules ~~and regulations~~ as the Supreme Court may by order
5 adopt.

6
7 SECTION 1291. Arkansas Code § 16-10-119(a), concerning the
8 appropriation for travel expenses of circuit court judges, is amended to read
9 as follows:

10 (a) From the appropriation provided to the Auditor of State for trial
11 judges' expenses, a circuit judge is authorized to be reimbursed for those
12 travel expenses at the rate as authorized for state employees and for mileage
13 at the rate established in the state travel ~~regulations~~ rules for state
14 employees while traveling within the state in the performance of their
15 official duties.

16
17 SECTION 1292. Arkansas Code § 16-10-309(a)(2)(B), concerning the
18 failure of a town, city, or county to submit funds or reports to the
19 Administration of Justice Funds Section of the Office of Administrative
20 Services of the Department of Finance and Administration, is amended to read
21 as follows:

22 (B) The town, city, or county will thereafter receive its
23 share of these funds at a time and in the manner prescribed by ~~regulations~~
24 rules of the Chief Fiscal Officer of the State.

25
26 SECTION 1293. Arkansas Code § 16-10-1004(c)(1)(A), concerning the
27 definition of "court security officer" and the establishment of a training
28 and certification program for court security officers, is amended to read as
29 follows:

30 (1)(A) Be certified as a law enforcement officer by the Arkansas
31 Commission on Law Enforcement Standards and Training under the laws and
32 ~~regulations~~ rules of this state.

33
34 SECTION 1294. Arkansas Code § 16-11-105(b), concerning the rules and
35 laws applicable to the Supreme Court, is amended to read as follows:

36 (b) The Supreme Court may make such further rules ~~and regulations~~ as

1 may be necessary for the transaction and dispatch of business.

2
3 SECTION 1295. Arkansas Code § 16-11-110(a)(1), concerning the control
4 and supervision of the Supreme Court Library, is amended to read as follows:

5 (a)(1) Except as provided in this section, the Supreme Court Library
6 shall be under the exclusive control and supervision of the Justices of the
7 Arkansas Supreme Court, who are hereby authorized to make such rules ~~and~~
8 ~~regulations~~ regarding its use and operation as they may deem proper.

9
10 SECTION 1296. Arkansas Code § 16-13-505(a)(2), concerning the
11 reimbursement of expenses for a court reporter for a circuit court, is
12 amended to read as follows:

13 (2) Notwithstanding the exemption from state travel ~~regulations~~
14 rules provided by § 19-4-904, if a court reporter uses a personal vehicle for
15 transportation, he or she is entitled to reimbursement for mileage at the
16 same rate prescribed by the Department of Finance and Administration for
17 executive branch employees.

18
19 SECTION 1297. Arkansas Code § 16-13-3304(a)(2), concerning the
20 reimbursement of expenses for a trial court administrator of a circuit court,
21 is amended to read as follows:

22 (2) Notwithstanding the exemption from state travel ~~regulations~~
23 rules provided by § 19-4-904, if a trial court administrator uses a personal
24 vehicle for transportation, he or she is entitled to reimbursement for
25 mileage at the same rate prescribed by the Department of Finance and
26 Administration for executive branch employees.

27
28 SECTION 1298. Arkansas Code § 16-17-1108(a), concerning the
29 reimbursement of travel expenses of a state district court judge, is amended
30 to read as follows:

31 (a) From the appropriation provided for the expenses of state district
32 court judges, a state district court judge is authorized to be reimbursed for
33 those travel expenses at the rate as authorized for state employees and for
34 mileage at the rate established in the state travel ~~regulations~~ rules for
35 state employees while traveling within the state in the performance of
36 official duties.

1
2 SECTION 1299. Arkansas Code § 16-46-109(b), concerning the
3 confidentiality of proceedings, minutes, records or reports of the quality
4 assurance committee responsible for evaluating the quality of medical,
5 nursing, or other care of long-term care facilities, is amended to read as
6 follows:

7 (b) This section does not prevent disclosure of the data mentioned in
8 subsection (a) of this section to an appropriate state or federal regulatory
9 agency that by statute, rule, or regulation is entitled to access to the
10 data.

11
12 SECTION 1300. Arkansas Code § 16-46-109(c)(1)(C), concerning the
13 confidentiality of proceedings, minutes, records or reports of the quality
14 assurance committee responsible for evaluating the quality of medical,
15 nursing, or other care of long-term care facilities, is amended to read as
16 follows:

17 (C) Records or reports required to be kept by applicable
18 law, rule, or regulation that are not created by or for the committee;

19
20 SECTION 1301. Arkansas Code § 16-84-107(b), concerning the form of
21 bond or surety for bail, is amended to read as follows:

22 (b) If the surety is a professional bail bondsman, the undertaking of
23 the surety shall be in a form prescribed by the ~~regulations~~ rules of the
24 Professional Bail Bond Company and Professional Bail Bondsman Licensing
25 Board.

26
27 SECTION 1302. Arkansas Code § 16-87-215(1), concerning the creation of
28 the Trial Public Defender Office within the Arkansas Public Defender
29 Commission, is amended to read as follows:

30 (1) The Trial Public Defender Office shall supervise the
31 development and operations of each of the components of the Arkansas trial
32 public defender system pursuant to the rules, ~~regulations~~, and standards for
33 governing the system adopted by the commission;

34
35 SECTION 1303. Arkansas Code § 16-90-706(b)(2), concerning the powers
36 and duties of the Crime Victims Reparations Board, is amended to read as

1 follows:

2 (2) Adopt rules ~~and regulations~~ to implement the provisions of
3 this subchapter;

4
5 SECTION 1304. Arkansas Code § 16-90-719(a)(2) and (3), concerning
6 property damage reparations administered by the Crime Victims Reparations
7 Board, are amended to read as follows:

8 (2) The Crime Victims Reparations Board shall have the power to
9 provide labor for repairs and cleanup supplied by eligible offenders serving
10 community correction and probationers in accordance with rules ~~and~~
11 ~~regulations~~ promulgated by the Board of Corrections.

12 (3) By this section, the Department of Community Correction is
13 authorized and directed to promulgate necessary rules ~~and regulations~~
14 permitting the use of eligible inmates transferred to or sentenced directly
15 to community correction and probationers to perform the repair and cleanup
16 work contemplated by this section and consistent with guidelines established
17 by the Crime Victims Reparations Board.

18

19 SECTION 1305. Arkansas Code § 16-90-719(b) and (c), concerning
20 property damage reparations administered by the Crime Victims Reparations
21 Board, are amended to read as follows:

22 (b) Inmates who have been convicted of violent crimes or residential
23 burglary, even if transferred to or sentenced directly to community
24 correction, and probationers who have been convicted of violent crimes,
25 residential burglary, or theft of property shall be ineligible to participate
26 in this program, and the ~~regulations~~ rules governing this program shall
27 reflect this prohibition.

28 (c)(1) The Crime Victims Reparations Board and the Board of
29 Corrections with the cooperation and assistance of the Department of
30 Community Correction, working in conjunction with each other, shall
31 promulgate the necessary rules ~~and regulations~~ to establish a program whereby
32 eligible inmates released to or sentenced directly to community correction
33 and probationers may perform labor on the primary residence and surrounding
34 real property of victims whose primary residence has suffered damage as a
35 result of a criminal act or whose personal property has been stolen from
36 their primary residence, and whose owner does not have adequate available

1 resources or any collateral source of reimbursement such as insurance to
2 cover the costs of repairs or replacement.

3 (2) The safety of the victim, the probationer, and the inmate is
4 to be given first priority in promulgating the rules ~~and regulations~~.

5
6 SECTION 1306. Arkansas Code § 16-90-1002(a)(6), concerning the duties
7 of the Crime Victims Reparations Board, is amended to read as follows:

8 (6) Adopt necessary rules ~~and regulations~~ necessary to carry out
9 its functions under this subchapter.

10
11 SECTION 1307. The introductory language of Arkansas Code § 16-93-
12 104(a)(2)(B)(ii), concerning the payment of a supervision fee to the
13 Department of Community Correction by an offender on probation or parole, is
14 amended to read as follows:

15 (ii) The Board of Corrections shall promulgate
16 ~~regulations~~ rules for the accounting and distribution of the Best Practices
17 Fund to ensure that:

18
19 SECTION 1308. Arkansas Code § 16-93-206(b), concerning jurisdiction of
20 the Parole Board to serve as the revocation review board for a person subject
21 to parole or transfer from prison, is amended to read as follows:

22 (b) Revocation proceedings for either parole or transfer shall follow
23 all legal requirements applicable to parole and shall be subject to any
24 additional policies, and rules, ~~and regulations~~ set by the board.

25
26 SECTION 1309. Arkansas Code § 16-93-614(b)(3), concerning parole
27 eligibility and offenses and the definition of "felonies", is amended to read
28 as follows:

29 (3) A person who has committed a felony who is within a target
30 group as currently defined under § 16-93-1202(10) and who is released on
31 parole shall be eligible, pursuant to rules ~~and regulations~~ established by
32 the Parole Board, for commitment to a community correction facility if he or
33 she is found to be in violation of any of his or her parole conditions,
34 unless the parole violation constitutes a nontarget felony offense.

35
36 SECTION 1310. Arkansas Code § 16-93-614(c)(2)(C), concerning parole

1 eligibility and offenses and the definition of "felonies", is amended to read
2 as follows:

3 (C) The Department of Community Correction shall provide
4 for the appropriate disposition of the offender as expeditiously as
5 practicable under rules ~~and regulations~~ developed by the Board of
6 Corrections.

7
8 SECTION 1311. Arkansas Code § 16-93-617(a), concerning parole
9 eligibility procedures and revocation of transfer by the Parole Board, is
10 amended to read as follows:

11 (a) In the event an offender transferred under this section, §§ 16-93-
12 614 – 16-93-616, or § 16-93-618 violates the terms or conditions of his or
13 her transfer, a hearing shall follow all applicable legal requirements and
14 shall be subject to any additional policies, and rules, ~~and regulations~~ set
15 by the Parole Board.

16
17 SECTION 1312. Arkansas Code § 16-93-1203(4), concerning the powers and
18 duties of the Board of Corrections, is amended to read as follows:

19 (4) Establish rules ~~and regulations~~ relating to the operation of
20 community correction programs and the supervision of eligible offenders
21 participating therein;

22
23 SECTION 1313. Arkansas Code § 16-93-1203(7), concerning the powers and
24 duties of the Board of Corrections, is amended to read as follows:

25 (7) Establish rules, ~~regulations,~~ and procedures which shall be
26 required or deemed appropriate for the implementation and ongoing operation
27 of community correction; and

28
29 SECTION 1314. The introductory language of Arkansas Code § 16-93-
30 1205(a), concerning the operation and supervision of community correction
31 programs by the Board of Corrections, is amended to read as follows:

32 (a) The Board of Corrections shall promulgate policies, and rules, ~~and~~
33 ~~regulations~~ relating to the operation of community correction facilities and
34 programs, the supervision of eligible offenders participating therein, and
35 the termination of that participation, including but not limited to:

36

1 SECTION 1315. Arkansas Code § 16-93-1208(a)(1)(A), concerning post
2 commitment transfer of an eligible offender to the Department of Correction,
3 is amended to read as follows:

4 (a)(1)(A) Upon commitment of an eligible offender to the Department of
5 Correction, the Department of Correction will transfer the eligible offender
6 to a community correction program, when he or she reaches his or her transfer
7 date, in accordance with the rules ~~and regulations~~ promulgated by the Board
8 of Corrections and conditions set by the Parole Board.

9
10 SECTION 1316. Arkansas Code § 16-93-1601(2), concerning the
11 legislative intent to reduce recidivism in the criminal justice system, is
12 amended to read as follows:

13 (2) Establish these rules in order to help reduce recidivism in
14 our criminal justice system and to provide ~~regulations~~ rules to protect the
15 individuals in the programs and to protect the neighborhoods and communities
16 in which the programs and facilities are located.

17
18 SECTION 1317. The introductory language of Arkansas Code § 16-99-
19 103(a)(5), concerning additional funding for the Department of Community
20 Correction based on a reduction of probation revocations, is amended to read
21 as follows:

22 (5) The Department of Community Correction shall promulgate
23 rules ~~and regulations~~ for the distribution and use of incentive funds that it
24 receives, requiring that:

25
26 SECTION 1318. Arkansas Code § 16-99-103(b)(9), concerning additional
27 funding for the Department of Community Correction based on a reduction of
28 probation revocations, is amended to read as follows:

29 (9) The Board of Corrections shall promulgate rules ~~and~~
30 ~~regulations~~ for the distribution and use of incentive funds to successful
31 applicants.

32
33 SECTION 1319. Arkansas Code § 16-99-104(1), concerning the Board of
34 Corrections' duties related to performance incentive funding for recidivism
35 and crime reduction, is amended to read as follows:

36 (1) Establish rules ~~and regulations~~ for counties, multicounty

1 partnerships, or judicial districts to apply for funds under this subchapter;

2
3 SECTION 1320. Arkansas Code § 16-105-502(d), concerning sport shooting
4 ranges and noise control ordinances, is amended to read as follows:

5 (d) Rules ~~or regulations~~ adopted by any state agency for establishing
6 levels of noise allowable in the outdoor atmosphere shall not apply to a
7 sport shooting range exempted from liability under this subchapter.

8
9 SECTION 1321. Arkansas Code § 16-116-302(d), concerning limitations on
10 product liability actions and the award of fees, is amended to read as
11 follows:

12 (d)(1) Notwithstanding subsection (a) of this section, a firearms,
13 nonpowder gun, or ammunition manufacturer, importer, or dealer may be sued in
14 tort for any damages proximately caused by an act of the manufacturer,
15 importer, or dealer in violation of a state law or rule or federal law or
16 regulation.

17 (2) In any action brought under this subsection, the plaintiff
18 shall have the burden of proving by a preponderance of the evidence that the
19 defendant violated the state law or rule or federal law or regulation.

20
21 SECTION 1322. Arkansas Code § 16-123-317(b)(2), concerning the
22 contents of a complaint filed with the Director of the Arkansas Fair Housing
23 Commission, is amended to read as follows:

24 (2) In the form specified and standardized by this subchapter
25 and the ~~regulations~~ rules promulgated by the Arkansas Fair Housing
26 Commission, which shall not require that the complaint be notarized.

27
28 SECTION 1323. Arkansas Code § 16-123-318(b)(3), concerning the
29 contents of an answer filed with the Director of the Arkansas Fair Housing
30 Commission, is amended to read as follows:

31 (3) In the form specified and standardized by this subchapter
32 and the ~~regulations~~ rules promulgated by the Arkansas Fair Housing
33 Commission, which shall not require that the answer be notarized.

34
35 SECTION 1324. The introductory language of Arkansas Code § 16-123-
36 345(a)(1), concerning incentives for self-testing and self-correction under

1 the rules of the Arkansas Fair Housing Commission, is amended to read as
2 follows:

3 (a)(1) A report or result of a self-test, as that term is defined by
4 ~~regulation~~ rule of the Director of the Arkansas Fair Housing Commission,
5 shall be considered to be privileged under subdivision (a)(2) of this section
6 if a person:

7

8 SECTION 1325. Arkansas Code § 17-11-305(c), concerning the temporary
9 certificate of registration from the Arkansas Abstracters' Board, is amended
10 to read as follows:

11 (c) This certificate shall expire six (6) months after its date or
12 upon the expiration of sixty (60) days after the next regularly scheduled
13 examinations which could be taken by the applicant under the rules ~~and~~
14 ~~regulations~~ of the board, whichever period is longer.

15

16 SECTION 1326. Arkansas Code § 17-12-106(g)(2), concerning the use of
17 the title of "certified public accountant", is amended to read as follows:

18 (2) Facts respecting compliance with conditions established by
19 law or contract, including, but not limited to, statutes, ordinances, rules,
20 regulations, grants, loans, and appropriations.

21

22 SECTION 1327. Arkansas Code § 17-12-106(h)(2), concerning the use of
23 the title of "certified public accountant", is amended to read as follows:

24 (2) Facts respecting compliance with conditions established by
25 law or contract, including, but not limited to, statutes, ordinances, rules,
26 regulations, grants, loans, and appropriations.

27

28 SECTION 1328. Arkansas Code § 17-12-108 is amended to read as follows:
29 17-12-108. CPA construed.

30 Whenever any statute or ~~regulation~~ rule requires that reports,
31 financial statements, and other documents for submission to any department,
32 board, or agency of this state be prepared by CPAs, the requirements shall be
33 construed to mean registered public accountants or certified public
34 accountants.

35

36 SECTION 1329. Arkansas Code § 17-12-203(a), concerning the duties of

1 the Arkansas State Board of Public Accountancy, is amended to read as
2 follows:

3 (a) The Arkansas State Board of Public Accountancy may adopt, and
4 amend from time to time, ~~regulations~~ rules for the orderly conduct of its
5 affairs and for the administration of this chapter.

6
7 SECTION 1330. Arkansas Code § 17-12-203(d), concerning the duties of
8 the Arkansas State Board of Public Accountancy, is amended to read as
9 follows:

10 (d) The Arkansas State Board of Public Accountancy may issue any
11 further ~~regulations~~ rules, including, but not limited to, rules of
12 professional conduct pertaining to licensees practicing public accounting
13 which it deems consistent with or required by the public welfare. Among other
14 things, the Arkansas State Board of Public Accountancy may prescribe
15 ~~regulations~~ rules for licensees:

- 16 (1) Governing their style, name, and title;
17 (2) Governing their affiliation with any other organization; and
18 (3) Establishing reasonable standards with respect to
19 professional liability insurance and capital requirements.

20
21 SECTION 1331. Arkansas Code § 17-12-302 is amended to read as follows:
22 17-12-302. Education requirements.

23 (a) In general, the applicable education requirements shall be those
24 in effect on the date on which the applicant successfully applies for his or
25 her examination under § 17-12-301(a)(2). However, the Arkansas State Board of
26 Public Accountancy may provide by ~~regulation~~ rule for exceptions to the
27 general rule in order to prevent what it determines to be undue hardship to
28 applicants resulting from changes in the education and experience
29 requirements.

30 (b) The board may provide by ~~regulation~~ rule for the general scope of
31 the examinations and may obtain any advice and assistance it deems
32 appropriate to assist it in preparing and grading the examinations.

33
34 SECTION 1332. Arkansas Code § 17-12-303(h), concerning criminal
35 background checks required by the Arkansas State Board of Public Accountancy,
36 is amended to read as follows:

1 (h) The board shall adopt rules ~~and regulations~~ to implement the
2 provisions of this section.

3
4 SECTION 1333. Arkansas Code § 17-12-305 is amended to read as follows:
5 17-12-305. Reexaminations.

6 (a) The Arkansas State Board of Public Accountancy may by ~~regulation~~
7 rule prescribe the terms and conditions under which an applicant who passes
8 the examination in one (1) or more of the subjects indicated in § 17-12-
9 301(a)(2) may be reexamined in only the remaining subjects, with credit for
10 the subjects previously passed.

11 (b) It may also provide by ~~regulation~~ rule for a reasonable waiting
12 period for an applicant's reexamination in a subject he or she has failed.

13 (c) Subject to subsections (a) and (b) of this section and such
14 ~~regulations~~ rules as the board may adopt governing reexaminations, an
15 applicant shall be entitled to any number of reexaminations under § 17-12-
16 301(a)(2).

17
18 SECTION 1334. Arkansas Code § 17-12-307 is amended to read as follows:
19 17-12-307. Credit for examination administered by licensing authority
20 in another jurisdiction.

21 The Arkansas State Board of Public Accountancy may by ~~regulation~~ rule
22 provide for granting a credit to an applicant for his or her satisfactory
23 completion of an examination in any one (1) or more of the subjects specified
24 in § 17-12-301(a)(2) given by the licensing authority in any other state. The
25 ~~regulations~~ rules shall include such requirements as the board shall
26 determine to be appropriate in order that any examination approved as a basis
27 for any credit shall be, in the judgment of the board, at least as thorough
28 as the most recent examination given by the board at the time of the granting
29 of the credit.

30
31 SECTION 1335. Arkansas Code § 17-12-401(c)(2)(D), concerning
32 professional partnerships, corporations, limited liability companies, and
33 sole proprietorships of certified public accountants, is amended to read as
34 follows:

35 (D) The corporation shall be in compliance with other
36 ~~regulations~~ rules pertaining to corporations practicing public accounting in

1 this state that the board may prescribe;

2
3 SECTION 1336. Arkansas Code § 17-12-401(c)(3)(D), concerning
4 professional partnerships, corporations, limited liability companies, and
5 sole proprietorships of certified public accountants, is amended to read as
6 follows:

7 (D) The limited liability company shall be in compliance
8 with other ~~regulations~~ rules pertaining to limited liability companies
9 practicing public accounting in this state that the board may prescribe; and
10

11 SECTION 1337. Arkansas Code § 17-12-402(b)(3), concerning professional
12 partnerships, sole proprietorships, and limited liability companies of
13 certified public accountants, is amended to read as follows:

14 (3) The corporation shall be in compliance with other
15 ~~regulations~~ rules pertaining to corporations practicing public accounting in
16 this state that the board may prescribe.
17

18 SECTION 1338. Arkansas Code § 17-12-402(c)(3), concerning professional
19 partnerships, sole proprietorships, and limited liability companies of
20 certified public accountants, is amended to read as follows:

21 (3) The limited liability company shall be in compliance with
22 other ~~regulations~~ rules pertaining to the limited liability companies
23 practicing public accounting in this state that the board may prescribe.
24

25 SECTION 1339. Arkansas Code § 17-12-403(d), concerning the
26 registration of offices of certified public accountants, is amended to read
27 as follows:

28 (d) The board shall prescribe by ~~regulation~~ rule the procedure to be
29 followed in effecting such registrations.
30

31 SECTION 1340. Arkansas Code § 17-12-502(d) and (e), concerning the
32 continuing education requirement of certified public accountants, are amended
33 to read as follows:

34 (d) In issuing rules, ~~regulations~~, and individual orders in respect to
35 requirements of continuing education, the board in its discretion:

36 (1) May, among other things, use and rely upon guidelines and

1 pronouncements of recognized educational and professional associations;

2 (2) May prescribe content, duration, and organization of
3 courses;

4 (3) Shall take into account the accessibility to applicants of
5 such continuing education as it may require;

6 (4) Shall consider any impediments to interstate practice of
7 public accountancy which may result from differences in the requirements in
8 other states; and

9 (5) May provide for relaxation or suspension of the requirements
10 in regard to applicants who certify that they do not intend to engage in the
11 practice of public accountancy and for instances of individual hardship.

12 (e) The board is authorized to prescribe ~~regulations~~ rules,
13 procedures, and policies in the manner and condition under which credit shall
14 be given for participation in a program of continuing education that the
15 board may deem necessary and appropriate to maintain the highest standard of
16 proficiency in the profession of public accounting.

17
18 SECTION 1341. Arkansas Code § 17-13-106(2), concerning the
19 administration of the State Plant Board, is amended to read as follows:

20 (2) Promulgate, pursuant to the Arkansas Administrative
21 Procedure Act, § 25-15-201 et seq., ~~regulations~~ rules necessary for the
22 implementation of this chapter;

23
24 SECTION 1342. Arkansas Code § 17-14-307(1)(C), concerning the minimum
25 qualifying requirements for registered appraisers, is amended to read as
26 follows:

27 (C) The board's rules ~~and regulations~~;

28
29 SECTION 1343. Arkansas Code § 17-14-409(c)(1), concerning the registry
30 of applicants and roster of the Executive Director of the Arkansas Appraiser
31 Licensing and Certification Board, is amended to read as follows:

32 (c)(1) The board shall submit to the Appraisal Subcommittee all
33 information required to be submitted by Appraisal Subcommittee ~~regulations~~
34 rules or guidance concerning appraisal management companies that operate in
35 this state.

36

1 SECTION 1344. Arkansas Code § 17-15-205(a), concerning the Arkansas
2 State Board of Architects, Landscape Architects, and Interior Designers
3 continuing education rules, is amended to read as follows:

4 (a) The Arkansas State Board of Architects, Landscape Architects, and
5 Interior Designers may adopt ~~regulations~~ rules setting minimum standards of
6 continuing education to ensure that all registered architects, registered
7 landscape architects, and registered interior designers remain informed of
8 those technical and professional subjects that the board deems appropriate.
9

10 SECTION 1345. Arkansas Code § 17-15-303(b), concerning partnerships
11 and corporations admitted to practice architecture, is amended to read as
12 follows:

13 (b) The Arkansas State Board of Architects, Landscape Architects, and
14 Interior Designers is authorized to require by ~~regulation~~ rule any
15 partnership or corporation practicing architecture in this state to file
16 information concerning its officers, directors, beneficial owners, and other
17 aspects of its business organization upon such forms as the board prescribes.
18

19 SECTION 1346. Arkansas Code § 17-15-304(c), concerning the
20 registration and licensure to practice architecture in the State of Arkansas,
21 is amended to read as follows:

22 (c) The Arkansas State Board of Architects, Landscape Architects, and
23 Interior Designers is empowered to make all necessary rules ~~and regulations~~
24 governing the content, grading, time, place, and method of conducting the
25 examinations and may adopt the examinations and recommended grading
26 procedures of the National Council of Architectural Registration Boards.
27

28 SECTION 1347. Arkansas Code § 17-15-307(b), concerning the official
29 seal of the Arkansas State Board of Architects, Landscape Architects, and
30 Interior Designers, is amended to read as follows:

31 (b) No official of this state, or of any county, city, town, or
32 village, now or hereafter charged with the enforcement of laws, ordinances,
33 rules, or regulations relating to the construction or alteration of
34 buildings, shall accept or approve any plans or specifications which have not
35 been prepared and submitted in full accord with all the provisions of this
36 chapter. Nor shall any payment be approved by any public body for any work,

1 the plans and specifications for which have not been so prepared and signed
2 and sealed by the author.

3
4 SECTION 1348. Arkansas Code § 17-17-112(b), concerning the requirement
5 of an auctioneer to have a written contract to sell the property of another,
6 is amended to read as follows:

7 (b) The Auctioneer's Licensing Board is authorized to prescribe by
8 ~~regulations~~ rule the minimum requirements which must be included in a written
9 contract.

10
11 SECTION 1349. Arkansas Code § 17-17-114(f), concerning the authority
12 of the Auctioneer's Licensing Board to impose a civil penalty, is amended to
13 read as follows:

14 (f) The board is authorized to promulgate ~~regulations~~ rules to
15 implement the provisions of this chapter.

16
17 SECTION 1350. Arkansas Code § 17-17-207 is amended to read as follows:
18 17-17-207. Rules ~~and regulations~~.

19 The Auctioneer's Licensing Board shall have the authority to promulgate
20 such rules ~~and regulations~~ as may be necessary to implement this chapter and
21 may establish by ~~regulation~~ rule such forms as may be necessary to administer
22 this chapter.

23
24 SECTION 1351. Arkansas Code § 17-17-209(c), concerning the seal of the
25 Auctioneer's Licensing Board, is amended to read as follows:

26 (c) All records kept in the office of the board under the authority of
27 this chapter shall be open to public inspection under such rules ~~and~~
28 ~~regulations~~ as shall be prescribed by the board.

29
30 SECTION 1352. Arkansas Code § 17-17-308(7), concerning the
31 Auctioneer's Licensing Board's authority to suspend or revoke a license, is
32 amended to read as follows:

33 (7) Willfully violating a rule ~~or regulation~~ promulgated by the
34 board;

35
36 SECTION 1353. Arkansas Code § 17-17-308(11), concerning the

1 Auctioneer's Licensing Board's authority to suspend or revoke a license, is
2 amended to read as follows:

3 (11) Failing to complete or submit the continuing education
4 requirements as specified by this chapter and the rules ~~and regulations~~
5 adopted by the board; or

6
7 SECTION 1354. Arkansas Code § 17-17-311(b), concerning the
8 Auctioneer's Licensing Board's authority to require continuing education, is
9 amended to read as follows:

10 (b) All programs of continuing education for licensed auctioneers
11 shall be subject to approval of the board. The board is authorized to
12 prescribe by ~~regulations~~ rule the minimum standards and requirements for
13 continuing education programs for auctioneers, the procedures and policies
14 for administering such programs, and the manner and conditions under which
15 credit will be granted for participation in such programs.

16
17 SECTION 1355. Arkansas Code § 17-17-312(k), concerning the
18 Auctioneer's Licensing Board's criminal background check requirement, is
19 amended to read as follows:

20 (k) The board shall adopt the necessary rules ~~and regulations~~ to fully
21 implement the provisions of this section.

22
23 SECTION 1356. Arkansas Code § 17-18-102 is amended to read as follows:
24 17-18-102. Penalty.

25 A person who violates this chapter or a ~~regulation~~ rule hereunder shall
26 be fined not less than twenty-five dollars (\$25.00) and not more than five
27 hundred dollars (\$500).

28
29 SECTION 1357. Arkansas Code § 17-18-103 is amended to read as follows:
30 17-18-103. Authority of Department of Arkansas State Police.

31 The Department of Arkansas State Police is empowered to make and
32 enforce reasonable ~~regulations~~ rules to effectuate the purpose of this
33 chapter.

34
35 SECTION 1358. Arkansas Code § 17-19-106(b)(5), concerning the
36 Professional Bail Bond Company and Professional Bail Bondsman Licensing

1 Board, is amended to read as follows:

2 (5) The board shall have the authority to adopt and enforce such
3 reasonable rules ~~and regulations~~ as it shall determine to be necessary to
4 enable it to effectively and efficiently carry out its official duty of
5 licensing and regulating professional bail bond companies and professional
6 bail bondsmen.

7

8 SECTION 1359. Arkansas Code § 17-19-108 is amended to read as follows:
9 17-19-108. Rules ~~and regulations~~.

10 The Professional Bail Bond Company and Professional Bail Bondsman
11 Licensing Board shall adopt such reasonable rules ~~and regulations~~ as it shall
12 deem necessary to assure the effective and efficient administration of §§ 17-
13 19-107 and 17-19-212 and § 17-19-401 et seq.

14

15 SECTION 1360. Arkansas Code § 17-19-202(d)(5)(G)(iii), concerning
16 application for a professional bail bondsman license or professional bail
17 bond company license, is amended to read as follows:

18 (iii) A professional bail bond company that does not
19 contest the sworn affidavit of a transferring agent is not precluded by the
20 failure to contest the sworn affidavit from filing a complaint that alleges a
21 violation of the applicable statutes, or rules, ~~or regulations~~ by the
22 transferring agent upon discovery of the alleged violation by the
23 professional bail bond company.

24

25 SECTION 1361. Arkansas Code § 17-19-207(b), concerning the expiration
26 and renewal of a license issued by the Professional Bail Bond Company and
27 Professional Bail Bondsman Licensing Board, is amended to read as follows:

28 (b) The Professional Bail Bond Company and Professional Bail Bondsman
29 Licensing Board may refuse to renew a license for any cause for which
30 issuance of the original license could have been refused or for the
31 licensee's violation of any of the provisions of this chapter or the rules
32 ~~and regulations~~ of the board.

33

34 SECTION 1362. Arkansas Code § 17-19-210(b)(1), concerning the
35 Professional Bail Bond Company and Professional Bail Bondsman Licensing Board
36 suspension and penalties review process, is amended to read as follows:

1 (1) Violated any provision of or any obligation imposed by this
2 chapter or any lawful rule, ~~regulation~~, or order of the board or has been
3 convicted of a felony or any offense involving moral turpitude;
4

5 SECTION 1363. Arkansas Code § 17-19-210(b)(8), concerning the
6 Professional Bail Bond Company and Professional Bail Bondsman Licensing Board
7 suspension and penalties review process, is amended to read as follows:

8 (8) Failed to comply with the provisions of the laws of this
9 state, or rule, ~~regulation~~, or order of the board for which issuance of the
10 license could have been refused had it then existed and been known to the
11 board.
12

13 SECTION 1364. Arkansas Code § 17-19-212 is amended to read as follows:
14 17-19-212. Licenses.

15 Each applicant for an initial bail bondsman license who satisfactorily
16 completes the examination and meets the other qualifications and requirements
17 prescribed by law, including the completion of a minimum of eight (8) hours
18 of education in subjects pertaining to the authority and responsibilities of
19 a bail bondsman and a review of the laws and ~~regulations~~ rules relating
20 thereto, shall be licensed by the Professional Bail Bond Company and
21 Professional Bail Bondsman Licensing Board.
22

23 SECTION 1365. Arkansas Code § 17-19-301(c), concerning the premium or
24 compensation for giving bond or depositing money or property as bail, is
25 amended to read as follows:

26 (c) If a bail bond or appearance bond issued by a licensee under this
27 chapter must be replaced with another bail bond or appearance bond because of
28 the licensee's violation of any provision of the laws of this state or any
29 rule, ~~regulation~~, or order of the Professional Bail Bond Company and
30 Professional Bail Bondsman Licensing Board, the licensee who violated the
31 provision and who caused the replacement to be required shall pay all the
32 premium amount for the replacement bond, in an amount not to exceed the
33 amount of the original bond, without any contribution from the respective
34 defendant or principal.
35

36 SECTION 1366. Arkansas Code § 17-20-308(8) and (9), concerning grounds

1 for disciplinary action by the State Board of Barber Examiners, are amended
2 to read as follows:

3 (8) The violation of any of the sanitary ~~regulations~~ rules
4 promulgated by either the board or the Department of Health for the
5 regulation of barbershops and barber schools; or

6 (9) Continuing employment in a barbershop wherein the sanitary
7 ~~regulations~~ rules of the board or the department promulgated for the
8 regulation of barbershops or barber schools are known by the registered
9 barber or registered apprentice to be violated.

10

11 SECTION 1367. Arkansas Code § 17-20-410 is amended to read as follows:
12 17-20-410. Revocation or suspension of certificate.

13 The State Board of Barber Examiners may revoke or suspend any
14 certificate of school license or registration upon finding that the school or
15 college fails to comply with the provisions of this subchapter or with the
16 rules ~~and regulations~~ prescribed by the board.

17

18 SECTION 1368. Arkansas Code § 17-20-423 is amended to read as follows:
19 17-20-423. Sanitary rules ~~and regulations~~.

20 Each barber college shall furnish each student upon enrollment a copy
21 of the rules ~~and regulations~~ governing sanitary conditions of barber shops of
22 this state as registered with the Secretary of State.

23

24 SECTION 1369. Arkansas Code § 17-21-103 is amended to read as follows:
25 17-21-103. Rules ~~and regulations~~.

26 The Director of the Department of Finance and Administration may adopt
27 rules ~~and regulations~~ to administer the provisions of this chapter. The rules
28 ~~and regulations~~ shall be adopted in accordance with the Arkansas
29 Administrative Procedure Act, § 25-15-201 et seq.

30

31 SECTION 1370. Arkansas Code § 17-22-201(d), concerning the creation of
32 the State Athletic Commission, is amended to read as follows:

33 (d) The members of the commission shall have authority to promulgate
34 such rules ~~and regulations~~ as are necessary for the operation and enforcement
35 of this chapter and not in conflict with this chapter.

36

1 SECTION 1371. Arkansas Code § 17-22-204(c), concerning the authority
2 of the State Athletic Commission, is amended to read as follows:

3 (c) The commission shall have the authority to adopt and promulgate,
4 amend, or abrogate any and all rules ~~and regulations~~ considered by it
5 necessary or expedient for the performance of its functions as provided in
6 this chapter and in accordance with the Arkansas Administrative Procedure
7 Act, § 25-15-201 et seq.

8
9 SECTION 1372. Arkansas Code § 17-22-204(f), concerning the authority
10 of the State Athletic Commission, is amended to read as follows:

11 (f) The commission shall have the authority to require event permits
12 and insurance for combative sports with limits to be adjusted by the rules
13 ~~and regulations~~ of the commission.

14
15 SECTION 1373. Arkansas Code § 17-22-206 is amended to read as follows:
16 17-22-206. Combative sports.

17 The General Assembly finds and declares to be the public policy of this
18 state that it is in the best interest of the public and combative sports that
19 combative sports be subject to an effective and efficient system of strict
20 control and ~~regulation~~ rule in order to protect the safety and well-being of
21 the participants in combative sports matches and exhibitions and to promote
22 the public confidence in the regulatory process and the conduct of combative
23 sports matches and exhibitions. To further such public confidence and trust,
24 the State Athletic Commission shall have the authority to adopt and
25 promulgate, amend, or abrogate any and all rules ~~and regulations~~ concerning
26 combative sports, to recover inspector and investigator fees, and recover the
27 actual cost of the national and federal fighter database fees charged to the
28 commission.

29
30 SECTION 1374. Arkansas Code § 17-22-207(a), concerning the authority
31 of the State Athletic Commission to assess civil penalties, is amended to
32 read as follows:

33 (a) Any person who, after notice and hearing, is found by the State
34 Athletic Commission to have violated any provision of this chapter or any
35 rules ~~or regulations~~ of the commission may be assessed a civil penalty not to
36 exceed two thousand five hundred dollars (\$2,500) for each violation.

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SECTION 1375. Arkansas Code § 17-22-301 is amended to read as follows:
17-22-301. Authorized matches and exhibitions.

(a) All combative sports matches or exhibitions in this state are subject to the requirements of this chapter and the rules ~~and regulations~~ of the State Athletic Commission unless exempted by § 17-22-204(a) or § 17-22-101(3)(B).

(b) All matches or exhibitions as provided in subsection (a) of this section shall be conducted only in accordance with the provisions of this chapter and acts amendatory or supplemental hereto and in accordance with the rules ~~and regulations~~ of the commission.

SECTION 1376. Arkansas Code § 17-24-203 is amended to read as follows:
17-24-203. Rules ~~and regulations~~.

(a) The State Board of Collection Agencies shall have the authority to promulgate rules ~~and regulations~~ to implement the provisions of this chapter which are not inconsistent herewith.

(b) The board shall use, to the greatest extent possible, the interpretation and construction of the Fair Debt Collection Practices Act and any other applicable portions of the debt collection laws of the United States in interpreting and applying this chapter and the rules ~~and regulations~~ promulgated by the board.

SECTION 1377. Arkansas Code § 17-25-203(a), concerning the powers of the Contractors Licensing Board, is amended to read as follows:

(a) The Contractors Licensing Board shall have power to make such bylaws, and rules, ~~and regulations~~ for its operation as it shall consider appropriate, provided that they are not in conflict with the laws of the State of Arkansas.

SECTION 1378. Arkansas Code § 17-25-205 is amended to read as follows:
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 of the

1 Department of Finance and Administration.

2
3 SECTION 1379. Arkansas Code § 17-25-306(b), concerning the Contractors
4 Licensing Board's authority to require an examination prior to certification,
5 is amended to read as follows:

6 (b) If the result of the examination of any applicant shall be
7 satisfactory to the Contractors Licensing Board, and if the application
8 complies with the board's rules ~~and regulations~~, then the board shall issue
9 to the applicant a certificate to engage in contracting in the State of
10 Arkansas.

11
12 SECTION 1380. Arkansas Code § 17-25-310 is amended to read as follows:
13 17-25-310. Replacement.

14 A certificate of license to replace any lost, destroyed, or mutilated
15 certificate may be issued subject to the rules ~~and regulations~~ of the
16 Contractors Licensing Board.

17
18 SECTION 1381. Arkansas Code § 17-25-315(a)(1), concerning the
19 Contractors Licensing Board rules regarding contractor qualifications for
20 federally funded projects, is amended to read as follows:

21 (a)(1) The Contractors Licensing Board shall have the power to
22 promulgate rules ~~and regulations~~ for the efficient enforcement of this
23 chapter and shall also have the power to assign the right or give permission
24 to any state agency, board, or commission to determine qualifications of a
25 contractor solely for the purpose of submitting a bid to the state agency,
26 board, or commission on projects involving federal aid funds before the
27 contractor's being licensed by the Contractors Licensing Board.

28
29 SECTION 1382. Arkansas Code § 17-25-315(b)(1), concerning the
30 Contractors Licensing Board rules regarding contractor qualifications for
31 federally funded projects, is amended to read as follows:

32 (b)(1) The Contractors Licensing Board shall have the power to provide
33 by ~~regulation~~ rule for any political subdivision or other political
34 corporation to accept bids from unlicensed contractors for projects involving
35 federal funds.

36

1 SECTION 1383. Arkansas Code § 17-25-408(e), concerning failure to
2 comply with requirements of the Contractors Licensing Board, is amended to
3 read as follows:

4 (e) The board shall have the power to make such rules ~~and regulations~~
5 for enforcement as it may consider appropriate and not in conflict with
6 Arkansas law.

7
8 SECTION 1384. Arkansas Code § 17-25-510(a), concerning hearings
9 regarding violations by the Residential Contractors Committee, is amended to
10 read as follows:

11 (a) The Residential Contractors Committee may conduct hearings
12 regarding alleged violations of this subchapter or ~~regulations~~ rules
13 promulgated thereunder, and the hearings shall be conducted in accordance
14 with the Arkansas Administrative Procedure Act, § 25-15-201 et seq. The
15 committee shall within a reasonable time make findings and determinations as
16 a result of the hearings.

17
18 SECTION 1385. Arkansas Code § 17-26-105(1), concerning grounds for
19 disciplinary action by the Cosmetology Technical Advisory Committee, is
20 amended to read as follows:

21 (1) Failure of a person, firm, or corporation operating a
22 cosmetological establishment or school of cosmetology or engaged in the
23 practice of cosmetology or any of its branches to comply with the
24 requirements of this chapter and the ~~regulations~~ rules of the Cosmetology
25 Technical Advisory Committee;

26
27 SECTION 1386. Arkansas Code § 17-27-203(b), concerning the duties and
28 powers of the Arkansas Board of Examiners in Counseling, is amended to read
29 as follows:

30 (b) The board shall adopt rules, ~~regulations,~~ and procedures as it
31 deems necessary for the performance of its duties.

32
33 SECTION 1387. Arkansas Code § 17-27-301(3), concerning the
34 qualifications for a licensed professional counselor, is amended to read as
35 follows:

36 (3) The applicant is not in violation of any of the provisions

1 of this chapter and the rules ~~and regulations~~ adopted under this chapter;

2
3 SECTION 1388. Arkansas Code § 17-27-303(3), concerning qualifications
4 for a licensed marriage and family therapist, is amended to read as follows:

5 (3) The applicant is not in violation of any of the provisions
6 of this chapter and the rules ~~and regulations~~ adopted hereunder;

7
8 SECTION 1389. Arkansas Code § 17-27-313(k), concerning criminal
9 background checks by the Arkansas Board of Examiners in Counseling, is
10 amended to read as follows:

11 (k) The board shall adopt the necessary rules ~~and regulations~~ to fully
12 implement the provisions of this section.

13
14 SECTION 1390. Arkansas Code § 17-27-406(a), concerning the powers and
15 duties of the State Board of Examiners of Alcoholism and Drug Abuse
16 Counselors, is amended to read as follows:

17 (a) The State Board of Examiners of Alcoholism and Drug Abuse
18 Counselors shall administer and enforce the provisions of this subchapter and
19 shall adopt rules ~~and regulations~~ consistent with its provisions, including a
20 code of ethical practice.

21
22 SECTION 1391. Arkansas Code § 17-28-102(b), concerning electrical
23 licenses, construction, and exemptions, is amended to read as follows:

24 (b) Nothing in this chapter shall be construed to require an
25 individual to hold a license before doing electrical work on his or her
26 primary residence except as otherwise required by state law, rules,
27 regulations, or local ordinances. The exemption from compliance with the
28 licensing standards shall not be referred to in any way and shall not be any
29 evidence of the lack of negligence or the exercise of due care by a party at
30 a trial of any civil action to recover damages by any party.

31
32 SECTION 1392. Arkansas Code § 17-28-102(c)(2), concerning electrical
33 licenses, construction, and exemptions, is amended to read as follows:

34 (2) Any person licensed by the Commission on Water Well
35 Construction pursuant to the provisions of the Arkansas Water Well
36 Construction Act, § 17-50-101 et seq., and subject to that commission's

1 ~~regulations~~ rules and to the National Electric Code may run power and control
2 wiring from an existing disconnect box to water well equipment without
3 obtaining an electrician's license as required by this chapter. Nothing in
4 this subdivision (c)(2) shall be construed to allow a licensed water well
5 installer or contractor to alter the existing electrical service to any
6 building or structure.

7
8 SECTION 1393. Arkansas Code § 17-28-202(b)(2), concerning the duties
9 of the Board of Electrical Examiners of the State of Arkansas and Department
10 of Labor, is amended to read as follows:

11 (2) For the enforcement of this chapter, the Director of the
12 Department of Labor or his or her designated employees shall have the
13 authority to enter, during normal business hours, upon any private or public
14 premises with right of access, ingress, and egress for the purpose of
15 ascertaining whether a person has performed electrical work or installed or
16 repaired electrical facilities in accordance with this chapter, the Arkansas
17 Electrical Code Authority Act, § 20-31-101 et seq., and the ~~regulations~~ rules
18 and standards adopted pursuant thereto.

19
20 SECTION 1394. Arkansas Code § 17-28-307(b), concerning the restricted
21 lifetime master electrician license, is amended to read as follows:

22 (b) The board shall promulgate rules ~~and regulations~~ necessary to
23 carry out the provisions of this section.

24
25 SECTION 1395. Arkansas Code § 17-28-308(b), concerning electrical
26 apprentices and the Board of Electrical Examiners of the State of Arkansas,
27 is amended to read as follows:

28 (b) The board shall take such actions as are reasonably necessary or
29 appropriate to supervise and enforce apprenticeship supervision ratios
30 established by the board by ~~regulation~~ rule.

31
32 SECTION 1396. Arkansas Code § 17-28-309(b)(1)(C), concerning the
33 penalties for performing electrical work without a license, is amended to
34 read as follows:

35 (C) Rule, ~~regulation~~, or order issued or promulgated by
36 the board; or

1
2 SECTION 1397. Arkansas Code § 17-28-310(a)(1), concerning a
3 grandfather clause under the rules of the Board of Electrical Examiners of
4 the State of Arkansas, is amended to read as follows:

5 (1) Is qualified by experience requirements to take the
6 examination for a particular license classification under the provisions of
7 this chapter and the ~~regulations~~ rules of the Board of Electrical Examiners
8 of the State of Arkansas;

9
10 SECTION 1398. Arkansas Code § 17-29-311(a)(10), concerning prohibited
11 conduct and sanctions by the State Board of Embalmers, Funeral Directors,
12 Cemeteries, and Burial Services, is amended to read as follows:

13 (10) Violation of any state law or rule or of any municipal or
14 county ordinance or regulation affecting the handling, custody, care,
15 transportation, or final disposition of dead human bodies;

16
17 SECTION 1399. Arkansas Code § 17-29-311(a)(15), concerning prohibited
18 conduct and sanctions by the State Board of Embalmers, Funeral Directors,
19 Cemeteries, and Burial Services, is amended to read as follows:

20 (15) Violations of applicable law or ~~regulation~~ rules with
21 regard to prearranged or prepaid funeral services or funeral merchandise.
22 However, the proper regulatory agency for prearranged or prepaid funeral
23 services or funeral merchandise shall have determined that such a violation
24 has occurred;

25
26 SECTION 1400. Arkansas Code § 17-30-102(a)(1), concerning penalties
27 and violations of the rules of the State Board of Licensure for Professional
28 Engineers and Professional Surveyors, is amended to read as follows:

29 (a)(1) A person who practices or offers to practice engineering in
30 this state in violation of this chapter and a person using or attempting to
31 use as his or her own the certificate of licensure of another, who gives
32 false evidence of any kind to the State Board of Licensure for Professional
33 Engineers and Professional Surveyors or to any member of the board in
34 obtaining a certificate of licensure, or who falsely impersonates any other
35 practitioner or in any manner falsely implies that he or she is licensed or
36 violates this chapter or the rules ~~and regulations~~ of the board is guilty of

1 a misdemeanor.

2
3 SECTION 1401. Arkansas Code § 17-30-105(2)(B), concerning exemptions
4 to the general provisions regulating engineers, is amended to read as
5 follows:

6 (B) An applicant for a temporary permit shall submit an
7 application for a temporary permit and for reciprocal or comity licensure to
8 the board in writing and, after payment of a fee established by board
9 ~~regulation~~ rule, may be granted a written permit for a definite period of
10 time; and

11
12 SECTION 1402. Arkansas Code § 17-31-307(e), concerning expiration and
13 renewal of certificates of registration issued by the Arkansas State Board of
14 Registration for Foresters, is amended to read as follows:

15 (e) The board may promulgate rules ~~and regulations~~ to ensure
16 compliance with the requirements of this section.

17
18 SECTION 1403. Arkansas Code § 17-32-104 is amended to read as follows:
19 17-32-104. Legal and other assistance.

20 (a) The Attorney General or one of his or her assistants shall act as
21 legal adviser to the State Board of Registration for Professional Geologists
22 and render legal assistance needed to implement and enforce the provisions of
23 this chapter and the rules ~~and regulations~~ of the board.

24 (b) The board may employ additional counsel with approval of the
25 Attorney General and any other necessary assistance to aid in the enforcement
26 of this chapter and the ~~regulations~~ rules of the board.

27 (c) The board may pay reasonable expenses incurred by the board for
28 the administration of this chapter.

29
30 SECTION 1404. Arkansas Code § 17-32-201(a)(2), concerning the
31 creation, members, and compensation of the State Board of Registration for
32 Professional Geologists, is amended to read as follows:

33 (2) It shall be the duty of the board to administer this chapter
34 and promulgate ~~regulations~~ rules for registration of qualified geological
35 applicants.

1 SECTION 1405. Arkansas Code § 17-32-202(c) and (d), concerning the
2 meeting requirements of the State Board of Registration for Professional
3 Geologists, are amended to read as follows:

4 (c) ~~Regulations~~ Rules adopted by the board may provide for such
5 additional regular meetings as necessary and for special meetings.

6 (d) Notice of all meetings shall be given as may be provided in the
7 ~~regulations~~ rules.

8
9 SECTION 1406. The introductory language of Arkansas Code § 17-32-
10 204(1), concerning the powers and duties of the State Board of Registration
11 for Professional Geologists, is amended to read as follows:

12 (1) Adopt, after notice and public hearing, modify, repeal,
13 promulgate, and enforce ~~regulations~~ rules reasonably necessary to:

14
15 SECTION 1407. Arkansas Code § 17-32-207(c)(1), concerning the official
16 records and registers of the State Board of Registration for Professional
17 Geologists, is amended to read as follows:

18 (c)(1) A complete roster showing the names, the classification, which
19 will be geologist, specialty, or geologist-in-training, and the last known
20 address of the registered geologists or certified geologists-in-training
21 shall be published by the secretary-treasurer one (1) time each year or at
22 such intervals as established by board ~~regulations~~ rules.

23
24 SECTION 1408. Arkansas Code § 17-32-208(a)(1), concerning indebtedness
25 and the Secretary-treasurer of the State Board of Registration for
26 Professional Geologists, is amended to read as follows:

27 (a)(1) The Secretary-treasurer of the State Board of Registration for
28 Professional Geologists shall receive and account for all moneys received in
29 accordance with state law and the ~~regulations~~ rules of the State Board of
30 Registration for Professional Geologists.

31
32 SECTION 1409. Arkansas Code § 17-32-208(c), concerning indebtedness
33 and the Secretary-treasurer of the State Board of Registration for
34 Professional Geologists, is amended to read as follows:

35 (c) The board shall employ assistants required to properly perform its
36 work and shall make expenditures from this account for any purpose that, in

1 the opinion of the board, is reasonably necessary to perform its duties under
2 law and its rules ~~and regulations~~.

3
4 SECTION 1410. Arkansas Code § 17-32-304(b)(1), concerning the minimum
5 qualifications for a geologist-in-training certificate, is amended to read as
6 follows:

7 (1) His or her having performed the work in a responsible
8 position as determined by the board. The adequacy of the required supervision
9 and experience shall be determined by the board in accordance with standards
10 set forth in ~~regulations~~ rules adopted by the board; and

11
12 SECTION 1411. Arkansas Code § 17-32-309 is amended to read as follows:
13 17-32-309. Certification in specialty.

14 (a) In addition to registering as a geologist, qualified persons may
15 also be eligible for certification in a specialty. Specialties may be
16 designated by the State Board of Registration for Professional Geologists by
17 ~~regulation~~ rule, with the ~~regulations~~ rules to contain any required
18 additional qualifications. Only a registered geologist is eligible for
19 certification in a specialty. Application may be submitted for both
20 registration as a geologist and certification in a specialty at the same
21 time, but the applicant must be approved for registration as a geologist
22 before being considered for certification in a specialty. The certification
23 in a specialty is dependent, in every case, upon the approval of registration
24 as a geologist.

25 (b) An applicant for certification in a specialty shall meet all of
26 the requirements of a registered geologist and such other requirements as the
27 board may establish by ~~regulation~~ rule. In addition, his or her seven (7)
28 years of professional geological work shall include one (1) of the following:

29 (1) A minimum of three (3) years performed under the supervision
30 of a registered geologist who is certified in the specialty for which the
31 applicant is seeking certification; or

32 (2) A minimum of five (5) years of experience in responsible
33 charge of geological work in the specialty for which the applicant is seeking
34 certification.

35
36 SECTION 1412. Arkansas Code § 17-32-311(a)(8), concerning denial of a

1 registration certificate by the State Board of Registration for Professional
2 Geologists, is amended to read as follows:

3 (8) Aiding or assisting another person in violating any
4 provision of this chapter or the rules ~~or regulations~~ pertaining to this
5 chapter.

6
7 SECTION 1413. Arkansas Code § 17-33-102(d), concerning exemptions from
8 the chapter addressing heating, ventilation, air conditioning, and
9 refrigeration workers, is amended to read as follows:

10 (d) Any person exempt under this section is required to conform to
11 ~~regulations~~ rules on the performance of HVACR work as well as obtaining local
12 permits and inspections as may be required by local ordinance.

13
14 SECTION 1414. Arkansas Code § 17-33-105(a)(1)(A)(i), concerning
15 penalties for violations of the chapter addressing heating, ventilation, air
16 conditioning, and refrigeration workers, is amended to read as follows:

17 (a)(1)(A)(i) Any person who violates any provision of this chapter or
18 violates any rule, ~~regulation~~, or order of the HVACR Licensing Board or any
19 permit, license, or certification may be assessed a civil penalty by the
20 board in accordance with the ~~regulations~~ rules issued by the board.

21
22 SECTION 1415. Arkansas Code § 17-33-105(b)(1), concerning penalties
23 for violations of the chapter addressing heating, ventilation, air
24 conditioning, and refrigeration workers, is amended to read as follows:

25 (1) Enjoin or restrain any violation of or compel compliance
26 with the provisions of this chapter and any rules, ~~regulations~~, or orders
27 issued thereunder;

28
29 SECTION 1416. Arkansas Code § 17-33-202(1), concerning the powers and
30 duties of the HVACR Licensing Board, is amended to read as follows:

31 (1) Adopt certain rules ~~and regulations~~ to ensure the proper
32 administration and enforcement of this chapter;

33
34 SECTION 1417. Arkansas Code § 17-33-202(8), concerning the powers and
35 duties of the HVACR Licensing Board, is amended to read as follows:

36 (8) Establish by board ~~regulation~~ rule a minimum level of

1 general liability insurance coverage for a license if the board determines
2 that a specific class of license requires insurance coverage;

3
4 SECTION 1418. Arkansas Code § 17-33-205(a)(3), concerning the
5 disposition of fees and payments to the HVACR Licensing Fund, is amended to
6 read as follows:

7 (3) Subject to such rules ~~and regulations~~ as may be implemented
8 by the Chief Fiscal Officer of the State, the disbursing officer for the
9 Department of Health is hereby authorized to transfer all unexpended funds
10 relative to the program that pertain to fees collected, as certified by the
11 Chief Fiscal Officer of the State, to be carried forward and made available
12 for expenditures for the same purpose for any following fiscal year.

13
14 SECTION 1419. Arkansas Code § 17-33-303(a)(6), concerning the powers
15 and duties of the HVACR Licensing Board, is amended to read as follows:

16 (6) Class L – Entitles a licensee to apply for and obtain a
17 restricted lifetime license without having to pay a license fee in any
18 specific category of license as defined in this chapter. The applicant must
19 be at least sixty-five (65) years of age and hold a current license in good
20 standing with the board. The board shall promulgate rules ~~and regulations~~ to
21 define the specific requirements of the lifetime license.

22
23 SECTION 1420. Arkansas Code § 17-33-303(b), concerning the powers and
24 duties of the HVACR Licensing Board, is amended to read as follows:

25 (b) The board shall promulgate rules ~~and regulations~~ necessary to
26 carry out the provisions of this section.

27
28 SECTION 1421. Arkansas Code § 17-33-304 is amended to read as follows:
29 17-33-304. Display of license number.

30 Every individual licensed under this chapter shall display his or her
31 HVACR license number on all his or her business vehicles and in all forms of
32 advertising in a manner prescribed by the rules ~~and regulations~~ promulgated
33 by the HVACR Licensing Board.

34
35 SECTION 1422. Arkansas Code § 17-33-307(3), concerning the grounds for
36 suspension or revocation of a license or registration by the HVACR Licensing

1 Board, is amended to read as follows:

2 (3) Violated any provisions of this chapter or any rule,
3 ~~regulation~~, or order prescribed by the board.

4
5 SECTION 1423. Arkansas Code § 17-35-702(a)(3), concerning the powers
6 and duties of the State Board of Registered Residential Interior Designers,
7 is amended to read as follows:

8 (3) Shall adopt ~~regulations~~ rules in the manner prescribed by
9 the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out
10 the purposes and policies of §§ 17-35-601 – 17-35-606, 17-35-701, 17-35-702,
11 and 17-35-801 – 17-35-803, including ~~regulations~~ rules relating to
12 professional conduct, standards of performance and professional examination
13 and registration, registration renewal requirements, application, renewal,
14 and late fees, suspension and revocation of registrations, and the
15 establishment of a code of ethics for persons registered under §§ 17-35-601 –
16 17-35-606, 17-35-701, 17-35-702, and 17-35-801 – 17-35-803;

17
18 SECTION 1424. Arkansas Code § 17-36-307(c)(1), concerning revocation
19 proceedings by the Arkansas State Board of Architects, Landscape Architects,
20 and Interior Designers, is amended to read as follows:

21 (c)(1) When the board determines that there is sufficient evidence of
22 a violation of this chapter or board ~~regulations~~ rules, the board may conduct
23 a hearing.

24
25 SECTION 1425. Arkansas Code § 17-37-102(1), concerning the definition
26 of "agent" under the Arkansas Pest Control Law, is amended to read as
27 follows:

28 (1) "Agent" means any person registered with the State Plant
29 Board by a licensed operator to solicit or sell pest control service which
30 the operator is licensed to perform, including the signing of contracts,
31 making inspections for the purpose of servicing or continuing contracts, and
32 supervising workers and working crews in carrying out pest control service,
33 when so designated by the licensed operator, or except as may be limited by
34 the board in its rules ~~and regulations~~ made under authority of this chapter.
35 This is not to be construed as relieving the licensed operator in any way of
36 being responsible for personal and direct supervision of all work performed

1 under his or her license;

2

3 SECTION 1426. Arkansas Code § 17-37-103(a), concerning penalties for a
4 violation of the Arkansas Pest Control Law, is amended to read as follows:

5 (a) The violation of any of the provisions of this chapter or any of
6 the rules ~~and regulations~~ of the State Plant Board promulgated under this
7 chapter shall be deemed a misdemeanor.

8

9 SECTION 1427. Arkansas Code § 17-37-104(a), concerning injunctions
10 issued by the State Plant Board under the Arkansas Pest Control Law, is
11 amended to read as follows:

12 (a) The State Plant Board is authorized to apply to any court of
13 competent jurisdiction for, and the court, upon hearing and for cause shown,
14 may grant, a temporary or permanent injunction restraining any person from
15 violating any provisions of this chapter or of the rules ~~and regulations~~ made
16 under the authority of this chapter.

17

18 SECTION 1428. Arkansas Code § 17-37-105 is amended to read as follows:
19 17-37-105. Administration.

20 (a)(1) The State Plant Board is vested with the authority to carry out
21 the provisions of this chapter, including the employment of necessary
22 personnel.

23 (2)(A) The board shall have the authority to adopt rules ~~and~~
24 ~~regulations~~ which shall have the full force and effect of law for the purpose
25 of carrying into effect the provisions of this chapter.

26 (B) The rules ~~and regulations~~ may include the
27 authorization to require licensed operators to submit written monthly reports
28 setting out the description and location of properties on which pest control
29 service has been rendered and such other information relative thereto as the
30 board shall deem necessary.

31 (C) The rules ~~and regulations~~ may include minimum
32 standards for pest control service work and shall include fees sufficient to
33 pay the cost of carrying out the provisions of this chapter.

34 (b) The board or its authorized representative may enter upon and
35 inspect properties, plants, or products for the purpose of carrying out the
36 provisions of this chapter and of carrying out the rules ~~and regulations~~ made

1 pursuant to this chapter.

2
3 SECTION 1429. Arkansas Code § 17-37-107(a), concerning fees collected
4 under the Arkansas Pest Control Law, is amended to read as follows:

5 (a) In its rules ~~and regulations~~ made pursuant to this chapter and
6 after a public hearing, the State Plant Board shall establish license,
7 registration, inspection, reinspection, reporting, and examination fees
8 sufficient to carry out the provisions of this chapter.

9
10 SECTION 1430. Arkansas Code § 17-37-206(g), concerning application to
11 the State Plant Board for a license to perform pest control service work, is
12 amended to read as follows:

13 (g) By ~~regulation~~ rule, the board shall make provisions to ensure that
14 applicators continue to meet the requirements of changing technology and to
15 assure a continuing level of competence and ability to use pesticides safely
16 and properly.

17
18 SECTION 1431. Arkansas Code § 17-37-208(a), concerning the State Plant
19 Board standards for the licensing of applicators of pesticides, is amended to
20 read as follows:

21 (a) In promulgating ~~regulations~~ rules under this chapter, the State
22 Plant Board shall prescribe standards for the licensing of applicators of
23 pesticides.

24
25 SECTION 1432. Arkansas Code § 17-37-208(c)(2), concerning the State
26 Plant Board standards for the licensing of applicators of pesticides, is
27 amended to read as follows:

28 (2) Further, the board shall take into consideration standards
29 of the United States Environmental Protection Agency and is authorized to
30 adopt these standards by ~~regulation~~ rule.

31
32 SECTION 1433. Arkansas Code § 17-37-213(c), concerning the duties of
33 licensed operators to register agents or solicitors with the State Plant
34 Board, is amended to read as follows:

35 (c) In all cases in which a solicitor or agent violates the provisions
36 of this chapter or the rules ~~and regulations~~ made under authority of this

1 chapter, the violations shall be grounds for invalidation of the license held
2 by the operator under which the solicitor or agent had been registered.

3
4 SECTION 1434. Arkansas Code § 17-37-219 is amended to read as follows:
5 17-37-219. Automatic invalidity of license.

6 A license shall automatically become invalid should the licensed
7 operator whose name appears on the license cease to personally supervise and
8 be in direct charge of the pest control operation. The license shall remain
9 invalid until some other person, having been examined in accordance with this
10 chapter and the rules ~~and regulations~~ under this chapter, shall be certified
11 as the licensed operator in his or her stead.

12
13 SECTION 1435. Arkansas Code § 17-37-221(a), concerning contracts
14 between licensed operators and property owners to perform pest control
15 services, is amended to read as follows:

16 (a) Every licensed operator shall enter into a written contract with
17 the property owner when employed to control or eradicate termites or other
18 structural pests, or in such other classifications as the State Plant Board
19 may specify in its rules ~~and regulations~~ made under authority of this
20 chapter. The contract for termite and other structural pests shall guarantee
21 the performance of the work for at least one (1) year and that the property
22 meets the minimum standards established by the board in its rules ~~and~~
23 ~~regulations~~ for the work, unless these standards are waived or altered upon
24 approval of the board.

25
26 SECTION 1436. Arkansas Code § 17-37-221(c)(1), concerning contracts
27 between licensed operators and property owners to perform pest control
28 services, is amended to read as follows:

29 (c)(1) By the fifteenth of each month, every licensed operator shall
30 file a report with the board covering termite and other structural pest work
31 performed the previous calendar month, along with a copy of each contract
32 issued for the prevention, control, or eradication of termites and other
33 structural pests and any other information deemed necessary by the board and
34 stipulated in the rules ~~and regulations~~ made under authority of this chapter.

35
36 SECTION 1437. Arkansas Code § 17-38-101(8), concerning the definition

1 of "master plumber" under the chapter governing plumbers, is amended to read
2 as follows:

3 (8) "Master plumber" means any person skilled in the planning,
4 superintending, and practical installation of plumbing and familiar with the
5 laws, and rules, ~~and regulations~~ governing it;

6
7 SECTION 1438. Arkansas Code § 17-38-102(d)(1), concerning the
8 penalties and prohibitions under the laws governing plumbing, is amended to
9 read as follows:

10 (d)(1) Every firm, person, or corporation who violates any of the
11 provisions of this chapter or the rules ~~or regulations~~ or orders issued or
12 promulgated by the State Board of Health or who violates any condition of a
13 license, permit, certificate, or any other type of registration issued by the
14 committee may be assessed a civil penalty by the committee.

15
16 SECTION 1439. Arkansas Code § 17-38-102(f) and (g), concerning the
17 penalties and prohibitions under the laws governing plumbing, are amended to
18 read as follows:

19 (f) Subject to such rules ~~and regulations~~ as may be implemented by the
20 Chief Fiscal Officer of the State, the disbursing officer for the department
21 is authorized to transfer all unexpended funds relative to fines collected
22 under this section, as certified by the Chief Fiscal Officer of the State, to
23 be carried forward and made available for expenditures for the same purpose
24 for any following fiscal year.

25 (g) All rules ~~and regulations~~ promulgated pursuant to this section
26 shall be reviewed by the House Committee on Public Health, Welfare, and Labor
27 and the Senate Committee on Public Health, Welfare, and Labor or appropriate
28 subcommittees thereof.

29
30 SECTION 1440. Arkansas Code § 17-38-104(a)(1), concerning inspections
31 by Department of Health inspectors in cities having enforcement officers, is
32 amended to read as follows:

33 (a)(1) The Department of Health inspectors may go into any city that
34 has a city code enforcement officer and assist the city code enforcement
35 officer for the purpose of ensuring that the minimum standards of the state
36 plumbing code and plumber licensing ~~regulations~~ rules are being met.

1
2 SECTION 1441. Arkansas Code § 17-38-105(4)(B), concerning exceptions
3 to the statutes governing plumbers, is amended to read as follows:

4 (B) This exemption applies to any existing or future
5 plumbing codes, or rules, ~~or regulations~~ promulgated by the State Board of
6 Health, or its successor agency.

7
8 SECTION 1442. Arkansas Code § 17-38-201(a)(2)(B), concerning the
9 powers and duties of the State Board of Health, is amended to read as
10 follows:

11 (B) The Director of the Department of Health or any
12 employee of the Department of Health designated by the board may act for the
13 State Board of Health except in adoption of rules ~~and regulations~~;

14
15 SECTION 1443. Arkansas Code § 17-38-201(a)(3), concerning the powers
16 and duties of the State Board of Health, is amended to read as follows:

17 (3) To prescribe rules ~~and regulations~~ as to the qualifications,
18 examination, and licensing of master plumbers and journeyman plumbers and for
19 the registration of apprentice plumbers;

20
21 SECTION 1444. Arkansas Code § 17-38-201(a)(5), concerning the powers
22 and duties of the State Board of Health, is amended to read as follows:

23 (5)(A) To prescribe rules ~~and regulations~~ as to the use of
24 corrugated stainless steel piping.

25 (B) Such rules ~~and regulations~~ shall be no more stringent
26 than the American National Standards for Interior Fuel Gas Piping Systems;
27 and

28
29 SECTION 1445. Arkansas Code § 17-38-201(a)(6)(B), concerning the
30 powers and duties of the State Board of Health, is amended to read as
31 follows:

32 (B) As used in subdivision (a)(6)(A) of this section,
33 “qualified agency” means any individual, firm, corporation, or company which
34 either in person or through a representative is engaged in and is responsible
35 for the installation, replacement, or repair of consumer gas piping, or the
36 connection, installation, repair, or servicing of gas utilization equipment,

1 and is experienced in such work and familiar with all precautions required
2 and has complied with all requirements of the State Board of Health and
3 Department of Health and the codes and ~~regulations~~ rules.

4
5 SECTION 1446. Arkansas Code § 17-38-201(b), concerning the powers and
6 duties of the State Board of Health, is amended to read as follows:

7 (b) The State Board of Health shall ~~by regulation~~ prescribe rules ~~and~~
8 ~~regulations~~ governing plumbing apprentice training committees and, in
9 cooperation with educational authorities, assist in related training programs
10 for plumbers.

11
12 SECTION 1447. Arkansas Code § 17-38-201(c)(7), concerning the powers
13 and duties of the State Board of Health, is amended to read as follows:

14 (7) Issue restricted licenses limited to gas fitter, residential
15 and governmental maintenance, service line installation, solar mechanic, and
16 hospital maintenance licenses if the licensee has demonstrated competency for
17 the particular phase of plumbing for which the person is licensed and if the
18 State Board of Health has adopted ~~regulations~~ rules defining restrictions in
19 the type of work allowed, geographical area served, and term of the type of
20 restricted license; and

21
22 SECTION 1448. Arkansas Code § 17-38-201(d)(1), concerning the powers
23 and duties of the State Board of Health, is amended to read as follows:

24 (d)(1) The State Board of Health shall prescribe rules ~~and regulations~~
25 as to the qualifications, examination, and licensing of master plumbers and
26 journeyman plumbers and for the registration of plumbing apprentices.

27
28 SECTION 1449. Arkansas Code § 17-38-202(d), concerning the Committee
29 of Plumbing Examiners, is amended to read as follows:

30 (d) When so directed, the committee and other employees of the
31 department shall serve the board in an advisory capacity in the formulating
32 of rules ~~and regulations~~ to be adopted by the board.

33
34 SECTION 1450. Arkansas Code § 17-38-203(a), concerning the governing
35 of plumbing apprentice training committees, is amended to read as follows:

36 (a) The State Board of Health shall ~~by regulation~~ prescribe rules ~~and~~

1 ~~regulations~~ governing plumbing apprentice training committees and, in
2 cooperation with educational authorities, assist in related training programs
3 for plumbers.

4
5 SECTION 1451. Arkansas Code § 17-38-301(a)(1), concerning the license
6 required to work as a plumber, is amended to read as follows:

7 (a)(1) No person shall engage in work as a master plumber, journeyman
8 plumber, apprentice plumber, or restricted license holder called for under
9 this chapter or adopted ~~regulations~~ rules unless first licensed or registered
10 to do so by the Department of Health.

11
12 SECTION 1452. Arkansas Code § 17-38-304(i), concerning application to
13 be a master plumber or journeyman plumber, is amended to read as follows:

14 (i) The committee shall consider an apprentice plumber for the
15 journeyman plumber examination, provided the apprentice plumber has
16 successfully completed the training as defined under the plumber
17 apprenticeship ~~regulations~~ rules.

18
19 SECTION 1453. Arkansas Code § 17-38-305 is amended to read as follows:
20 17-38-305. Fees.

21 By ~~regulation~~ rule and after public hearings, the State Board of Health
22 may set reasonable license or examination fees for all licenses called for
23 under this chapter, including, but not limited to, master plumber licenses,
24 journeyman plumber licenses, apprentice plumber registration, gas utility
25 licenses, and restricted plumber licenses.

26
27 SECTION 1454. Arkansas Code § 17-38-308(a), concerning renewal of
28 plumbing licenses, is amended to read as follows:

29 (a) All licenses shall be renewed annually within thirty (30) days
30 after the expiration date of the license. The Department of Health may renew
31 a license after the thirty-day period if there is sufficient reason for not
32 renewing the license in the time specified and after payment of penalties as
33 prescribed by ~~regulation~~ rule.

34
35 SECTION 1455. Arkansas Code § 17-38-309(3), concerning grounds for
36 suspension or revocation of plumbing licenses, is amended to read as follows:

1 (3) Has willfully violated any provisions of this chapter or any
2 rule, ~~regulation~~, or order prescribed by the State Board of Health.

3
4 SECTION 1456. Arkansas Code § 17-38-311(b), concerning restricted
5 lifetime master plumber licenses, is amended to read as follows:

6 (b) The department shall promulgate rules ~~and regulations~~ necessary to
7 carry out the provisions of this section.

8
9 SECTION 1457. Arkansas Code § 17-38-402(2) and (3), concerning the
10 powers of the Career Education and Workforce Development Board, are amended
11 to read as follows:

12 (2) To adopt rules ~~and regulations~~ as to the qualifications,
13 training, and supervision of apprentice plumbers subject to the approval of
14 the Department of Health;

15 (3) To adopt rules ~~and regulations~~ establishing the roles and
16 duties of the following organizations or officials in the plumbing
17 apprenticeship program in compliance with the National Plumbing Standards as
18 approved and registered with the United States Department of Labor, Bureau of
19 Apprenticeship and Training:

20 (A) The Department of Career Education;

21 (B) The State Apprenticeship Committee; and

22 (C) The local apprenticeship committee; and

23
24 SECTION 1458. Arkansas Code § 17-42-108(a)(2), concerning the
25 disclosure required by a real estate licensee, is amended to read as follows:

26 (2) A licensee may represent more than one (1) party to a real
27 estate transaction pursuant to and subject to ~~regulations and~~ rules of the
28 Arkansas Real Estate Commission.

29
30 SECTION 1459. Arkansas Code § 17-42-202(b)(1), concerning organization
31 of the Arkansas Real Estate Commission, is amended to read as follows:

32 (b)(1) The commission shall employ an executive director and such
33 staff as may be necessary to carry out the provisions of this chapter and to
34 put into effect the rules ~~and regulations~~ the commission may promulgate.

35
36 SECTION 1460. Arkansas Code § 17-42-203(a), concerning the powers and

1 duties of the Arkansas Real Estate Commission, is amended to read as follows:

2 (a) The Arkansas Real Estate Commission may do all things necessary
3 and convenient for carrying into effect the provisions of this chapter and
4 may from time to time promulgate necessary or desirable rules ~~and~~
5 ~~regulations~~.

6
7 SECTION 1461. Arkansas Code § 17-42-305(a)(3), concerning the
8 nonresident license requirements for real estate licensees, is amended to
9 read as follows:

10 (3) Sign a statement that the applicant has read the Real Estate
11 License Law, this chapter, and ~~regulations~~ rules and agrees to abide by its
12 provisions in all real estate activity;

13
14 SECTION 1462. Arkansas Code § 17-42-311(a)(2), concerning violations
15 of the rules governing real estate licensees, is amended to read as follows:

16 (2) Violating any of the provisions of this chapter or any rules
17 ~~or regulations~~ adopted pursuant to this chapter or any order issued under
18 this chapter;

19
20 SECTION 1463. Arkansas Code § 17-42-312(d)(2)(B), concerning the
21 investigation of complaints, citations, and penalties by the Arkansas Real
22 Estate Commission, is amended to read as follows:

23 (B) The specific violation and related statute, ~~r~~
24 ~~regulation~~, or rule;

25
26 SECTION 1464. Arkansas Code § 17-42-315(k), concerning a criminal
27 background check by the Arkansas Real Estate Commission, is amended to read
28 as follows:

29 (k) The commission may adopt rules ~~and regulations~~ to fully implement
30 the provisions of this section.

31
32 SECTION 1465. Arkansas Code § 17-42-316(b)(2)(F), concerning the
33 agency relationship between a real estate licensee and the licensee's client,
34 is amended to read as follows:

35 (F) Comply with all requirements of this section and other
36 applicable statutes, and rules, ~~and regulations~~;

1
2 SECTION 1466. Arkansas Code § 17-42-405(a), concerning an additional
3 fee paid to the Arkansas Real Estate Commission by a real estate broker and
4 salesperson, is amended to read as follows:

5 (a) In addition to the other fees provided for in this chapter and
6 ~~regulations~~ rules of the Arkansas Real Estate Commission, each licensed real
7 estate broker and salesperson shall pay to the commission for the benefit of
8 the Real Estate Recovery Fund a fee as the commission may require, not to
9 exceed the lesser of:

- 10 (1) Twenty-five dollars (\$25.00) per annual renewal; or
11 (2) An amount sufficient to restore the fund balance to two
12 hundred fifty thousand dollars (\$250,000).

13
14 SECTION 1467. Arkansas Code § 17-42-406(a)(1), concerning the
15 disciplinary hearing procedure for the Arkansas Real Estate Commission, is
16 amended to read as follows:

17 (a)(1) In any disciplinary hearing before the Arkansas Real Estate
18 Commission which involves any licensee who has allegedly violated any
19 provision of this chapter or commission ~~regulations~~ rules, the commission
20 shall first determine whether a violation has occurred.

21
22 SECTION 1468. Arkansas Code § 17-42-702(d)(2), concerning the
23 prohibition of interference with licensee relationships, is amended to read
24 as follows:

25 (2) Authorize the payment of a referral fee that is otherwise
26 prohibited by law or ~~regulation~~ rule of the Arkansas Real Estate Commission.

27
28 SECTION 1469. Arkansas Code § 17-43-203(e), concerning the powers and
29 duties of the Arkansas State Board of Sanitarians, is amended to read as
30 follows:

31 (e) As a means to maintain professional competency, the board shall
32 promulgate rules ~~and regulations~~ establishing standards for continuing
33 education. The continuing education units shall be direct participation in a
34 course or courses approved by the board. The standards shall be established
35 in a manner to assure that a variety of alternative forms of continuing
36 education are available to registered sanitarians, including, but not limited

1 to, academic studies, in-service education, institutes, seminars, lectures,
2 conferences, workshops, extension courses, home study programs, articles
3 published, and scientific papers published. The standards should recognize
4 specialized areas of endeavor. The board may contract with another agency or
5 association to perform part or all of the duties in establishing procedures
6 to record and retain continuing education units data for all registered
7 sanitarians in good standing.

8
9 SECTION 1470. Arkansas Code § 17-43-206 is amended to read as follows:
10 17-43-206. Board seminars or workshops – Travel expenses.

11 The Arkansas State Board of Sanitarians may authorize payments to be
12 made to each registered sanitarian as partial reimbursement for actual travel
13 expenses incurred, but not to exceed the amounts authorized for state
14 employees for such expenses and not otherwise reimbursed, in attending
15 seminars or workshops sponsored by the board in accordance with state travel
16 ~~regulations~~ rules.

17
18 SECTION 1471. Arkansas Code § 17-45-102 is amended to read as follows:
19 17-45-102. Rules ~~and regulations~~.

20 The Department of Health shall promulgate rules ~~and regulations~~ for the
21 administration of this chapter, including the collection of the fees provided
22 for in § 17-45-103.

23
24 SECTION 1472. Arkansas Code § 17-45-103(e), concerning septic tank
25 cleaners' licenses, fees, and transfer of funds, is amended to read as
26 follows:

27 (e) Subject to such rules ~~and regulations~~ as may be implemented by the
28 Chief Fiscal Officer of the State, the disbursing officer for the department
29 is authorized to transfer all unexpended funds relative to septic tank
30 cleaners' licenses that pertain to fees collected, as certified by the Chief
31 Fiscal Officer of the State, to be carried forward and made available for
32 expenditures for the same purpose for any following fiscal year.

33
34 SECTION 1473. Arkansas Code § 17-47-202(2), concerning the powers of
35 the Arkansas State Board of Registration for Professional Soil Classifiers,
36 is amended to read as follows:

1 (2) Adopt and amend all bylaws, and rules of procedure, ~~and~~
2 ~~regulations~~ to administer and carry out the provisions of this chapter and
3 for the conduct of its affairs and functions, consistent with this chapter
4 and the Arkansas Constitution and laws of this state, which may be reasonably
5 necessary for the proper performance of its duties and the regulation of its
6 proceedings, meetings, records, examinations, and the conduct thereof;

7
8 SECTION 1474. Arkansas Code § 17-48-102(b)(1)(B), concerning the
9 penalties and enforcement authority of the State Board of Licensure for
10 Professional Engineers and Professional Surveyors, is amended to read as
11 follows:

12 (B) Fails or refuses to comply with any laws relating to
13 the licensure and practice of engineers, professional surveyors, or surveyor
14 interns or any rules ~~or regulations~~ adopted by the board under the authority
15 granted in such laws.

16
17 SECTION 1475. Arkansas Code § 17-50-104(a)(2)(B), concerning
18 violations of the rules of the Commission on Water Well Construction, is
19 amended to read as follows:

20 (B) The report on well construction shall contain such
21 information as may be requested by appropriate rules ~~and regulations~~ of the
22 commission and shall be upon forms supplied by the commission;

23
24 SECTION 1476. Arkansas Code § 17-50-104(a)(3), concerning violations
25 of the rules of the Commission on Water Well Construction, is amended to read
26 as follows:

27 (3) Any person to install, construct, repair, or alter a water
28 well or well pumping equipment which is not in compliance with appropriate
29 rules ~~and regulations~~ or is a health hazard;

30
31 SECTION 1477. Arkansas Code § 17-50-105(b), concerning criminal
32 penalties for violations of the rules of the Commission on Water Well
33 Construction, is amended to read as follows:

34 (b) Any person who violates any other provision of this chapter,
35 ~~regulations~~ rules issued under this chapter, or order pursuant to this
36 chapter shall be guilty of a Class B misdemeanor.

1
2 SECTION 1478. Arkansas Code § 17-50-106(a), concerning alternative
3 civil penalties for violations of the rules of the Commission on Water Well
4 Construction, is amended to read as follows:

5 (a) Whenever the Commission on Water Well Construction, after a
6 hearing conducted in accordance with the Arkansas Administrative Procedure
7 Act, § 25-15-201 et seq., finds that a person has violated the provisions of
8 this chapter or any rules ~~or regulations~~ promulgated by the commission
9 pursuant to the authority granted in this chapter, the commission shall have
10 the power and authority to impose a civil penalty on the person in lieu of
11 prosecuting the person under § 17-50-105.

12
13 SECTION 1479. Arkansas Code § 17-50-107 is amended to read as follows:
14 17-50-107. Scope.

15 (a) No person shall construct, repair, or abandon, or cause to be
16 constructed, repaired, or abandoned, any water well without complying with
17 the provisions of this chapter and the rules ~~and regulations~~ adopted pursuant
18 to it.

19 (b) The provisions of this chapter and rules ~~and regulations~~ adopted
20 pursuant to it shall not be construed to repeal the provisions of any other
21 law or ordinance of any municipality establishing standards with respect to
22 water well drilling or pump installation and shall prevail concurrently with
23 such other law or ordinance.

24
25 SECTION 1480. Arkansas Code § 17-50-108(b), concerning exemptions and
26 limitations granted by the Commission on Water Well Construction, is amended
27 to read as follows:

28 (b) Nothing in this chapter or any rule, ~~regulation,~~ or order pursuant
29 to it shall prevent a person who has not obtained a license pursuant to § 17-
30 50-304 from constructing, altering, or repairing a water well or installing
31 or repairing a pump or pumping equipment for use by him or her on his or her
32 own land. This chapter shall not apply to any person owning, operating, and
33 maintaining on May 27, 1969, any such water well unless it constitutes a
34 public health hazard.

35
36 SECTION 1481. Arkansas Code § 17-50-108(c), concerning exemptions and

1 limitations granted by the Commission on Water Well Construction, is amended
2 to read as follows:

3 (c)(1)(A) No water well in existence on May 27, 1969, shall be
4 required to conform to the provisions of § 17-50-205 or any rules ~~or~~
5 ~~regulations~~ adopted pursuant thereto.

6 (B) However, any water well abandoned or repaired,
7 including any well deemed to have been abandoned, as defined in this chapter,
8 shall be brought into compliance with the requirements of this chapter and
9 applicable rules ~~or regulations~~ with respect to abandonment of water wells.

10 (2) Any water well supplying water which is determined by the
11 commission to be a health hazard must comply with the provisions of this
12 chapter and applicable rules ~~and regulations~~ within a reasonable time after
13 notification of the determination has been given.

14
15 SECTION 1482. Arkansas Code § 17-50-109 is amended to read as follows:
16 17-50-109. Enforcement procedure.

17 Whenever the Commission on Water Well Construction has reasonable
18 grounds for believing that there has been a violation of this chapter or any
19 rule ~~or regulation~~ adopted pursuant to this chapter, the commission may
20 enforce compliance in the following manner:

21 (1) The commission shall give written notice to the person or
22 persons alleged to be in violation;

23 (2) The notice shall identify the provisions of this chapter or
24 ~~regulation~~ rule issued hereunder alleged to be violated and the facts alleged
25 to constitute the violation;

26 (3) The notice shall be served in the manner required by law for
27 the service of process upon a person in a civil action or by an employee of
28 the commission and may be accompanied by an order of the commission requiring
29 described remedial action which, if taken within the time specified in the
30 order, will effect compliance with the requirements of this chapter and
31 ~~regulations~~ rules issued under this chapter;

32 (4) The order shall become final unless a written request for
33 hearing before the commission is made within ten (10) days from the date of
34 service of the order; and

35 (5) In lieu of such an order, the commission may require the
36 person or persons named in the notice to appear at a hearing, at a time and

1 place specified in the notice, after which an appropriate remedial order may
2 issue.

3
4 SECTION 1483. Arkansas Code § 17-50-204(a), concerning the powers and
5 duties of the Commission on Water Well Construction, is amended to read as
6 follows:

7 (a) The Commission on Water Well Construction shall be responsible for
8 the administration of this chapter and shall adopt, and from time to time
9 amend or repeal, necessary rules ~~and regulations~~ governing the installation,
10 construction, repair, and abandonment of water wells and pumping equipment.
11 With respect thereto, it shall:

12 (1) Hold public hearings in accordance with the Arkansas
13 Administrative Procedure Act, § 25-15-201 et seq.;

14 (2) Issue such orders and take such other actions as may be
15 necessary to enforce the provisions of this chapter and the rules ~~and~~
16 ~~regulations~~ adopted pursuant thereto;

17 (3) Establish procedures and forms for the submission, review,
18 approval, and rejection of applications, notifications, and reports required
19 under this chapter;

20 (4) Prepare subject matter for examinations to test the
21 knowledge and skills of:

22 (A) Water well drillers in the construction, alteration,
23 and repair of water wells, including proper sealing and abandonment of water
24 wells, and the rules ~~and regulations~~ of this chapter;

25 (B) Pump installers in the planning, installation,
26 operation, and repair of pumping equipment and water wells including sealing
27 and abandonment, pumping efficiency, and the rules ~~and regulations~~ of this
28 chapter; and

29 (C) Other persons who by trade install, alter, construct,
30 or repair water wells and related equipment and who are eligible for license
31 or certificate;

32 (5) Adopt, amend, or repeal, and publish rules ~~and regulations~~
33 governing examinations;

34 (6) Hold examinations of applicants for certificates of
35 registration at least one (1) time a year;

36 (7) Grade all tests and examinations for certificates of

1 registration;

2 (8) Issue licenses, permits, or certificates for the type or
3 class of well construction or repair or pump installation; and

4 (9) Perform such other duties as are consistent with the
5 purposes of this chapter.

6

7 SECTION 1484. Arkansas Code § 17-50-205(b), concerning inspections by
8 the Commission on Water Well Construction, is amended to read as follows:

9 (b) Upon the basis of such inspections, if the commission finds that
10 applicable laws, or rules, ~~or regulations~~ have not been complied with or that
11 a health hazard exists, the commission shall disapprove the water well. If
12 disapproved, no water well shall thereafter be used until brought into
13 compliance and any health hazard is eliminated.

14

15 SECTION 1485. Arkansas Code § 17-50-206 is amended to read as follows:
16 17-50-206. Disposition of funds.

17 All fees, civil penalties, or payments of any type collected by the
18 Commission on Water Well Construction under this chapter shall be deposited
19 into one (1) or more banks qualifying for the deposit of public funds to be
20 used by the commission for the proper administration of this chapter. The
21 deposits shall be audited under the rules ~~and regulations~~ prescribed by the
22 Department of Finance and Administration.

23

24 SECTION 1486. Arkansas Code § 17-50-207(a), concerning injunctions and
25 liability of the members of the Commission on Water Well Construction, is
26 amended to read as follows:

27 (a) The Commission on Water Well Construction is authorized to seek in
28 a court of competent jurisdiction an injunction, whether permanent or
29 temporary, upon affidavit to prevent any person, business, corporation, or
30 other legal entity from violating any provisions of this chapter or any rule
31 ~~or regulation~~ promulgated by the commission under the authority of this
32 chapter. Such injunctions shall be issued without bond.

33

34 SECTION 1487. Arkansas Code § 17-50-305(a)(1), concerning application
35 and issuance of licenses by the Commission on Water Well Construction, is
36 amended to read as follows:

1 (a)(1) The Commission on Water Well Construction may adopt, and from
2 time to time amend or repeal, rules ~~and regulations~~ governing applications
3 for water well contractor licenses.
4

5 SECTION 1488. Arkansas Code § 17-50-308(a), concerning licenses and
6 suspensions issue by the Commission on Water Well Construction, is amended to
7 read as follows:

8 (a) Whenever the Commission on Water Well Construction, after notice
9 and hearing, determines that the holder of a license issued pursuant to this
10 subchapter has violated any provision of this chapter or any rule ~~or~~
11 ~~regulation~~ adopted pursuant to it, the commission is authorized to suspend or
12 revoke the license.
13

14 SECTION 1489. Arkansas Code § 17-50-309(b), concerning the posting of
15 a bond by all water well contractors, is amended to read as follows:

16 (b) The Commission on Water Well Construction shall establish and
17 promulgate rules establishing the amount of water well contractor's bonds
18 based on a water well contractor's past performance or violations of the
19 rules ~~and regulations~~ of this chapter, construction methods, type or class of
20 construction, and business practices.
21

22 SECTION 1490. Arkansas Code § 17-51-102(b)(1), concerning penalties
23 for violations of rules promulgated by the State Board of Health, is amended
24 to read as follows:

25 (b)(1) Every firm, person, or corporation who violates this chapter or
26 any of the rules ~~or regulations~~ issued or promulgated by the State Board of
27 Health, or who violates any condition of a license, permit, certificate, or
28 any other type of registration issued by the board, may be assessed a civil
29 penalty by the board.
30

31 SECTION 1491. Arkansas Code § 17-51-102(d), concerning penalties for
32 violations of rules promulgated by the State Board of Health, is amended to
33 read as follows:

34 (d) Subject to such rules ~~and regulations~~ as may be implemented by the
35 Chief Fiscal Officer of the State, the disbursing officer of the Department
36 of Health is authorized to transfer all unexpended funds relative to fines

1 collected under this section, as certified by the Chief Fiscal Officer of the
2 State, to be carried forward and made available for expenditures for the same
3 purpose for any following fiscal year.

4
5 SECTION 1492. Arkansas Code § 17-51-103(a)(1), concerning the powers
6 and duties of the State Board of Health, is amended to read as follows:

7 (1) Adopt rules ~~and regulations~~ in accordance with this chapter
8 as may be necessary for the administration and enforcement of this chapter;

9
10 SECTION 1493. Arkansas Code § 17-51-103(b), concerning the powers and
11 duties of the State Board of Health, is amended to read as follows:

12 (b) All rules ~~and regulations~~ promulgated pursuant to this chapter
13 shall be reviewed by the House Committee on Public Health, Welfare and Labor
14 and the Senate Committee on Public Health, Welfare, and Labor or appropriate
15 subcommittees thereof.

16
17 SECTION 1494. Arkansas Code § 17-51-105(4), concerning the duties of
18 the Drinking Water Advisory and Operator Licensing Committee, is amended to
19 read as follows:

20 (4) To advise the board and department in all matters, upon
21 request by the board or department, or upon its own motion, relating to the
22 operations of, and the development of ~~regulations~~ rules for, the public water
23 system supervision program operated by the Engineering Section of the
24 Department of Health; and

25
26 SECTION 1495. Arkansas Code § 17-51-106(c)(2), concerning the
27 authority of the State Board of Health to set fees, is amended to read as
28 follows:

29 (2) Subject to such rules ~~and regulations~~ as may be implemented
30 by the Chief Fiscal Officer of the State, the disbursing officer for the
31 Department of Health is authorized to transfer all unexpended funds relative
32 to the Drinking Water Operator Certification Program that pertain to fees
33 collected, as certified by the Chief Fiscal Officer of the State, to be
34 carried forward and made available for expenditures for the same purpose in
35 any following fiscal year.

36

1 SECTION 1496. Arkansas Code § 17-51-201(a), concerning licensure of
2 all operators of community and noncommunity public water systems, is amended
3 to read as follows:

4 (a) In order to safeguard the public health, all water system
5 operators of community and certain noncommunity public water systems from
6 which water is sold, distributed, or otherwise offered for human consumption,
7 whether such water systems are publicly or privately owned and operated,
8 shall be licensed and certified as competent by the Department of Health
9 under the provisions of this chapter and under such rules ~~and regulations~~ as
10 the State Board of Health may adopt under the provisions of this chapter.
11

12 SECTION 1497. Arkansas Code § 17-52-308(b)(4), concerning complaints
13 and disciplinary hearings conducted by the Arkansas Home Inspector
14 Registration Board, is amended to read as follows:

15 (4) Any actions demonstrating untrustworthiness, incompetence,
16 dishonesty, gross negligence, material misrepresentation, fraud, or unethical
17 conduct in any dealings subject to this subchapter or these ~~regulations~~
18 rules;

19
20 SECTION 1498. Arkansas Code § 17-55-101(d)(2)(A)(ii), concerning
21 licensure of electrical inspectors by the Board of Electrical Examiners of
22 the State of Arkansas, is amended to read as follows:

23 (ii) Rule, ~~regulation~~, or order issued or
24 promulgated by the board; or
25

26 SECTION 1499. Arkansas Code § 17-55-102(a)(2)(A), concerning
27 restrictions on licensure as an electrical inspector, is amended to read as
28 follows:

29 (2)(A) This chapter shall not require an individual to hold a
30 license before doing electrical work on his or her primary residence except
31 as otherwise required by state law, rules, ~~regulations~~, or local ordinances.
32

33 SECTION 1500. Arkansas Code § 17-80-104 is amended to read as follows:
34 17-80-104. Continuing education requirements.

35 (a) The regulatory boards of the professions or occupations classified
36 by the laws of the State of Arkansas as professions of the healing arts and

1 for whom the General Assembly has heretofore established regulatory boards
2 empowered to license persons who practice under conditions of licensure
3 authorized by the General Assembly are authorized to adopt ~~regulations~~ rules
4 requiring the continuing education of the persons licensed by the board.

5 (b) All ~~regulations~~ rules establishing requirements for continuing
6 education under the provisions of this section shall be adopted in the manner
7 and method set out in the Arkansas Administrative Procedure Act, § 25-15-201
8 et seq., for the adoption of rules ~~and regulations~~.

9 (c) The regulatory boards shall establish by ~~regulation~~ rule the
10 number of hours of credit and the manner and methods of obtaining the hours
11 of credit by its licensee.

12 (d) In the event a licensee of the board does not complete the
13 continuing education established by the board under the provisions of this
14 section, the board is empowered to deny renewal of the license held by the
15 licensee or after proper hearing take such action as it considers just and
16 proper to compel compliance with its ~~regulations~~ rules requiring continuing
17 education.

18
19 SECTION 1501. Arkansas Code § 17-80-106(c)(3), concerning Department
20 of Health investigations and inspections of alleged wrongdoing, is amended to
21 read as follows:

22 (3) Otherwise violated the practice act or rules ~~and regulations~~
23 of that respective board.

24
25 SECTION 1502. Arkansas Code § 17-80-106(k), concerning Department of
26 Health investigations and inspections of alleged wrongdoing, is amended to
27 read as follows:

28 (k) Subject to rules ~~and regulations~~ as may be implemented by the
29 Chief Fiscal Officer of the State, the disbursing officer for the Department
30 of Health is authorized to transfer all unexpended funds collected under this
31 section as certified by the Chief Fiscal Officer of the State to be carried
32 forward and made available for expenditures for the same purpose for any
33 following fiscal year.

34
35 SECTION 1503. Arkansas Code § 17-80-110 is amended to read as follows:
36 17-80-110. Using "Doctor" as title in documentation.

1 In any written document or electronically transmitted document in
2 connection with the provision of a healthcare service, no person shall use
3 the title "Doctor", unless that title is authorized under § 17-1-101 et seq.,
4 in which case that person shall use the title in accordance with the statutes
5 and ~~regulations~~ rules governing the particular healthcare profession or
6 unless that person has been granted a doctoral degree in any healing arts
7 profession and is licensed in that profession under § 17-1-101 et seq.

8
9 SECTION 1504. Arkansas Code § 17-80-111 is amended to read as follows:

10 17-80-111. Restrictions on "Doctor" as title in advertising.

11 No person shall advertise or allow oneself to be advertised by the
12 title "Doctor" in association with the practice of one (1) of the healing
13 arts, except in the practice of one (1) of the healthcare professions
14 regulated under § 17-1-101 et seq., in which case that person shall use the
15 title in accordance with the statutes and ~~regulations~~ rules governing the
16 particular healthcare profession or unless that person has been granted a
17 doctoral degree in any healing arts profession and is licensed in that
18 profession under § 17-1-101 et seq.

19
20 SECTION 1505. Arkansas Code § 17-80-112 is amended to read as follows:

21 17-80-112. Use of "Doctor" as title in provision of healthcare
22 services.

23 In connection with the provision of healthcare services, no person
24 shall call oneself or allow oneself to be called by the title "Doctor",
25 except in the practice of one (1) of the health care professions regulated
26 under § 17-1-101 et seq., in which case the person shall use the title in
27 accordance with the statutes and ~~regulations~~ rules governing the particular
28 healthcare profession.

29
30 SECTION 1506. Arkansas Code § 17-80-113 is amended to read as follows:

31 17-80-113. Authorized use of "Doctor" as title.

32 This act shall not be construed to authorize any person to use the
33 title "Doctor", unless that title is authorized under § 17-1-101 et seq., in
34 which case that person shall use the title in accordance with the statutes
35 and ~~regulations~~ rules governing the particular healthcare profession or
36 unless that person has been granted a doctoral degree in any healing arts

1 profession and is licensed in that profession under § 17-1-101 et seq.

2
3 SECTION 1507. Arkansas Code § 17-81-106 is amended to read as follows:
4 17-81-106. Health and police ~~regulations~~ rules applicable.

5 Chiropractic practitioners licensed under this chapter shall be bound
6 by all applicable health and police ~~regulations~~ rules of the state. They
7 shall be qualified to sign death certificates, insurance certificates, and
8 all other certificates pertaining to public health with like effect as other
9 licensed physicians.

10
11 SECTION 1508. Arkansas Code § 17-81-206(b)(1), concerning the duties
12 and powers of the Arkansas State Board of Chiropractic Examiners, is amended
13 to read as follows:

14 (1) Promulgate suitable rules ~~and regulations~~ for carrying out
15 its duties under the provisions of this chapter;

16
17 SECTION 1509. Arkansas Code § 17-81-206(b)(5), concerning the duties
18 and powers of the Arkansas State Board of Chiropractic Examiners, is amended
19 to read as follows:

20 (5) Adopt and, from time to time, revise such rules ~~and~~
21 ~~regulations~~ not inconsistent with the law as may be necessary to enable it to
22 carry into effect the provisions of this chapter;

23
24 SECTION 1510. Arkansas Code § 17-81-303(d)(1), concerning the unlawful
25 practice of chiropractic, is amended to read as follows:

26 (d)(1) If the board determines after due notice and a hearing that any
27 provision of this chapter or any ~~regulation~~ rule promulgated by the board
28 pursuant to this chapter has been violated, the board may impose a civil
29 penalty not to exceed five thousand dollars (\$5,000) per violation.

30
31 SECTION 1511. Arkansas Code § 17-82-102(2), concerning the definition
32 of "the practice of dental hygiene" under the Arkansas Dental Practice Act,
33 is amended to read as follows:

34 (2)(A) "The practice of dental hygiene" means the assessment,
35 prevention, and treatment of oral diseases provided by a licensed dental
36 hygienist under the supervision of a licensed dentist as set out in the

1 ~~regulations~~ rules of the Arkansas State Board of Dental Examiners.

2 (B) The practice of dental hygiene shall include the
3 removal of deposits from supergingival and subgingival surfaces of the teeth
4 and any other services which the board may authorize by ~~regulation~~ rule and
5 which are not prohibited by any provision of this chapter.

6
7 SECTION 1512. Arkansas Code § 17-82-104(a)(1)(B), concerning unlawful
8 practice under the Arkansas Dental Practice Act, is amended to read as
9 follows:

10 (B) A dentist or a dental corporation may practice under a
11 fictitious name if the name has been registered with and approved by the
12 Arkansas State Board of Dental Examiners. The fictitious name must comply
13 with the rules ~~and regulations~~ of the board and must not be false or
14 misleading to the general public; or

15
16 SECTION 1513. Arkansas Code § 17-82-106 is amended to read as follows:

17 17-82-106. Advertising.

18 Advertising to the general public for the purpose of soliciting
19 business consisting of any of the acts, services, or practices enumerated in
20 § 17-82-102 or by any ~~regulation~~ ~~or~~ rule promulgated by the Arkansas State
21 Board of Dental Examiners under authority of § 17-82-208 shall not be
22 fraudulent or misleading and shall be in conformity with rules ~~and~~
23 ~~regulations~~ adopted by the board.

24
25 SECTION 1514. Arkansas Code § 17-82-208 is amended to read as follows:

26 17-82-208. Rules ~~and regulations~~.

27 (a) The Arkansas State Board of Dental Examiners shall have the power
28 to promulgate rules ~~and regulations~~ in order to carry out the intent and
29 purposes of this chapter.

30 (b) The board shall by rule ~~or regulation~~ prescribe specifically those
31 acts, services, procedures, and practices which constitute the practice of
32 dentistry.

33 (c) The board shall also by rule ~~or regulation~~ prescribe those acts,
34 services, procedures, and practices which may be performed by dental
35 hygienists and dental assistants at the direction and under the direct
36 supervision of a licensed dentist and shall impose requirements and

1 restrictions on the performance thereof by dental hygienists and dental
2 assistants as it shall deem proper and necessary to protect and promote the
3 public health and welfare of the citizens of this state.

4 (d) Rules ~~and regulations~~ promulgated by the board pursuant to the
5 provisions of this section shall be adopted in accordance with the procedure
6 prescribed in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,
7 and these rules ~~and regulations~~ shall be filed and shall be subject to
8 judicial review as provided in that act.

9 (e) The board shall promulgate rules limiting the amount of Schedule
10 II narcotics that may be prescribed and dispensed by licensees of the board.

11
12 SECTION 1515. Arkansas Code § 17-82-312(a)(2) and (3), concerning
13 annual renewal and relicensing of a dentist or dental hygienist, are amended
14 to read as follows:

15 (2) Paying all accrued renewal fees as established under § 17-
16 82-310 and provided for in the ~~regulations~~ rules of the board, plus an
17 additional penalty of two hundred dollars (\$200); and

18 (3) Furnishing such proof as the board may require that, in the
19 period since January 1 of the year when his or her license ought first to
20 have been effected, he or she has continuously conducted himself or herself
21 in an ethical and proper fashion and complied with the ~~regulations~~ rules of
22 the board and the provisions of the Arkansas Dental Practice Act, § 17-82-101
23 et seq.

24
25 SECTION 1516. Arkansas Code § 17-82-312(b)(2)(A), concerning annual
26 renewal and relicensing of a dentist or dental hygienist, is amended to read
27 as follows:

28 (2)(A) Undergoing reexamination and passing the examination
29 required by the ~~regulations~~ rules of the board.

30
31 SECTION 1517. Arkansas Code § 17-82-313(a)(2)(B), concerning
32 nonresident dentist or dental hygienist license renewal, is amended to read
33 as follows:

34 (B) Pass such examinations and provide such evidence and
35 information as the board may require as delineated in its rules ~~and~~
36 ~~regulations~~.

1
2 SECTION 1518. Arkansas Code § 17-82-316(a), concerning the revocation
3 or suspension of a license by the Arkansas State Board of Dental Examiners,
4 is amended to read as follows:

5 (a) The Arkansas State Board of Dental Examiners is vested with the
6 power to revoke or suspend for any period of time the privilege of practicing
7 under any license issued in the State of Arkansas to any dentist, dental
8 hygienist, or dental assistant possessing an expanded duties permit if the
9 board finds that the licensee or permit holder has violated the Arkansas
10 Dental Practice Act, § 17-82-101 et seq., the ~~regulations~~ rules of the board,
11 or a previous order of the board.
12

13 SECTION 1519. Arkansas Code § 17-82-316(c), concerning the revocation
14 or suspension of a license by the Arkansas State Board of Dental Examiners,
15 is amended to read as follows:

16 (c) The board may impose one (1) or more of the penalties set out in
17 subsection (b) of this section if the board finds that the licensed dentist,
18 dental hygienist, or permit holder has violated the Arkansas Dental Practice
19 Act, § 17-82-101 et seq., or the ~~regulations~~ rules of the board, or has
20 committed one (1) or more of the following acts:

21 (1) The presentation to or filing with the board, for the
22 purpose of securing a license to practice dentistry or dental hygiene or to
23 obtain any permit issued by the board, of any diploma, license, or
24 certificate illegally or fraudulently obtained by the applicant;

25 (2) The use of an assumed or fictitious name in applying for a
26 license for the purpose of shielding moral unfitness or a criminal record;

27 (3) The commission of any criminal operation; habitual
28 drunkenness for a period of three (3) months; insanity; adjudication of
29 insanity or mental incompetency if deemed detrimental to patients; conviction
30 of an infamous crime or felony; addiction to narcotics; immoral,
31 dishonorable, or scandalous conduct; professional incompetency; failure to
32 maintain proper standards of sanitation or failure otherwise to maintain
33 adequate safeguards for the health and safety of patients; or employment in
34 the practice of the profession of any drug, nostrum, unknown formula, or
35 dangerous or unknown anesthetic not generally used by the dental profession;

36 (4) The advertising of services to the public which is

1 fraudulent and misleading or which does not comply with the rules ~~and~~
2 ~~regulations~~ of the board;

3 (5) The permitting of any unlicensed person under his or her
4 supervision or control to perform any act, service, practice, or operation on
5 any patient or prospective patient which constitutes a part of the practice
6 of dentistry or dental hygiene or is involved with the administration of
7 drugs, medicines, or anesthetics, except those services permitted by the
8 board and under the supervision of a licensed dentist;

9 (6) The violation of any rule ~~or regulation~~ of board standards
10 of professional conduct for dentists and dental hygienists practicing within
11 the state;

12 (7) The violation of any term of probation or order previously
13 entered by the board affecting the licensee or permit holder; or

14 (8) Having been found in violation of a statute or a rule ~~or~~
15 ~~regulation~~ governing the practice of dentistry or dental hygiene by the
16 dental licensing authority or agency or another state.

17
18 SECTION 1520. Arkansas Code § 17-82-403 is amended to read as follows:
19 17-82-403. Permit required.

20 No person shall perform the expanded duties of a dental assistant as
21 defined by the Arkansas State Board of Dental Examiners in the rules ~~and~~
22 ~~regulations~~ of the board without a permit.

23
24 SECTION 1521. Arkansas Code § 17-82-404(a), concerning applications
25 for licensure of a dental assistant by the Arkansas State Board of Dental
26 Examiners, is amended to read as follows:

27 (a) A dental assistant who desires to perform expanded duties as
28 defined by the rules ~~and regulations~~ of the Arkansas State Board of Dental
29 Examiners in the State of Arkansas shall apply in writing for examination to
30 the Secretary of the Arkansas State Board of Dental Examiners, and he or she
31 shall transmit with the written application his or her examination and
32 licensing fee.

33
34 SECTION 1522. Arkansas Code § 17-82-406 is amended to read as follows:
35 17-82-406. Rules ~~and regulations~~.

36 All laws pertaining to dentists and dental hygienists as stated in

1 subchapters 1-3 of this chapter and the rules ~~and regulations~~ of the Arkansas
2 State Board of Dental Examiners will apply to dental assistants who perform
3 expanded duties.

4
5 SECTION 1523. Arkansas Code § 17-82-502 is amended to read as follows:
6 17-82-502. Permit to administer.

7 A dentist receiving a permit to administer general anesthesia or
8 sedation may administer it in compliance with the rules ~~and regulations~~ of
9 the Arkansas State Board of Dental Examiners.

10
11 SECTION 1524. Arkansas Code § 17-82-503 is amended to read as follows:
12 17-82-503. Application for permit.

13 (a) Any dentist who desires to administer to a patient general
14 anesthesia or sedation as defined by the rules ~~and regulations~~ of the
15 Arkansas State Board of Dental Examiners and the State of Arkansas shall
16 apply in writing for a permit from the board, shall submit to an on-site
17 inspection by the board, as defined and described in the rules ~~and~~
18 ~~regulations~~ of the board, and shall transmit with the application a fee
19 reasonably calculated by the board to cover the costs and expenses of
20 administering the on-site inspection and otherwise administering this
21 subchapter.

22 (b) The application shall request such information as the board may
23 require as stated in its rules ~~and regulations~~.

24
25 SECTION 1525. Arkansas Code § 17-83-105(4), concerning violations of
26 the Dietetics Practice Act, is amended to read as follows:

27 (4) Knowingly making a false statement on any form promulgated
28 under this chapter or the rules ~~and regulations~~ promulgated under this
29 chapter.

30
31 SECTION 1526. Arkansas Code § 17-83-203(5) and (6), concerning the
32 duties and powers of the Arkansas Dietetics Licensing Board, are amended to
33 read as follows:

34 (5) Make such rules ~~and regulations~~ not inconsistent with law as
35 may be necessary to regulate its proceedings;

36 (6) Promulgate rules ~~and regulations~~ necessary to implement this

1 chapter;

2

3 SECTION 1527. Arkansas Code § 17-84-203(5), concerning powers and
4 duties of the Arkansas Board of Hearing Instrument Dispensers, is amended to
5 read as follows:

6 (5) To make rules ~~and regulations~~ not inconsistent with the laws
7 of this state that are necessary for the enforcement and orderly
8 administration of this chapter. However, no rule ~~or regulation~~ shall be
9 promulgated that in any manner serves to restrict the number of licenses that
10 may be issued in any city, town, or county of this state;

11

12 SECTION 1528. Arkansas Code § 17-84-203(8), concerning powers and
13 duties of the Arkansas Board of Hearing Instrument Dispensers, is amended to
14 read as follows:

15 (8) To require, if the board deems necessary, an applicant,
16 dealer, or licensee to furnish a surety bond in an amount fixed by the board
17 for the benefit of any person damaged as the result of a violation of this
18 chapter. All requirements pertaining to the surety bond may be promulgated by
19 ~~regulation~~ rule of the board;

20

21 SECTION 1529. Arkansas Code § 17-85-107 is amended to read as follows:
22 17-85-107. Power to license.

23 (a) The State Board of Health is empowered to license lay midwives in
24 this state pursuant to ~~regulations~~ rules established by the board to include,
25 but not be limited to:

26 (1) The qualifications for licensure;

27 (2) Standards of practice for prenatal, intrapartum, and
28 postpartum care of mother and baby;

29 (3) Physician supervision, physician consultation, licensed
30 nurse-midwife supervision or consultation, or physician and hospital backup;

31 (4) Grievance procedures; and

32 (5) Recordkeeping and reporting.

33 (b) The lawful practice of lay midwifery shall be under the
34 supervision of a physician licensed under the Arkansas Medical Practices Act,
35 § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

36 (c) The board may suspend or revoke any licenses issued under this

1 chapter for violations of this chapter or ~~regulations~~ rules promulgated under
2 this chapter.

3
4 SECTION 1530. Arkansas Code § 17-86-204(d), concerning the records of
5 licensees under the Massage Therapy Act, is amended to read as follows:

6 (d) Copies of records may be furnished to any person requesting them
7 upon payment of such copying fee as the department may require and as
8 Arkansas state laws and ~~regulations~~ rules permit. However, licensing exams
9 shall be exempt from the Freedom of Information Act of 1967, § 25-19-101 et
10 seq.

11
12 SECTION 1531. Arkansas Code § 17-86-205(a)(2), concerning the
13 disposition of funds under the Massage Therapy Act, is amended to read as
14 follows:

15 (2) The Department of Health shall deposit all such funds
16 received in a timely manner in accordance with laws of the State of Arkansas
17 and ~~regulations~~ rules of the Department of Finance and Administration.

18
19 SECTION 1532. Arkansas Code § 17-86-301(a)(2), concerning exemptions
20 and registration requirements under the Massage Therapy Act, is amended to
21 read as follows:

22 (2) For any person to operate or conduct any massage therapy
23 clinic or massage therapy school which does not conform to the sanitary
24 ~~regulations~~ rules contained in § 17-86-302, in state law, in local
25 ordinances, or in those rules which may be adopted by the State Board of
26 Health;

27
28 SECTION 1533. Arkansas Code § 17-86-301(a)(5), concerning exemptions
29 and registration requirements under the Massage Therapy Act, is amended to
30 read as follows:

31 (5) For the department or other individual or entity to
32 incorporate privileges or certification requirements of any private
33 organization, private professional association, or private accrediting agency
34 within Arkansas massage laws or its rules ~~and regulations~~. However, the
35 department may adopt as its licensure exam an exam drafted and administered
36 by a private organization, private professional association, or private

1 accreditation agency.

2

3 SECTION 1534. Arkansas Code § 17-86-311(a)(7), concerning disciplinary
4 actions and penalties recommended by the Massage Therapy Technical Advisory
5 Committee, is amended to read as follows:

6 (7) Failure to comply with the Department of Health's Massage
7 Therapy Code of Ethics or any valid ~~regulation~~ rule or order of the
8 committee;

9

10 SECTION 1535. Arkansas Code § 17-86-311(e), concerning disciplinary
11 actions and penalties recommended by the Massage Therapy Technical Advisory
12 Committee, is amended to read as follows:

13 (e) In denying, suspending, or revoking any license, the committee
14 shall afford any party review as provided for in the Arkansas Administrative
15 Procedure Act, § 25-15-201 et seq., and as otherwise provided by the rules
16 ~~and regulations~~ of the State Board of Health.

17

18 SECTION 1536. Arkansas Code § 17-86-312(a), concerning the
19 registration fees paid under the Massage Therapy Act, is amended to read as
20 follows:

21 (a) All registration fees and other fees due the Department of Health
22 shall be paid in accordance with the provisions of this chapter and all other
23 laws and ~~regulations~~ rules of this state.

24

25 SECTION 1537. Arkansas Code § 17-87-102(9), concerning the definition
26 of "practice of licensed practical nursing" under the rules of nursing, is
27 amended to read as follows:

28 (9) "Practice of licensed practical nursing" means the
29 performance for compensation of nursing practices by a licensed practical
30 nurse that are relevant to the care of the ill, injured, or infirm, or the
31 delegation of certain nursing practices to other personnel as set forth in
32 ~~regulations~~ rules established by the board, under the direction of a
33 registered nurse, an advanced practice registered nurse, a licensed
34 physician, or a licensed dentist that do not require the substantial
35 specialized skill, judgment, and knowledge required in professional nursing;

36

1 SECTION 1538. Arkansas Code § 17-87-102(10)(D), concerning the
2 definition of "practice of professional nursing" under the rules of nursing,
3 is amended to read as follows:

4 (D) The delegation of certain nursing practices to other
5 personnel as set forth in ~~regulations~~ rules established by the board; or
6

7 SECTION 1539. Arkansas Code § 17-87-102(11), concerning the definition
8 of "practice of psychiatric technician nursing" under the rules of nursing,
9 is amended to read as follows:

10 (11) "Practice of psychiatric technician nursing" means the
11 performance for compensation of nursing practices by a licensed psychiatric
12 technician nurse that are relevant to the care of the physically and mentally
13 impaired, injured, or infirm or the delegation of certain nursing practices
14 to other personnel as set forth in ~~regulations~~ rules established by the
15 board, and the carrying out of medical orders under the direction of a
16 professional registered nurse, an advanced practice registered nurse, a
17 licensed physician, or a licensed dentist, when such activities do not
18 require the substantial specialized skill, judgment, and knowledge required
19 in professional nursing; and
20

21 SECTION 1540. Arkansas Code § 17-87-104(b)(1), concerning the penalty
22 for practicing nursing without a license, is amended to read as follows:

23 (b)(1) After providing notice and a hearing, the board may levy civil
24 penalties in an amount not to exceed one thousand dollars (\$1,000) for each
25 violation against those individuals or entities found to be in violation of
26 this chapter or ~~regulations~~ rules promulgated thereunder.
27

28 SECTION 1541. Arkansas Code § 17-87-203(1), concerning the powers and
29 duties of the Arkansas State Board of Nursing, is amended to read as follows:

30 (1)(A) Promulgate whatever ~~regulations~~ rules it deems necessary
31 for the implementation of this chapter.

32 (B) No ~~regulation~~ rule promulgated hereafter by the board
33 shall be effective until reviewed by the Legislative Council and the House
34 Committee on Public Health, Welfare, and Labor and the Senate Committee on
35 Public Health, Welfare, and Labor or appropriate subcommittees thereof;
36

1 SECTION 1542. Arkansas Code § 17-87-312(k), concerning criminal
2 background checks by the Arkansas State Board of Nursing, is amended to read
3 as follows:

4 (k) The board shall adopt the necessary rules ~~and regulations~~ to fully
5 implement the provisions of this section.

6
7 SECTION 1543. Arkansas Code § 17-87-701(2), concerning the definition
8 of "designated facility" under the laws governing nursing, is amended to read
9 as follows:

10 (2) "Designated facility" means a type of facility determined by
11 the board as an environment in which medication assistive persons may serve
12 in accordance with the requirements of this subchapter and ~~regulations~~ rules
13 promulgated by the board;

14
15 SECTION 1544. Arkansas Code § 17-87-708(b)(1), concerning penalties
16 for violations of the laws governing a medication assistive person by the
17 Arkansas State Board of Nursing, is amended to read as follows:

18 (b)(1) After providing notice and a hearing, the board may levy civil
19 penalties in an amount not to exceed one thousand dollars (\$1,000) against a
20 person or entity for each violation of this subchapter or ~~regulations~~ rules
21 promulgated under this subchapter.

22
23 SECTION 1545. Arkansas Code § 17-88-201(c)(1), concerning the duties
24 of the Arkansas State Medical Board to license occupational therapists, is
25 amended to read as follows:

26 (1) Adopt and put into effect reasonable rules ~~and regulations~~
27 to carry this chapter into effect;

28
29 SECTION 1546. Arkansas Code § 17-88-305(b), concerning license
30 reciprocity for licensed occupational therapists, is amended to read as
31 follows:

32 (b) The issuance of a license by reciprocity by the board shall be at
33 the sole discretion of the board, and the board may provide such rules ~~and~~
34 ~~regulations~~ governing admission as it may deem necessary or desirable.

35
36 SECTION 1547. Arkansas Code § 17-89-202(c)(2), concerning meetings and

1 officers of the Arkansas Board of Dispensing Opticians, is amended to read as
2 follows:

3 (2) The board shall outline the duties of the secretary-
4 treasurer and fix his or her compensation, per diem, mileage, and other
5 expense moneys in accordance with applicable Arkansas laws and ~~regulations~~
6 rules.

7
8 SECTION 1548. Arkansas Code § 17-89-203(a)(9), concerning the powers
9 and duties of the Arkansas Board of Dispensing Opticians, is amended to read
10 as follows:

11 (9) Adopt rules ~~and regulations~~ commensurate with the policies
12 of this chapter and for the purpose of carrying this chapter into effect,
13 including, but not limited to, rules which establish ethical standards of
14 ophthalmic dispensing practices, application procedures, and procedures for
15 investigating complaints. Following their adoption, the rules shall govern
16 and control the business conduct of every person licensed or registered under
17 this chapter in this state engaged in ophthalmic dispensing; and

18
19 SECTION 1549. Arkansas Code § 17-89-308(d), concerning the continuing
20 education program of the Arkansas Board of Dispensing Opticians, is amended
21 to read as follows:

22 (d) The board shall promulgate ~~regulations~~ rules to implement this
23 section.

24
25 SECTION 1550. Arkansas Code § 17-89-309(a), concerning the grounds for
26 denial, suspension, or revocation of a license by the Arkansas Board of
27 Dispensing Opticians, is amended to read as follows:

28 (a) The Arkansas Board of Dispensing Opticians shall revoke or suspend
29 or refuse to issue or renew a license or registration of any dispensing
30 optician for any violation of any provision of this chapter or of any rules
31 ~~and regulations~~ promulgated by the board, including, but not limited to, the
32 following:

33 (1) The applicant, licensee, or registrant obtaining a license
34 or registration by means of fraud, misrepresentation, or concealment of
35 material facts;

36 (2) The applicant, licensee, or registrant engaging in conduct,

1 including, but not limited to, engaging in the advertising practice commonly
 2 known as “bait and switch”, or establishing an ophthalmic dispensing business
 3 immediately adjacent to the office of a licensed optometrist or physician
 4 skilled in diseases of the eye in what is commonly known as a “side-by-side”
 5 operation, or engaging in the referral procedure commonly known as “capping
 6 and steering”;

7 (3) The applicant, licensee, or registrant being convicted of a
 8 felony in any state or federal court, and not pardoned, if the acts for which
 9 the person is convicted are found by the board to have a direct bearing on
 10 whether he or she should be entrusted to serve the public in the capacity of
 11 a dispensing optician;

12 (4) The applicant, licensee, or registrant violating any
 13 prohibitive provision under this chapter;

14 (5) The applicant, licensee, or registrant engaging in any
 15 fraudulent, misleading, or deceptive advertising;

16 (6) The applicant, licensee, or registrant failing to qualify
 17 for the license or registration;

18 (7) The applicant, licensee, or registrant violating any other
 19 rule ~~or regulation~~ promulgated by the board; or

20 (8) The applicant, licensee, or registrant using any narcotic
 21 drug or alcohol which impairs his or her ability to perform the work of an
 22 ophthalmic dispenser.

23
 24 SECTION 1551. Arkansas Code § 17-89-403 is amended to read as follows:
 25 17-89-403. Standards for materials.

26 All ophthalmic materials, including eyeglasses, spectacles, lenses, or
 27 other optical devices or materials or parts thereof, sold in the State of
 28 Arkansas must conform to standards of quality as promulgated by the American
 29 National Standards Institute, commonly known as Z-80.1 standards, or any
 30 standards later set forth in a ~~regulation~~ rule promulgated by the Arkansas
 31 Board of Dispensing Opticians.

32
 33 SECTION 1552. Arkansas Code § 17-89-404(b), concerning branch offices
 34 of registered dispensing opticians, is amended to read as follows:

35 (b)(1) With board approval, the board shall promulgate rules ~~and~~
 36 ~~regulations~~ establishing the branch office permit and the procedures for

1 issuing, suspending, or revoking the branch office permit.

2 (2) The rules ~~and regulations~~ shall comply with the pertinent
3 provisions of all existing state law.

4
5 SECTION 1553. Arkansas Code § 17-89-405(2)(A), concerning the
6 prohibition of fraudulent, misleading, or deceptive advertising by a
7 dispensing optician, is amended to read as follows:

8 (2)(A) The use of words or a format designed to convey or which
9 result in conveying an impression that the ophthalmic dispensing firm or the
10 dispensing optician is qualified to provide eye care service other than the
11 services that are authorized by the laws of this state and ~~regulations~~ rules
12 promulgated pursuant thereto for ophthalmic dispensing in this state.

13
14 SECTION 1554. Arkansas Code § 17-89-408(a)(1), concerning office
15 permits for ophthalmic dispensing services, is amended to read as follows:

16 (a)(1) It shall be unlawful for any person or legal entity to conduct
17 an office or place of business in this state where ophthalmic dispensing
18 services are offered or performed unless that person or entity shall have
19 first secured an office permit from the Arkansas Board of Dispensing
20 Opticians pursuant to board ~~regulation~~ rule for each such office or place of
21 business.

22
23 SECTION 1555. Arkansas Code § 17-89-408(b) and (c), concerning office
24 permits for ophthalmic dispensing services, are amended to read as follows:

25 (b) The office permit shall be renewed on or before July 1 of each
26 year at a cost and pursuant to procedures to be determined by board rule ~~or~~
27 ~~regulation~~.

28 (c) The board shall suspend, revoke, or refuse to issue or renew an
29 office permit for any violation of any provision of this chapter or of any
30 rules ~~and regulations~~ promulgated by the board, including at least the
31 following:

32 (1) The applicant, person, or legal entity obtains an office
33 permit by means of fraud, misrepresentation, or concealment of material
34 facts;

35 (2) The applicant, person, or legal entity violates any
36 prohibitive provision under this chapter;

1 (3) The applicant, person, or legal entity engages in any
2 fraudulent, misleading, or deceptive advertising;

3 (4) The applicant, person, or legal entity fails to qualify for
4 the office permit; or

5 (5) The applicant, person, or legal entity violates any other
6 rule ~~or regulation~~ promulgated by the board.

7
8 SECTION 1556. Arkansas Code § 17-90-101(a)(2), concerning the
9 definition of "optometry" under the law governing the practice of optometry,
10 is amended to read as follows:

11 (2) "Optometry" shall include utilizing any method or means
12 which the licensed optometrist is educationally qualified to provide, as
13 established and determined by the State Board of Optometry. In administering
14 this chapter, the board shall by rule ~~or regulation~~ prescribe those acts,
15 services, procedures, and practices which constitute both primary optometric
16 eye care and the practice of optometry.

17
18 SECTION 1557. Arkansas Code § 17-90-108(a)(2)(B), concerning the
19 requirement to provide an eyeglass prescription, is amended to read as
20 follows:

21 (B) Contact lens prescriptions released and filled shall
22 be dispensed, sold, and supplied only after positive verification in
23 accordance with the laws of the State of Arkansas and the rules ~~and~~
24 ~~regulations~~ promulgated and administered by the State Board of Optometry.

25
26 SECTION 1558. Arkansas Code § 17-90-109(a)(2), concerning the
27 regulation of contact lenses, is amended to read as follows:

28 (2) Possession of a positively verified written, signed, and
29 unexpired contact lens prescription issued, dispensed, sold, or supplied by a
30 licensed optometrist or ophthalmologist in compliance with the laws of the
31 State of Arkansas and all rules ~~and regulations~~ promulgated by the board; and
32

33 SECTION 1559. Arkansas Code § 17-90-204(1), concerning the powers and
34 duties of the State Board of Optometry, is amended to read as follows:

35 (1) To make rules ~~and regulations~~ for the administration and
36 enforcement of this chapter;

1
2 SECTION 1560. Arkansas Code § 17-90-204(7)(A), concerning the powers
3 and duties of the State Board of Optometry, is amended to read as follows:

4 (7)(A) To levy civil penalties, after providing notice and a
5 hearing, in an amount not to exceed one thousand dollars (\$1,000) for each
6 violation against those individuals, firms, or corporations found to be in
7 violation of this chapter or rules ~~and regulations~~ promulgated thereunder.
8

9 SECTION 1561. Arkansas Code § 17-90-301(a)(1), concerning examination
10 fees by the State Board of Optometry, is amended to read as follows:

11 (1) Successfully passed all examinations as the board may
12 require in the rules ~~and regulations~~ of the board, to include, but not be
13 limited to, clinical examinations if required; and
14

15 SECTION 1562. Arkansas Code § 17-90-305(a)(14), concerning the grounds
16 for revocation and suspension of a license by the State Board of Optometry,
17 is amended to read as follows:

18 (14) Violation of any rule ~~or regulation~~ of the board;
19

20 SECTION 1563. Arkansas Code § 17-90-401(1), concerning the powers and
21 duties of the State Board of Optometry, is amended to read as follows:

22 (1) To enforce, amend, or repeal the rules ~~and regulations~~
23 promulgated by the board;
24

25 SECTION 1564. Arkansas Code § 17-90-401(4), concerning the powers and
26 duties of the State Board of Optometry, is amended to read as follows:

27 (4) To approve, consistent with the rules ~~and regulations~~
28 promulgated by the board, those acts, services, procedures, and practices
29 which may be performed by a licensed optometrist and, before authorization,
30 by appropriate examination, establish the competence of every optometrist to
31 perform the approved acts, services, procedures, and practices;
32

33 SECTION 1565. Arkansas Code § 17-90-401(5)(B), concerning the powers
34 and duties of the State Board of Optometry, is amended to read as follows:

35 (B) The express purpose of this subdivision (5) is to
36 prohibit the "grandfathering" of currently licensed optometrists unless and

1 until they have completed the prerequisites and requirements of the board and
2 this subchapter established by this subdivision (5). Nothing in this
3 subdivision (5) shall be construed to prohibit any optometrist currently
4 licensed from continuing to practice optometry and be relicensed, but until
5 he or she has met the requirements of this subchapter and the rules ~~and~~
6 ~~regulations~~ of the board, he or she shall not be allowed to utilize the
7 additional treatments provided for in this subchapter;

8
9 SECTION 1566. Arkansas Code § 17-90-401(6) and (7), concerning the
10 powers and duties of the State Board of Optometry, are amended to read as
11 follows:

12 (6) To promulgate rules ~~and regulations~~ governing the
13 prescribing, administering, and use of all drugs authorized in this chapter
14 by all licensed and board-certified primary care optometrists in the
15 diagnosis, treatment, or management only of conditions of the human eye, lid,
16 adnexa, or visual system; and

17 (7) To promulgate rules ~~and regulations~~ which authorize board-
18 certified primary care optometrists to order any procedure or laboratory test
19 necessary in the examination, diagnosis, treatment, or management of diseases
20 or conditions of the human eye, lid, adnexa, or visual system.

21
22 SECTION 1567. Arkansas Code § 17-92-101(16)(A)(i)(a), concerning the
23 definition of "practice of pharmacy" under the rules governing pharmacists
24 and pharmacies, is amended to read as follows:

25 (i)(a) Dispensing, selling, distributing,
26 transferring possession of, vending, bartering, or, in accordance with
27 ~~regulations~~ rules adopted by the Arkansas State Board of Pharmacy,
28 administering drugs, medicines, poisons, or chemicals that under the laws of
29 the United States or the State of Arkansas may be sold or dispensed only on
30 the prescription and order of a practitioner authorized by law to prescribe
31 drugs, medicines, poisons, or chemicals.

32
33 SECTION 1568. Arkansas Code § 17-92-101(16)(C)(i), concerning the
34 definition of "practice of pharmacy" under the rules governing pharmacists
35 and pharmacies, is amended to read as follows:

36 (C)(i) The Arkansas State Board of Pharmacy may permit

1 pharmacy technicians other than pharmacists or interns to perform some or all
2 of those functions described in Arkansas State Board of Pharmacy ~~regulations~~
3 rules under the direct, personal supervision of a licensed pharmacist
4 pursuant to ~~regulations~~ rules defining the minimum qualifications of such
5 employees, the ratio of pharmacy technicians to supervising pharmacists, and
6 the scope of the duties, practices, and procedures that the Arkansas State
7 Board of Pharmacy determines will promote the delivery of competent,
8 professional pharmaceutical services and promote the public health and
9 welfare. Nothing in this chapter shall be construed as allowing pharmacy
10 technicians to administer medications.

11
12 SECTION 1569. Arkansas Code § 17-92-101(16)(C)(iv) and (v), concerning
13 the definition of "practice of pharmacy" under the rules governing
14 pharmacists and pharmacies, are amended to read as follows:

15 (iv) The use of pharmacy technicians in a manner not
16 authorized by this chapter or ~~regulations~~ rules promulgated hereunder shall
17 be unprofessional conduct by the pharmacist-in-charge and the supervising
18 pharmacist.

19 (v) It is recognized that hospital pharmacy
20 technicians as defined in § 17-92-602(5) are governed by the Hospital
21 Pharmacies Act, § 17-92-601 et seq., and related Arkansas State Board of
22 Pharmacy ~~regulations~~ rules developed pursuant to that act;

23
24 SECTION 1570. Arkansas Code § 17-92-101(24), concerning the definition
25 of "written protocol" under the rules governing pharmacists and pharmacies,
26 is amended to read as follows:

27 (24) "Written protocol" means a physician's order, standing
28 medical order, standing delegation order, or other order or protocol as
29 defined by ~~regulation~~ rule of the Arkansas State Medical Board under the
30 Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and
31 § 17-95-401 et seq.

32
33 SECTION 1571. Arkansas Code § 17-92-205(a), concerning the rules of
34 the Arkansas State Board of Pharmacy, is amended to read as follows:

35 (a)(1) The Arkansas State Board of Pharmacy shall have authority to
36 make reasonable rules ~~and regulations~~, not inconsistent with law, to carry

1 out the purposes and intentions of this chapter and the pharmacy laws of this
2 state that the board deems necessary to preserve and protect the public
3 health.

4 (2) The board shall by ~~regulation~~ rule establish standards for
5 the administration of medications by licensed pharmacists, including, but not
6 limited to, the completion of a course in the administration of medications.

7
8 SECTION 1572. Arkansas Code § 17-92-206(b), concerning the issuance of
9 bulletins by the Arkansas State Board of Pharmacy, is amended to read as
10 follows:

11 (b) The board shall make a written report on September 1 of each year
12 to the Governor and to the Arkansas Pharmacists Association of all its
13 proceedings, orders, rules, and requirements, ~~and regulations~~, of its
14 receipts and disbursements, including also the names of all persons licensed
15 to practice under this chapter, and a record of permits and renewals.

16
17 SECTION 1573. Arkansas Code § 17-92-301(a)(3) and (4), concerning the
18 license required to practice pharmacy, are amended to read as follows:

19 (3) A pharmacy technician performing the limited functions
20 permitted under this chapter and ~~regulations~~ rules promulgated hereunder; or

21 (4) A hospital pharmacy technician as defined in § 17-92-602
22 performing the limited functions permitted under that subchapter and
23 ~~regulations~~ rules promulgated thereunder.

24
25 SECTION 1574. Arkansas Code § 17-92-302(a)(2) and (3), concerning the
26 penalty for unlicensed practice of pharmacy, are amended to read as follows:

27 (2) A pharmacy technician performing the limited functions
28 permitted under this chapter and ~~regulations~~ rules promulgated hereunder; or

29 (3) A hospital pharmacy technician as defined in § 17-92-602
30 performing the limited functions permitted under that subchapter and
31 ~~regulations~~ rules promulgated thereunder.

32
33 SECTION 1575. Arkansas Code § 17-92-302(b), concerning the penalty for
34 unlicensed practice of pharmacy, is amended to read as follows:

35 (b) Any person who is not an Arkansas-licensed pharmacist or a student
36 serving internship or a pharmacy technician performing the limited functions

1 permitted under this chapter and ~~regulations~~ rules promulgated hereunder or a
2 hospital pharmacy technician as defined in § 17-92-602 performing the limited
3 functions permitted under that subchapter and ~~regulations~~ rules promulgated
4 thereunder, who shall fill a prescription, compound or dispense medicine, or
5 otherwise perform the functions of a pharmacist, shall be guilty of a
6 misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) nor
7 more than one hundred dollars (\$100) for the first offense and not less than
8 one hundred dollars (\$100) or thirty (30) days' imprisonment, or both fine
9 and imprisonment, for each succeeding offense thereafter.

10
11 SECTION 1576. Arkansas Code § 17-92-305(a)(3)(B), concerning
12 application and qualification of applicants for a pharmacist license, is
13 amended to read as follows:

14 (B) Graduated from a foreign college of pharmacy,
15 completed a transcript verification program, taken and passed a college of
16 pharmacy equivalency exam program, and completed a process of communication
17 ability testing as defined under board ~~regulations~~ rules so that it is
18 assured that the applicant meets standards necessary to protect public health
19 and safety.

20
21 SECTION 1577. Arkansas Code § 17-92-305(b), concerning application and
22 qualification of applicants for a pharmacist license, is amended to read as
23 follows:

24 (b) Each application for examination shall be made on a form to be
25 supplied by the board and shall be filed with the board as required by board
26 ~~regulations~~ rules.

27
28 SECTION 1578. Arkansas Code § 17-92-308(c)(1), concerning the rules of
29 reciprocity for pharmacists by the Arkansas State Board of Pharmacy, is
30 amended to read as follows:

31 (c)(1) In the interim between sessions of the board and upon
32 satisfactory evidence of the fitness as established by board ~~regulation~~ rule
33 of an applicant for reciprocity, any member of the board, in his or her
34 discretion, may issue a temporary certificate that shall authorize the holder
35 to practice pharmacy as defined in § 17-92-101.

36

1 SECTION 1579. Arkansas Code § 17-92-309(c), concerning registration
2 and certificates issued by the Arkansas State Board of Pharmacy, is amended
3 to read as follows:

4 (c) The board may provide by ~~regulation~~ rule for issuing and waiving
5 the renewal fee for pharmacy certificates denoting special recognition for
6 pharmacists who have the following qualifications:

7
8 SECTION 1580. Arkansas Code § 17-92-316(a)(1), concerning the
9 credential required for professional pharmacy service, is amended to read as
10 follows:

11 (a)(1) The Arkansas State Board of Pharmacy may provide by ~~regulation~~
12 rule for credentialing and approval of pharmacists to practice disease state
13 management and any other pharmacy services determined by the board to require
14 a credential.

15
16 SECTION 1581. Arkansas Code § 17-92-316(b) and (c), concerning the
17 credential required for professional pharmacy service, are amended to read as
18 follows:

19 (b) The board shall adopt ~~regulations~~ rules necessary and appropriate
20 to implement the credentialing and the board's approval of pharmacists to
21 practice disease state management and other credentialed pharmacy services,
22 including:

23 (1) Identification of areas of credentialed pharmacy services;

24 (2) Identification of the minimum competencies, standards,
25 objectives, and qualifications necessary for a credential and the board's
26 approval to practice in each area of credentialed pharmacy service;

27 (3) Identification of the standards for qualifying an agency to
28 issue credentials for areas of pharmacy services;

29 (4) The procedure and standards, which may include a practical
30 examination, for the board's review and approval of a credential and
31 determination of a pharmacist's qualifications to practice disease state
32 management or other credentialed pharmacy service;

33 (5) The conversion of a credential previously issued by the
34 board for the practice of disease state management or other pharmacy service
35 to a credential issued by an approved credentialing agency; and

36 (6) Continuing professional education and other measures to

1 maintain pharmacists' continuing competency in disease state management and
2 other credentialed pharmacy services.

3 (c) The board shall promulgate ~~regulations~~ rules to:

- 4 (1) Identify areas of credentialing;
5 (2) Establish procedures for initial application and renewal;
6 (3) Define the minimum competencies and standards to be
7 examined;
8 (4) Define the qualifications for credentialing; and
9 (5) Define required continuing education, competencies,
10 standards, and other information necessary to implement this chapter.

11
12 SECTION 1582. Arkansas Code § 17-92-317(e)(3), concerning criminal
13 background checks prior to issuance of a pharmacist license, is amended to
14 read as follows:

15 (3) Any violation of Arkansas pharmacy or drug law or
16 ~~regulations~~ rules, including, but not limited to, this chapter, the Uniform
17 Controlled Substances Act, § 5-64-101 et seq., and the Food, Drug, and
18 Cosmetic Act, § 20-56-201 et seq.

19
20 SECTION 1583. Arkansas Code § 17-92-317(k), concerning criminal
21 background checks prior to issuance of a pharmacist license, is amended to
22 read as follows:

23 (k) The board shall adopt the necessary rules ~~and regulations~~ to fully
24 implement the provisions of this section.

25
26 SECTION 1584. Arkansas Code § 17-92-401(a), concerning applicability
27 to out-of-state pharmacy operations, is amended to read as follows:

28 (a) A pharmacy operating outside the state that routinely ships,
29 mails, or delivers in any manner a dispensed legend drug into Arkansas or
30 otherwise practices pharmacy in Arkansas shall hold a pharmacy license issued
31 by the Arkansas State Board of Pharmacy, and that part of the pharmacy
32 operation dispensing the prescription for an Arkansas resident shall abide by
33 Arkansas law and ~~regulations~~ rules of the board.

34
35 SECTION 1585. Arkansas Code § 17-92-403(a), concerning exceptions to
36 the requirement for a licensed pharmacist, is amended to read as follows:

1 (a) No person shall operate a pharmacy or other facility dispensing
2 prescriptions as identified in this section or be issued a pharmacy permit or
3 other permit issued by the Arkansas State Board of Pharmacy to facilities
4 dispensing prescriptions unless an Arkansas-licensed pharmacist-in-charge is
5 on duty in the drugstore or pharmacy a minimum of forty (40) hours per week
6 or as otherwise provided in this chapter or by board ~~regulation~~ rule.

7
8 SECTION 1586. Arkansas Code § 17-92-403(d)(1) and (2), concerning
9 exceptions to the requirement for a licensed pharmacist, are amended to read
10 as follows:

11 (d)(1) The board shall provide by ~~regulation~~ rule for the issuance of
12 permits for specialty pharmacies to which § 17-92-607 shall apply.

13 (2) The owners of specialty pharmacies shall have on duty a
14 licensed pharmacist-in-charge whose minimum number of hours on duty shall be
15 determined by board ~~regulations~~ rules regarding the nature of the pharmacy
16 service provided.

17
18 SECTION 1587. Arkansas Code § 17-92-403(d)(4), concerning exceptions
19 to the requirement for a licensed pharmacist, is amended to read as follows:

20 (4) The owners of specialty pharmacies shall abide by all
21 provisions established for the employment of pharmacists in this chapter and
22 board ~~regulations~~ rules.

23
24 SECTION 1588. Arkansas Code § 17-92-403(e)-(h), concerning exceptions
25 to the requirement for a licensed pharmacist, are amended to read as follows:

26 (e) The board may provide by ~~regulation~~ rule for the issuance of
27 hospital pharmaceutical permits to pharmacists employed in hospitals under
28 which the pharmacist-in-charge employed in a hospital may have a flexible
29 schedule of attendance and to which the requirement of a licensed pharmacist-
30 in-charge on duty for a minimum of forty (40) hours a week shall not apply.

31 (f) The board shall provide for the issuance of ambulatory care center
32 pharmaceutical services permits to entities so licensed by the Department of
33 Health and that shall employ a licensed pharmacist-in-charge as provided by
34 board ~~regulation~~ rule.

35 (g) The board shall provide by ~~regulation~~ rule for the issuance of
36 institutional pharmacy permits to governmentally funded institutions that

1 provide inpatient pharmaceutical services to persons confined to such
2 institutions or in which drugs are administered to inpatients on orders of
3 practitioners authorized by law to prescribe or administer the drugs and to
4 which the requirement that the licensed pharmacist-in-charge on duty for a
5 minimum of forty (40) hours a week shall not apply.

6 (h) The board may provide by ~~regulation~~ rule for the issuance of
7 charitable clinic pharmacy permits to clinics operated on a nonprofit basis
8 to furnish medical and dental care to poor and underprivileged persons and in
9 which drugs are dispensed or administered to such persons on orders or
10 prescriptions of practitioners authorized by law to prescribe or administer
11 the drugs and to which the requirement of a licensed pharmacist-in-charge on
12 duty for a minimum of forty (40) hours a week shall not apply.

13
14 SECTION 1589. Arkansas Code § 17-92-407(b), concerning grounds for
15 revocation of a license by the Arkansas State Board of Pharmacy, is amended
16 to read as follows:

17 (b) Whenever any person, firm, partnership, estate, or corporation
18 holding any permit issued under this subchapter obtains a permit by false
19 representations or knowingly violates any of the pharmacy laws or fails to
20 comply with the rules ~~and regulations~~ of the board passed by authority of the
21 pharmacy laws, the board shall revoke the holder's pharmacy permit.

22
23 SECTION 1590. Arkansas Code § 17-92-409 is amended to read as follows:
24 17-92-409. Pharmacy library required.

25 There shall be kept in every pharmacy or other facility as identified
26 in § 17-92-403 a library consisting of books, periodicals, and computer
27 software as required by ~~regulations~~ rules of the Arkansas State Board of
28 Pharmacy.

29
30 SECTION 1591. Arkansas Code § 17-92-412(a)(1), concerning a nursing
31 home consultant permit issued by the Arkansas State Board of Pharmacy, is
32 amended to read as follows:

33 (a)(1) The Arkansas State Board of Pharmacy shall provide for the
34 issuance of nursing home consultant permits by ~~regulation~~ rule.

35
36 SECTION 1592. Arkansas Code § 17-92-412(b), concerning a nursing home

1 consultant permit issued by the Arkansas State Board of Pharmacy, is amended
2 to read as follows:

3 (b) The board shall set by ~~regulation~~ rule the standards by which the
4 controlled and legend drugs and devices will be maintained in the nursing
5 home or long-term care facility.

6
7 SECTION 1593. Arkansas Code § 17-92-501 is amended to read as follows:
8 17-92-501. Penalty.

9 Any person licensed or otherwise permitted to practice pharmacy in this
10 state who shall violate any provisions of this subchapter shall be subject to
11 discipline by the Arkansas State Board of Pharmacy, including, but not
12 limited to, revocation of such license or permission, according to procedures
13 established by law or by ~~regulations~~ rules of the board.

14
15 SECTION 1594. Arkansas Code § 17-92-502 is amended to read as follows:
16 17-92-502. Rules ~~and regulations~~.

17 The Arkansas State Board of Pharmacy may adopt such reasonable
18 ~~regulations~~ rules, not inconsistent with law, as it shall deem necessary to
19 carry out the purposes and intentions of this subchapter.

20
21 SECTION 1595. Arkansas Code § 17-92-603(a), concerning the Advisory
22 Committee for Hospital Pharmacies, is amended to read as follows:

23 (a) There is created an Advisory Committee for Hospital Pharmacies to
24 assist the Arkansas State Board of Pharmacy in the promulgation of rules,
25 ~~regulations~~, and standards for hospital pharmacies.

26
27 SECTION 1596. Arkansas Code § 17-92-604 is amended to read as follows:
28 17-92-604. Regulatory authority.

29 (a) The Arkansas State Board of Pharmacy shall adopt, promulgate, and
30 enforce such rules, ~~regulations~~, and standards as may be necessary to the
31 regulation of the operation of a hospital pharmacy and for the accomplishment
32 of all other purposes of this subchapter.

33 (b)(1) The Advisory Committee for Hospital Pharmacies shall advise
34 with the board concerning the rules, ~~regulations~~, and standards to be
35 promulgated by the board under this subchapter. No rule, ~~regulation~~, or
36 standard shall be promulgated by the board until it has consulted with the

1 committee.

2 (2) The rules, ~~regulations~~, and standards shall include, but
3 shall not be limited to, the following specific matters:

4 (A) The number of licensed pharmacists and other hospital
5 pharmacy technicians and the scope of duties to be performed by the hospital
6 pharmacy technicians in the inpatient medication distribution system, in
7 keeping with the size and scope of the services of the hospital and its
8 hospital pharmacy and the hospital pharmacy's safe, efficient, and economical
9 operation; and

10 (B) The equipment and supplies necessary to the hospital
11 pharmacy's safe, efficient, and economical operation.

12 (c) After consultation with the committee, from time to time, the
13 board may modify, amend, or rescind the rules, ~~regulations~~, and standards,
14 provided the modification, amendment, or rescission does not in any manner
15 defeat the purposes of this subchapter.

16

17 SECTION 1597. Arkansas Code § 17-92-801(d)(1)-(3), concerning the
18 powers and duties of the Arkansas State Board of Pharmacy, are amended to
19 read as follows:

20 (1) Violation of any law or ~~regulation~~ rule regarding the
21 practice of pharmacy;

22 (2) Violation of any law or ~~regulation~~ rule regarding legend
23 drugs or controlled substances; or

24 (3) Violation of any ~~regulation~~ rule adopted by the board
25 regarding pharmacy technicians.

26

27 SECTION 1598. Arkansas Code § 17-92-903(b), concerning the exemption
28 from license and permit requirements of the Arkansas State Board of Pharmacy,
29 is amended to read as follows:

30 (b) Although excluded from a separate licensure requirement for
31 medical equipment, pharmacies shall be subject to the same rules ~~and~~
32 ~~regulations~~ for the sale or rental of medical equipment covered by this
33 subchapter.

34

35 SECTION 1599. Arkansas Code § 17-92-906 is amended to read as follows:
36 17-92-906. ~~Regulations~~ Rules.

1 (a)(1) The Arkansas State Board of Pharmacy shall adopt ~~regulations~~
2 rules for the distribution of home medical equipment, legend devices, and
3 medical gases which promote the public health and welfare and which comply
4 with, at least, the minimum standards, terms, and conditions of federal laws
5 and federal regulations.

6 (2) The ~~regulations~~ rules shall include, without limitation:

7 (A) Minimum information from each home medical equipment,
8 legend device, and medical gas supplier required for licensing and renewal of
9 licenses;

10 (B) Minimum qualifications of persons who engage in the
11 distribution of these products;

12 (C) Appropriate education or experience, or both, of
13 persons employed in distribution of these products who assume responsibility
14 for positions related to compliance with state licensing requirements;

15 (D) Minimum requirements for the storage and handling of
16 these products;

17 (E) Minimum requirements for the establishment and
18 maintenance of distribution records for these products; and

19 (F) Federal and state labeling requirements.

20 (b) State ~~regulations~~ rules shall not apply to the following:

21 (1) Home health agencies;

22 (2) Hospitals;

23 (3) Manufacturers and wholesale distributors when not selling
24 directly to the patient;

25 (4) Healthcare practitioners legally eligible to prescribe or
26 order home medical equipment, medical gases, and legend devices;

27 (5) Medical doctors, physical therapists, respiratory
28 therapists, occupational therapists, speech pathologists, optometrists,
29 chiropractors, and podiatrists who use home medical equipment or legend
30 devices, or both, to treat patients;

31 (6) Nurses who use but do not sell home medical equipment or
32 legend devices, or both, to their patients;

33 (7) Hospice programs;

34 (8) Nursing homes; and

35 (9) Veterinarians.

36 (c) No ~~regulations~~ rules promulgated to implement this subchapter

1 shall be effective until they have been reviewed by the House Committee on
2 Public Health, Welfare, and Labor and the Senate Committee on Public Health,
3 Welfare, and Labor or appropriate subcommittees thereof.

4
5 SECTION 1600. Arkansas Code § 17-92-908(2), concerning the revocation
6 or suspension of licenses by the Arkansas State Board of Pharmacy, is amended
7 to read as follows:

8 (2) Violation of any provisions of this subchapter or any
9 ~~regulation~~ rule promulgated hereunder; or

10
11 SECTION 1601. Arkansas Code § 17-92-909(d), concerning the Advisory
12 Committee to the Arkansas State Board of Pharmacy, is amended to read as
13 follows:

14 (d) The committee shall review and make recommendations to the board
15 on the merit of all ~~regulations~~ rules dealing with medical equipment, legend
16 devices, and medical gases which are proposed by the board and before they
17 are adopted by the board.

18
19 SECTION 1602. Arkansas Code § 17-92-1104(h)(1)(D), concerning
20 donations of unused prescription drugs to a charitable clinic, is amended to
21 read as follows:

22 (D) Pharmacists and pharmacy technicians except when the
23 board has promulgated ~~regulations~~ rules dealing specifically with the
24 prescription drug redispensing program;

25
26 SECTION 1603. Arkansas Code § 17-92-1104(h)(2)(E)-(G), concerning
27 donations of unused prescription drugs to a charitable clinic, are amended to
28 read as follows:

29 (E) The charitable clinic pharmacy acting in conformity
30 with board ~~regulations~~ rules;

31 (F) The pharmacist who originally dispensed the donated
32 prescription drugs acting in conformity with board ~~regulations~~ rules;

33 (G) A pharmacist dispensing donated prescription drugs
34 acting in conformity with board ~~regulations~~ rules;

35
36 SECTION 1604. Arkansas Code § 17-93-308(a)(13), concerning the grounds

1 for revocation, suspension or denial of a license by the Arkansas State Board
2 of Physical Therapy, is amended to read as follows:

3 (13) Is in violation of this chapter or any ~~regulation~~ rule
4 promulgated by the board.

5
6 SECTION 1605. Arkansas Code § 17-93-309(a)(3), concerning revocation,
7 suspension, or denial proceedings of the Arkansas State Board of Physical
8 Therapy, is amended to read as follows:

9 (3) If the board determines that there is a reasonable belief
10 that the accused may have been guilty of a violation of this chapter or the
11 rules ~~and regulations~~ promulgated thereunder, or both, the board shall
12 prepare an order and notice of hearing advising the person of the date for
13 the hearing to be held by the board.

14
15 SECTION 1606. Arkansas Code § 17-93-311(a), concerning civil penalties
16 levied by the Arkansas State Board of Physical Therapy, is amended to read as
17 follows:

18 (a) After due notice and hearing, the Arkansas State Board of Physical
19 Therapy is also authorized to levy a civil penalty against any person
20 licensed under the provisions of this chapter after a finding that the person
21 has violated any of the provisions of this chapter or any ~~regulations~~ rules
22 promulgated by the board.

23
24 SECTION 1607. Arkansas Code § 17-93-313(b), concerning notice of
25 malpractice claim or suit to the Arkansas State Board of Physical Therapy, is
26 amended to read as follows:

27 (b) The board shall prepare and adopt ~~regulations~~ rules as are
28 necessary and proper to assure compliance with this section.

29
30 SECTION 1608. Arkansas Code § 17-93-403(b), concerning penalties
31 levied by the Arkansas State Board of Athletic Training, is amended to read
32 as follows:

33 (b) After notice and hearing, the Arkansas State Board of Athletic
34 Training is also authorized to levy a civil penalty against any person
35 licensed under the provisions of this subchapter after a finding that the
36 person has violated any of the provisions of this subchapter or any

1 ~~regulations~~ rules promulgated by the board.

2
3 SECTION 1609. Arkansas Code § 17-93-406(5), concerning the powers and
4 duties of the Arkansas State Board of Athletic Training, is amended to read
5 as follows:

6 (5) To adopt rules ~~and regulations~~ consistent with this
7 subchapter which are necessary for the performance of its duties, including,
8 but not limited to, the imposing of fees adequate to carry out the purposes
9 of this subchapter;

10
11 SECTION 1610. Arkansas Code § 17-93-412(a)(3), concerning the grounds
12 for revocation, suspension, or denial of a license by the Arkansas State
13 Board of Athletic Training, is amended to read as follows:

14 (3) Violated or conspired to violate this subchapter or rules ~~or~~
15 ~~regulations~~ issued pursuant to this subchapter.

16
17 SECTION 1611. Arkansas Code § 17-95-102(e), concerning legend drugs
18 under the Arkansas Medical Practices Act, is amended to read as follows:

19 (e) The board shall enforce the provisions of this section and is
20 authorized and directed to adopt ~~regulations~~ rules to carry out its purpose.

21
22 SECTION 1612. Arkansas Code § 17-95-103(c), concerning notice provided
23 to the Arkansas State Medical Board of malpractice claims, is amended to read
24 as follows:

25 (c) The board is authorized and directed to prepare and adopt such
26 ~~regulations~~ rules as are necessary and proper to assure compliance with the
27 provisions of this section.

28
29 SECTION 1613. Arkansas Code § 17-95-106(b), concerning immunity from
30 liability for volunteer services by retired physicians and surgeons, is
31 amended to read as follows:

32 (b) The State Board of Health is empowered to adopt such rules ~~and~~
33 ~~regulations~~ as it may determine necessary to provide for the registration of
34 free or low-cost medical clinics under this section. Provided, the rules ~~and~~
35 ~~regulations~~ shall require that each person, patient, or client to whom
36 medical services are provided has been fully informed before any treatment by

1 the physician providing the services or by the staff of the medical clinic of
2 the immunity from civil suit provisions of this section, and has acknowledged
3 that fact in writing on a form approved or designated by the Department of
4 Health.

5
6 SECTION 1614. Arkansas Code § 17-95-107(d)(2)(A) and (B), concerning
7 allowing the Arkansas State Medical Board to provide information to
8 credentialing organizations, are amended to read as follows:

9 (2)(A) The board shall promulgate ~~regulations~~ rules establishing
10 a credentialing information system, and the ~~regulations~~ rules shall indicate
11 the procedures for collection and release of credentialing information under
12 this section.

13 (B) The ~~regulations~~ rules shall require that before July
14 1, 2003, the process of recredentialing a physician shall be completed within
15 thirty (30) business days unless circumstances beyond the control of the
16 board make completion of the process within thirty (30) business days
17 impossible or unduly burdensome.

18
19 SECTION 1615. Arkansas Code § 17-95-107(d)(3), concerning allowing the
20 Arkansas State Medical Board to provide information to credentialing
21 organizations, is amended to read as follows:

22 (3) The board shall appoint a ten-member advisory committee to
23 assist with the adoption of policies and ~~regulations~~ rules concerning the
24 credentialing information system. At least six (6) of the ten (10) members of
25 the advisory committee shall be representative of credentialing organizations
26 subject to this section, including not fewer than two (2) hospital
27 representatives and not fewer than two (2) insurer or health maintenance
28 organization representatives.

29
30 SECTION 1616. Arkansas Code § 17-95-107(d)(7)(A), concerning allowing
31 the Arkansas State Medical Board to provide information to credentialing
32 organizations, is amended to read as follows:

33 (7)(A) The board may charge credentialing organizations a
34 reasonable fee for the use of the credentialing service as established by
35 rule ~~and regulation~~.

36

1 SECTION 1617. Arkansas Code § 17-95-107(e)(2)(B)(iii), concerning
2 allowing the Arkansas State Medical Board to provide information to
3 credentialing organizations, is amended to read as follows:

4 (iii) Documents compliance with Department of Health
5 rules ~~and regulations~~ applicable to credentialing; and

6
7 SECTION 1618. Arkansas Code § 17-95-108(b), concerning informed
8 consent required for gastric bypass surgery, is amended to read as follows:

9 (b)(1) The Arkansas State Medical Board shall promulgate rules ~~and~~
10 ~~regulations~~ to enforce this section within six (6) months of July 16, 2003.

11 (2) The rules ~~and regulations~~ shall utilize scientifically
12 accepted information from national medical specialty boards, organizations,
13 or governmental agencies in determining the specific content and lists of
14 complications or side effects, or both, that must be included in the informed
15 consent.

16
17 SECTION 1619. Arkansas Code § 17-95-206 is amended to read as follows:

18 17-95-206. Out-of-state physicians.

19 A physician who is physically located outside this state but who
20 through the use of any medium, including an electronic medium, performs an
21 act that is part of a patient care service initiated in this state, including
22 the performance or interpretation of an X-ray examination or the preparation
23 or interpretation of pathological material that would affect the diagnosis or
24 treatment of the patient, is engaged in the practice of medicine in this
25 state for the purposes of this chapter and is subject to this chapter and to
26 appropriate ~~regulation~~ rules promulgated by the Arkansas State Medical Board.
27 This section does not apply to:

28 (1) The acts of a medical specialist located in another
29 jurisdiction who provides only episodic consultation services;

30 (2) The acts of a physician located in another jurisdiction who
31 is providing consultation services to a medical school;

32 (3) Decisions regarding the denial or approval of coverage under
33 any insurance or health maintenance organization plan;

34 (4) A service to be performed which is not available in the
35 state;

36 (5) A physician physically seeing a patient in person in another

1 jurisdiction; or

2 (6) Other acts exempted by the board by ~~regulation~~ rule.

3

4 SECTION 1620. Arkansas Code § 17-95-302(b), concerning the
5 organization and proceedings of the Arkansas State Medical Board, is amended
6 to read as follows:

7 (b) The board shall hold its regular meetings at such time as the
8 board shall establish by ~~regulation~~ rule and shall have the power to call and
9 hold special meetings at such times and places as it deems necessary.

10

11 SECTION 1621. Arkansas Code § 17-95-303(1) and (2), concerning the
12 powers and duties of the Arkansas State Medical Board, are amended to read as
13 follows:

14 (1) Make and adopt all rules, ~~regulations~~, and bylaws not
15 inconsistent with the laws of this state or of the United States and
16 necessary or convenient to perform the duties and to transact the business
17 required by law;

18 (2) Have authority to promulgate and put into effect such rules
19 ~~and regulations~~ as are necessary to carry out the purposes of the Arkansas
20 Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-
21 401 et seq., and the intentions expressed therein;

22

23 SECTION 1622. Arkansas Code § 17-95-404(a), concerning examinations by
24 the Arkansas State Medical Board, is amended to read as follows:

25 (a) The Arkansas State Medical Board by and through its rules ~~and~~
26 ~~regulations~~ will approve and designate the examinations to be given to those
27 individuals who desire a license to practice medicine in the State of
28 Arkansas. The board will further set forth the standards by rule ~~and~~
29 ~~regulation~~ for successful completion of the examination for licensure.

30

31 SECTION 1623. Arkansas Code § 17-95-405(b), concerning the credentials
32 of a licensed physician and surgeon, is amended to read as follows:

33 (b) The issuance of a license by credentials by the board shall be at
34 the sole discretion of the board, and the board may provide such rules ~~or~~
35 ~~regulations~~ governing such an admission as may be deemed necessary by or
36 desirable to the board.

1
2 SECTION 1624. Arkansas Code § 17-95-406(b)(3), concerning the issuance
3 of temporary permits to practice medicine by the Arkansas State Medical
4 Board, is amended to read as follows:

5 (3) Nothing in this subsection shall prohibit the board from
6 suspending or revoking the temporary permit of any person to whom a temporary
7 permit is issued under the provisions of this subsection on any grounds which
8 by law and ~~regulation~~ rule would be grounds to revoke or suspend the license
9 of a person licensed to practice medicine in this state, or for such periods
10 of time as the person to whom the temporary permit is issued is not under the
11 supervision of a licensed and qualified physician in this state.

12
13 SECTION 1625. Arkansas Code § 17-95-410(b), concerning the denial,
14 suspension, or revocation proceedings of the Arkansas State Medical Board, is
15 amended to read as follows:

16 (b) If the board finds a probable violation of the Arkansas Medical
17 Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et
18 seq., or the ~~regulations~~ rules of the board, the board shall review the
19 complaint and issue an order and notice of hearing to the licensee.

20
21 SECTION 1626. Arkansas Code § 17-95-411(1)(B), concerning fees charged
22 by the Arkansas State Medical Board, is amended to read as follows:

23 (B) If it is determined by the board that the credentials
24 of the applicant are insufficient or the applicant withdraws his or her
25 application before taking the examination, the board may return such portion
26 of the fee as allowed by the ~~regulations~~ rules of the board;

27
28 SECTION 1627. The introductory language of Arkansas Code § 17-95-
29 503(a), concerning the issuance of a temporary license by the Arkansas State
30 Medical Board, is amended to read as follows:

31 (a) The Arkansas State Medical Board may issue a temporary license to
32 any physician who meets the qualifications and requirements for medical
33 licensure as established by the board except for successful passage of the
34 examination as prescribed by the rules ~~and regulations~~ of the board. However,
35 the physician must fulfill the following additional conditions and
36 requirements to be eligible for temporary licensure:

1
2 SECTION 1628. Arkansas Code § 17-95-704(c)(1)(E), concerning Arkansas
3 State Medical Board treatment prohibitions, is amended to read as follows:

4 (E) Revoke the physician's license for serious violations
5 of statutes and ~~regulations~~ rules.

6
7 SECTION 1629. Arkansas Code § 17-95-704(c)(2), concerning Arkansas
8 State Medical Board treatment prohibitions, is amended to read as follows:

9 (2) With a finding of severe violation of statutes and
10 ~~regulations~~ rules, the board may initially impose the more severe sanctions.

11
12 SECTION 1630. Arkansas Code § 17-96-103(b), concerning penalties by
13 the Arkansas Board of Podiatric Medicine for unlawful acts, is amended to
14 read as follows:

15 (b) Except as otherwise provided in this section, any person who shall
16 swear falsely to any affidavit or oral testimony made or given by virtue of
17 the provisions of this chapter or the ~~regulations~~ rules of the board shall be
18 guilty of perjury and upon conviction shall be subject to all the pains and
19 penalties of perjury.

20
21 SECTION 1631. Arkansas Code § 17-96-202(a)(3)(A), concerning the
22 organization and proceedings of the Arkansas Board of Podiatric Medicine, is
23 amended to read as follows:

24 (3)(A) The board shall make and adopt all necessary rules,
25 ~~regulations~~, and bylaws necessary or convenient to perform its duties and to
26 transact business as required by law.

27
28 SECTION 1632. Arkansas Code § 17-96-304(a), concerning examinations by
29 the Arkansas Board of Podiatric Medicine, is amended to read as follows:

30 (a) The Arkansas Board of Podiatric Medicine may make such rules ~~and~~
31 ~~regulations~~ governing the conduct of the examinations as it shall deem
32 necessary, and willful violation of the rules ~~and regulations~~ shall subject
33 the applicant to the loss of the examination fee.

34
35 SECTION 1633. Arkansas Code § 17-97-203(3), concerning the powers and
36 duties of the Arkansas Psychology Board, is amended to read as follows:

1 (3) From time to time adopt rules ~~and regulations~~ that comply
2 with national guidelines and standards as it may deem necessary for the
3 performance of its duties;

4
5 SECTION 1634. Arkansas Code § 17-97-302(c)(4), concerning application
6 and qualifications for a licensed psychologist, is amended to read as
7 follows:

8 (4) Tendered the appropriate application and fees as required
9 under this chapter or the rules ~~and regulations~~ of the board.

10
11 SECTION 1635. Arkansas Code § 17-97-303(c), concerning application and
12 qualifications for a licensed psychological examiner, is amended to read as
13 follows:

14 (c) The board shall apply through its rules ~~and regulations~~ the
15 qualifications of supervising psychologists and the restrictions and
16 reporting requirements of supervision so as to implement the intent of this
17 chapter without restricting the professional integrity of the psychological
18 examiner and psychologist or the ultimate responsibility of the supervising
19 psychologist.

20
21 SECTION 1636. Arkansas Code § 17-97-308(a), concerning the Arkansas
22 Psychology Board annual registration fee and failure to reregister, is
23 amended to read as follows:

24 (a) The Arkansas Psychology Board may adopt and enforce rules ~~and~~
25 ~~regulations~~ requiring every person having a license to practice to pay an
26 annual registration fee in a sum to be fixed by the board.

27
28 SECTION 1637. Arkansas Code § 17-97-308(e), concerning the Arkansas
29 Psychology Board annual registration fee and failure to reregister, is
30 amended to read as follows:

31 (e)(1) All programs of continuing education for licensed psychologists
32 or psychological examiners shall be subject to the approval of the board.

33 (2) The board is authorized to prescribe by ~~regulations~~ rule
34 the:

35 (A) Minimum standards and requirements for continuing
36 education programs for licensees;

1 (B) Procedures and policies for administering continuing
2 education programs; and

3 (C) Manner and conditions under which credit will be
4 granted for participation in continuing education programs.
5

6 SECTION 1638. Arkansas Code § 17-97-310(a)(8), concerning the grounds
7 for denial, suspension, revocation, fine, letter of reprimand or additional
8 education, and reinstatement of licensees by the Arkansas Psychology Board,
9 is amended to read as follows:

10 (8) A violation of any rule ~~or regulation~~ of the board or the
11 rules of ethics as adopted by the board.
12

13 SECTION 1639. Arkansas Code § 17-97-311(a)(1)(A)(ii), concerning
14 denial, suspension, revocation, or other penalty proceedings of the Arkansas
15 Psychology Board, is amended to read as follows:

16 (ii) Licensed to practice in Arkansas and anyone
17 under his or her supervision is or may be in violation of this chapter or of
18 any of the rules ~~and regulations~~ adopted by the board.
19

20 SECTION 1640. Arkansas Code § 17-97-312(1), concerning criminal
21 background checks required by the Arkansas Psychology Board, is amended to
22 read as follows:

23 (1) The board shall adopt the necessary rules ~~and regulations~~ to fully
24 implement the provisions of this section.
25

26 SECTION 1641. Arkansas Code § 17-98-203(a), concerning rules of the
27 State Board of Disease Intervention Specialists, is amended to read as
28 follows:

29 (a) The State Board of Disease Intervention Specialists shall adopt
30 such rules ~~and regulations~~ as are reasonably necessary to administer this
31 chapter.
32

33 SECTION 1642. Arkansas Code § 17-98-203(d)(1), concerning rules of the
34 State Board of Disease Intervention Specialists, is amended to read as
35 follows:

36 (d)(1) The board shall promulgate rules ~~and regulations~~ establishing

1 standards for continuing education as a means to maintain professional
2 competency.

3
4 SECTION 1643. Arkansas Code § 17-99-201(c)(1), concerning the powers
5 and duties of the Arkansas State Medical Board and the Arkansas State
6 Respiratory Care Examining Committee, is amended to read as follows:

7 (1) Adopt and put into effect rules ~~and regulations~~ to carry
8 this chapter into effect;

9
10 SECTION 1644. Arkansas Code § 17-99-201(c)(5) and (6), concerning the
11 powers and duties of the Arkansas State Medical Board and the Arkansas State
12 Respiratory Care Examining Committee, are amended to read as follows:

13 (5)(A) With the advice and assistance of the committee, adopt
14 rules ~~and regulations~~ for the issuance of temporary permits for students and
15 graduates of approved training programs to practice limited respiratory care
16 under the supervision of a respiratory care practitioner or physician.

17 (B) Rules ~~and regulations~~ shall be adopted defining for
18 the purposes of this chapter the terms “students”, “limited”, “supervision”,
19 and “approved training programs”; and

20 (6) With the advice and assistance of the committee, adopt rules
21 ~~and regulations~~ for the issuance of licenses for respiratory care
22 practitioners and put them into effect.

23
24 SECTION 1645. Arkansas Code § 17-99-205 is amended to read as follows:
25 17-99-205. Continuing education.

26 The Arkansas State Medical Board, in cooperation with the Arkansas
27 Society for Respiratory Care Inc., shall develop and implement rules ~~and~~
28 ~~regulations~~ for continuing education.

29
30 SECTION 1646. Arkansas Code § 17-99-304(b), concerning reciprocity for
31 a practitioner licensed to practice respiratory care, is amended to read as
32 follows:

33 (b) The issuance of the license by reciprocity by the board shall be
34 at the sole discretion of the board, and the board may provide rules ~~and~~
35 ~~regulations~~ governing such admission as it may deem necessary or desirable.

36

1 SECTION 1647. Arkansas Code § 17-99-307(7), concerning the grounds for
2 denial, suspension, or revocation of a practitioner licensed to practice
3 respiratory care, is amended to read as follows:

4 (7) Has been found to have violated any provisions of this
5 chapter or rules ~~and regulations~~ of the Arkansas State Respiratory Care
6 Examining Committee or board.

7
8 SECTION 1648. Arkansas Code § 17-100-104(8)(D), concerning exemptions
9 from the Licensure Act of Speech-Language Pathologists and Audiologists, is
10 amended to read as follows:

11 (D) These persons shall be required to comply with state
12 ~~regulations~~ rules as speech-language pathology support personnel no later
13 than January 1, 1997.

14
15 SECTION 1649. Arkansas Code § 17-100-106(a), concerning civil
16 penalties levied by the Board of Examiners in Speech-Language Pathology and
17 Audiology, is amended to read as follows:

18 (a) Any person who, after notice and hearing, is found by the Board of
19 Examiners in Speech-Language Pathology and Audiology to have violated any
20 provision of this chapter or any rule ~~or regulation~~ of the board may be
21 assessed a civil penalty not to exceed one thousand dollars (\$1,000) for each
22 violation.

23
24 SECTION 1650. Arkansas Code § 17-100-107 is amended to read as
25 follows:

26 17-100-107. Injunction against unlawful practice.

27 When any person not licensed by the Board of Examiners in Speech-
28 Language Pathology and Audiology, or any licensee, shall engage in the
29 practice of speech-language pathology or audiology as herein defined in
30 violation of this chapter or the rules ~~and regulations~~ of the board, the
31 board shall have the authority to go into the Pulaski County Circuit Court or
32 the circuit court of the county in which the person resides and, upon
33 affidavit, secure a writ of injunction, without bond, restraining and
34 prohibiting the person from the practice of speech-language pathology or
35 audiology in violation of this chapter.

36

1 SECTION 1651. Arkansas Code § 17-100-202(b), concerning the powers and
2 duties of the Board of Examiners in Speech-Language Pathology and Audiology,
3 is amended to read as follows:

4 (b)(1) The board shall adopt rules ~~and regulations~~ relating to
5 professional conduct commensurate with the policy of this chapter, including,
6 but not limited to, ~~regulations~~ rules which establish ethical standards of
7 practice necessary to the enforcement and orderly administration of this
8 chapter and, for other purposes, may amend or repeal the same in accordance
9 with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

10 (2) The board shall promulgate ~~regulations~~ rules regarding the
11 use of speech-language pathology support personnel by practitioners of
12 speech-language pathology.

13 (3)(A) All rules ~~and regulations~~ promulgated pursuant to this
14 section shall be reviewed by the House Committee on Public Health, Welfare,
15 and Labor and the Senate Committee on Public Health, Welfare, and Labor or
16 appropriate subcommittees thereof.

17 (B) Following their adoption, the rules ~~and regulations~~
18 shall govern and control the professional conduct of every person who holds a
19 license to practice speech-language pathology or audiology in this state.

20
21 SECTION 1652. Arkansas Code § 17-100-207(b), concerning the licensing
22 of audiologists by the Board of Examiners in Speech-Language Pathology and
23 Audiology, is amended to read as follows:

24 (b) The Board of Examiners in Speech-Language Pathology and Audiology
25 shall promulgate ~~regulations~~ rules governing the dispensing of hearing aids
26 by audiologists licensed by the Board of Examiners in Speech-Language
27 Pathology and Audiology, provided that such ~~regulations~~ rules shall be no
28 less stringent than the ~~regulations~~ rules adopted by the Arkansas Board of
29 Hearing Instrument Dispensers for the dispensing of hearing aids.

30
31 SECTION 1653. Arkansas Code § 17-100-302(f), concerning eligibility to
32 be licensed by the Board of Examiners in Speech-Language Pathology and
33 Audiology, is amended to read as follows:

34 (f) The board shall have the authority to adopt rules ~~and regulations~~
35 regarding the term and conditions for which a provisional license is granted.

36

1 SECTION 1654. Arkansas Code § 17-100-307(a)(4), concerning the denial,
2 suspension, or revocation of a license, or other disciplinary action by the
3 Board of Examiners in Speech-Language Pathology and Audiology, is amended to
4 read as follows:

5 (4) Violating any lawful order, or rule, ~~or regulation~~ rendered
6 or adopted by the board; or

7
8 SECTION 1655. Arkansas Code § 17-101-102(7), concerning the definition
9 of "licensed veterinarian" under the Arkansas Veterinary Medical Practice
10 Act, is amended to read as follows:

11 (7) "Licensed veterinarian" means a person who is validly and
12 currently licensed to practice veterinary medicine in this state as a general
13 practitioner or in a specialty area as the board may by ~~regulation~~ rule
14 provide;

15
16 SECTION 1656. Arkansas Code § 17-101-203(7), concerning the powers and
17 duties of the Veterinary Medical Examining Board, is amended to read as
18 follows:

19 (7) Promulgate and enforce ~~regulations~~ rules necessary to
20 establish recognized standards for the practice of veterinary medicine and to
21 carry out the provisions of this chapter. The board shall make available to
22 interested members of the public copies of this chapter and all ~~regulations~~
23 rules promulgated by the board;

24
25 SECTION 1657. Arkansas Code § 17-101-203(11), concerning the powers
26 and duties of the Veterinary Medical Examining Board, is amended to read as
27 follows:

28 (11) Bring proceedings in the courts for the enforcement of this
29 chapter or any ~~regulations~~ rules made pursuant thereto; and

30
31 SECTION 1658. Arkansas Code § 17-101-301(c)(1), concerning
32 veterinarians licensed by the Veterinary Medical Examining Board, is amended
33 to read as follows:

34 (c)(1) The board by ~~regulation~~ rule may require that all applicants
35 for licensure by examination complete a preceptorship program during their
36 senior year under the supervision of a veterinarian licensed and in good

1 standing in any state, territory, or district of the United States.

2
3 SECTION 1659. Arkansas Code § 17-101-305(a)(3), concerning denial,
4 suspension, or revocation of a veterinarian license by the Veterinary Medical
5 Examining Board, is amended to read as follows:

6 (3) Use of advertising or solicitation which is false,
7 misleading, or otherwise deemed unprofessional under ~~regulations~~ rules
8 promulgated by the board;

9
10 SECTION 1660. Arkansas Code § 17-101-305(a)(8), concerning denial,
11 suspension, or revocation of a veterinarian license by the Veterinary Medical
12 Examining Board, is amended to read as follows:

13 (8) Failure to maintain professional premises and equipment in a clean
14 and sanitary condition in compliance with ~~regulations~~ rules promulgated by
15 the board;

16
17 SECTION 1661. Arkansas Code § 17-101-305(a)(11), concerning denial,
18 suspension, or revocation of a veterinarian license by the Veterinary Medical
19 Examining Board, is amended to read as follows:

20 (11) Unprofessional conduct by violation of a ~~regulation~~ rule
21 promulgated by the board under this chapter;

22
23 SECTION 1662. Arkansas Code § 17-101-306(a), concerning a certificate
24 of qualification as a veterinary technician issued by the Veterinary Medical
25 Examining Board, is amended to read as follows:

26 (a) No person shall assist in the practice of veterinary medicine
27 under the direction, supervision, and responsibility of a veterinarian as a
28 veterinary technician without first applying for and obtaining a certificate
29 of qualification from the Veterinary Medical Examining Board as a veterinary
30 technician and having his or her employment registered in accordance with
31 board ~~regulations~~ rules.

32
33 SECTION 1663. Arkansas Code § 17-101-309(a)(1), concerning renewal of
34 a license, certificate, and registration issued by the Veterinary Medical
35 Examining Board, is amended to read as follows:

36 (a)(1) All licenses, certificates, and registrations expire on March

1 31 each year and may be renewed by payment of the annual renewal fee
2 established by ~~regulation~~ rule of the Veterinary Medical Examining Board.

3
4 SECTION 1664. Arkansas Code § 17-101-309(c), concerning renewal of a
5 license, certificate, and registration issued by the Veterinary Medical
6 Examining Board, is amended to read as follows:

7 (c) The board may provide by ~~regulation~~ rule for waiver of payment of
8 any renewal fee of a licensed veterinarian or registered veterinary
9 technician during any period when he or she is on active duty with any branch
10 of the United States Armed Forces for not to exceed three (3) years or for
11 the duration of a national emergency, whichever is longer.

12
13 SECTION 1665. Arkansas Code § 17-101-311(a)(1), concerning civil
14 penalties assessed by the Veterinary Medical Examining Board, is amended to
15 read as follows:

16 (a)(1) Whenever the Veterinary Medical Examining Board determines that
17 any provision of this chapter or any ~~regulation~~ rule promulgated by the board
18 pursuant to this chapter has been violated, the board may impose a civil
19 penalty not to exceed five thousand dollars (\$5,000) per violation.

20
21 SECTION 1666. Arkansas Code § 17-102-206(b)(5)(A), concerning the
22 powers and duties of the Arkansas State Board of Acupuncture and Related
23 Techniques, is amended to read as follows:

24 (5)(A) Adopt, publish, and, from time to time, revise such rules
25 ~~and regulations~~ not inconsistent with the law as may be necessary to enable
26 it to carry into effect the provisions of this chapter.

27
28 SECTION 1667. Arkansas Code § 17-102-206(b)(5)(C), concerning the
29 powers and duties of the Arkansas State Board of Acupuncture and Related
30 Techniques, is amended to read as follows:

31 (C) All proposed rules after the effective date of this
32 act shall be approved in writing by the Arkansas State Medical Board under
33 the Arkansas Administrative Procedure Act, § 25-15-201 et seq., but before
34 submission to the Administrative Rules ~~and Regulations~~ Subcommittee of the
35 Legislative Council;

36

1 SECTION 1668. Arkansas Code § 17-103-106(b)(1)(A), concerning
2 penalties and enforcement of the Social Work Licensing Act, is amended to
3 read as follows:

4 (b)(1)(A) When the Arkansas Social Work Licensing Board is made aware
5 of a possible violation of § 17-103-105, a registered letter with a return
6 receipt requested shall be mailed to the individual in question, calling to
7 his or her attention the pertinent aspects of the law and the rules ~~and~~
8 ~~regulations~~ of the board.

9
10 SECTION 1669. Arkansas Code § 17-104-304(b), concerning license
11 qualification for a perfusionist, is amended to read as follows:

12 (b) A provisional licensed perfusionist shall be under the supervision
13 and direction of a licensed perfusionist at all times. ~~Regulations~~ Rules
14 governing the supervision and direction of the provisionally licensed
15 perfusionist shall not require the immediate physical presence of the
16 supervising licensed perfusionist.

17
18 SECTION 1670. The introductory language of Arkansas Code § 17-104-
19 309(a), concerning investigation of complaints by the State Board of Health,
20 is amended to read as follows:

21 (a) The State Board of Health shall adopt ~~regulations~~ rules concerning
22 the investigation of a complaint filed with the Department of Health. The
23 ~~regulations~~ rules adopted under this section shall:

24
25 SECTION 1671. Arkansas Code § 17-104-310 is amended to read as
26 follows:

27 17-104-310. Monitoring.

28 The State Board of Health shall develop a system for monitoring
29 licensees' compliance with this chapter. ~~Regulations~~ Rules adopted under this
30 section shall include procedures for monitoring licensees to determine that
31 the licensee performs the acts required by the Department of Health and to
32 identify and monitor licensees who represent a risk to the public.

33
34 SECTION 1672. Arkansas Code § 17-104-311(a)(2), concerning sanctions
35 imposed by the Department of Health for violations of the Perfusionist
36 Licensure Act, is amended to read as follows:

1 (2) Any violation of a ~~regulation~~ rule or code of ethics adopted
2 by the State Board of Health.

3
4 SECTION 1673. Arkansas Code § 17-105-113(3), concerning discipline of
5 a physician assistant by the Arkansas State Medical Board, is amended to read
6 as follows:

7 (3) Violates any provision of this chapter or any ~~regulations~~
8 rules adopted by the board pertaining to this chapter;

9
10 SECTION 1674. Arkansas Code § 17-105-117(a), concerning the rulemaking
11 authority of the Arkansas State Medical Board for licensure of physician
12 assistants, is amended to read as follows:

13 (a) The Arkansas State Medical Board shall promulgate ~~regulations~~
14 rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-
15 201 et seq., that are reasonable and necessary for the performance of the
16 various duties imposed upon the board by this chapter, including, but not
17 limited to:

- 18 (1) Establishing license renewal dates; and
19 (2) Setting the level of liability coverage.

20
21 SECTION 1675. Arkansas Code § 17-106-105(a)(1)(D), concerning the
22 duties and powers of the State Board of Health under the Consumer-Patient
23 Radiation Health and Safety Act, is amended to read as follows:

24 (D) Adopt, publish, and from time to time revise such
25 rules ~~and regulations~~ not inconsistent with the law as may be necessary to
26 enable it to carry into effect the provisions of this chapter.

27
28 SECTION 1676. Arkansas Code § 17-106-107(e), concerning the licensing
29 requirements under the Consumer-Patient Radiation Health and Safety Act, is
30 amended to read as follows:

31 (e) Licensees shall submit proof of having successfully completed at
32 least six (6) hours of continuing medical education annually for license
33 renewal. Continuing education may be provided by the licensed practitioner or
34 a hospital in-service education department according to the rules ~~and~~
35 ~~regulations~~ prescribed by the board.

36

1 SECTION 1677. Arkansas Code § 17-106-108(c), concerning examinations
2 under the Consumer-Patient Radiation Health and Safety Act, is amended to
3 read as follows:

4 (c) An applicant who fails to pass the examination may reapply for the
5 examination if the applicant complies with the ~~regulation~~ rule established by
6 the State Board of Health.

7
8 SECTION 1678. Arkansas Code § 17-106-109(d)(2), concerning licenses
9 issued by the Medical Ionizing Radiation Licensure Committee, is amended to
10 read as follows:

11 (2) As a prerequisite for renewal, continuing education
12 requirements shall be set by ~~regulation~~ rule.

13
14 SECTION 1679. Arkansas Code § 17-106-109(e)(1)(C), concerning licenses
15 issued by the Medical Ionizing Radiation Licensure Committee, is amended to
16 read as follows:

17 (C) Continuing education requirements shall be set by
18 ~~regulation~~ rule.

19
20 SECTION 1680. Arkansas Code § 17-106-110(a)(7), concerning
21 disciplinary actions by the Medical Ionizing Radiation Licensure Committee,
22 is amended to read as follows:

23 (7) Has been found guilty of violations of a code of ethics that
24 the board shall establish by ~~regulation~~ rule;

25
26 SECTION 1681. Arkansas Code § 17-106-110(a)(11), concerning
27 disciplinary actions by the Medical Ionizing Radiation Licensure Committee,
28 is amended to read as follows:

29 (11) Has failed to comply with any provision of this chapter or
30 any of the rules ~~or regulations~~ pertaining to this chapter.

31
32 SECTION 1682. Arkansas Code § 17-107-310(11), concerning a
33 disciplinary action of the Arkansas Orthotics, Prosthetics, and Pedorthics
34 Advisory Board, is amended to read as follows:

35 (11) Has violated a ~~regulation~~ rule of the board;

36

1 SECTION 1683. Arkansas Code § 18-11-404(2)(D)(i), concerning methods
2 of posting no trespassing on forest lands, is amended to read as follows:

3 (D)(i) The type and color of the paint to be used for
4 posting shall be prescribed by ~~regulation~~ rule by the Arkansas Forestry
5 Commission.

6
7 SECTION 1684. Arkansas Code § 18-11-405(2)(D)(i), concerning methods
8 of posting no trespassing on property other than forest, is amended to read
9 as follows:

10 (D)(i) The type and color of the paint to be used for
11 posting shall be prescribed by ~~regulation~~ rule by the Arkansas Forestry
12 Commission.

13
14 SECTION 1685. Arkansas Code § 18-15-711 is amended to read as follows:

15 18-15-711. Raising of dam.

16 Any owner of any dam and mill, or other machinery erected by virtue of
17 this subchapter, may raise his or her dam by permission of the court, under
18 and by the same proceedings, ~~regulations~~ rules, and conditions provided in
19 this subchapter.

20
21 SECTION 1686. Arkansas Code § 18-15-1703(e)(8), concerning a
22 regulatory program taking of real property, is amended to read as follows:

23 (8) The discontinuance or modification of a program, rule, or
24 regulation that provides a unilateral expectation that does not rise to the
25 level of a recognized interest in private real property;

26
27 SECTION 1687. Arkansas Code § 18-15-1703(e)(12)(E), concerning a
28 regulatory program taking of real property, is amended to read as follows:

29 (E) Under its police power to make laws, rules, and
30 regulations for the benefit of its communities;

31
32 SECTION 1688. Arkansas Code § 18-16-301(7), concerning the definition
33 of "rental agreement" under the law governing security deposits, is amended
34 to read as follows:

35 (7) "Rental agreement" means all written or oral agreements and
36 valid rules ~~and regulations~~ embodying the terms and conditions concerning the

1 use and occupancy of a dwelling unit and premises; and

2
3 SECTION 1689. Arkansas Code § 18-17-301(2), concerning the definition
4 of "building and housing codes" under the Arkansas Residential Landlord-
5 Tenant Act of 2007, is amended to read as follows:

6 (2) "Building and housing codes" means any law, ordinance, or
7 governmental regulation or rule concerning fitness for habitation, or the
8 construction, maintenance, operation, occupancy, use, or appearance of any
9 premises or dwelling unit;

10
11 SECTION 1690. Arkansas Code § 19-1-203(1), concerning the duties of
12 the Deputy Director of the Department of Finance and Administration, is
13 amended to read as follows:

14 (1) Prepare and publish all necessary ~~regulations~~ rules for
15 carrying out the budget and accounting laws of the state and have the
16 authority to require of any state agency the necessary fiscal information for
17 carrying out such laws;

18
19 SECTION 1691. Arkansas Code § 19-1-208 is amended to read as follows:
20 19-1-208. Rules ~~and regulations~~.

21 The Director of the Department of Finance and Administration is vested
22 with the authority to make such reasonable rules ~~and regulations~~, not
23 inconsistent with the law, as shall be necessary or desirable for the orderly
24 discharge of the duties vested in the Department of Finance and
25 Administration.

26
27 SECTION 1692. Arkansas Code § 19-1-209(a), concerning required
28 publications by the Director of the Department of Finance and Administration,
29 is amended to read as follows:

30 (a) The Director of the Department of Finance and Administration shall
31 publish and furnish copies to all state agencies of such ~~regulations~~ rules as
32 are issued by him or her, pursuant to the provisions of law, providing for a
33 general accounting procedure.

34
35 SECTION 1693. Arkansas Code § 19-1-301 is amended to read as follows:
36 19-1-301. Definition.

1 As used in this subchapter, unless the context otherwise requires,
2 “fiscal impact statement” means a realistic statement of the estimated
3 financial cost of implementing or complying with the proposed law,
4 ~~regulation~~, rule, policy, order, or administrative law upon municipalities or
5 counties to which the proposed law, ~~regulation~~, rule, policy, order, or
6 administrative law applies.

7
8 SECTION 1694. Arkansas Code § 19-1-302 is amended to read as follows:
9 19-1-302. Before adoption of ~~regulation~~ rule, etc.

10 (a) No ~~regulation~~, rule, policy, order, or administrative law which
11 would have a fiscal impact on any municipality or county in this state shall
12 be valid unless, thirty (30) days prior to its adoption by a board,
13 commission, agency, department, officer, or other authority of the government
14 of the State of Arkansas, excepting the General Assembly, the courts, and the
15 Governor, the board, commission, agency, department, officer, or other
16 authority has filed a fiscal impact statement with the Secretary of State.

17 (b) Any municipality or county which will be affected by the proposed
18 ~~regulation~~, rule, policy, order, or administrative law upon request shall
19 immediately be furnished with a copy of the fiscal impact statement by the
20 board, commission, agency, department, officer, or other authority.

21
22 SECTION 1695. Arkansas Code § 19-1-303(f), concerning the definition
23 of "fiscal impact statement" in bills imposing new or additional costs on a
24 municipality or county, is amended to read as follows:

25 (f) For the purposes of this section, the term “fiscal impact
26 statement” means a realistic statement of the estimated financial cost to
27 municipalities or counties of implementing or complying with a proposed law
28 and ~~regulations~~ rules promulgated under it.

29
30 SECTION 1696. Arkansas Code § 19-1-602(a) and (b), concerning the
31 intent and purpose of the State Fiscal Management Responsibility Act, are
32 amended to read as follows:

33 (a) The General Assembly of the State of Arkansas has enacted various
34 laws relating to the receipting, disbursing, depositing, and accounting for
35 public funds, as well as laws relating to establishing salaries, and the
36 purchasing of commodities by various state agencies. In addition, the

1 Department of Finance and Administration or other appropriate agency has
 2 issued rules ~~and regulations~~ pertaining to the administration of these
 3 various laws.

4 (b) It is the intent of the General Assembly that all state officers
 5 and employees comply with the provisions of these laws and ~~regulations~~ rules.
 6 Presently, most of these laws and ~~regulations~~ rules do not provide penalty
 7 provisions for violations thereof.

8
 9 SECTION 1697. Arkansas Code § 19-1-603(3), concerning the definition
 10 of "fiscal responsibility and management laws" under the State Fiscal
 11 Management Responsibility Act, is amended to read as follows:

12 (3) "Fiscal responsibility and management laws" means the
 13 following laws and ~~regulations~~ rules applicable thereto, as amended:

14 (A) General Accounting and Budgetary Procedures Law, § 19-
 15 4-101 et seq.;

16 (B) State procurement laws, Arkansas Code Title 19,
 17 Chapter 11;

18 (C) Attendance and leave laws, § 21-4-101 et seq.;

19 (D) Regular Salary Procedures and Restrictions Act, § 21-
 20 5-101 et seq.;

21 (E) Uniform Classification and Compensation Act, § 21-5-
 22 201 et seq.;

23 (F) Higher Education Expenditure Restriction Act, § 6-63-
 24 301 et seq.;

25 (G) Accounts and Notes Receivable Abatement Act for the
 26 State of Arkansas, § 19-2-301 et seq.;

27 (H) Revenue Stabilization Law, § 19-5-101 et seq.;

28 (I) Revenue Classification Law, § 19-6-101 et seq.;

29 (J) Depositories for public funds, § 19-8-101 et seq.;

30 (K) Public works, § 22-9-101 et seq.; and

31 (L) State Fiscal Management Responsibility Act, § 19-1-601
 32 et seq.;

33
 34 SECTION 1698. Arkansas Code § 19-1-605 is amended to read as follows:

35 19-1-605. Civil procedures apply.

36 All actions and procedures under the provisions of this subchapter are

1 civil in nature and shall be governed by the appropriate rules, ~~regulations,~~
2 and laws regarding civil actions and remedies.

3
4 SECTION 1699. Arkansas Code § 19-1-701(a), concerning the definition
5 of "fiscal impact statement", is amended to read as follows:

6 (a) As used in this subchapter, "fiscal impact statement" means a
7 realistic statement of the purpose of a proposed law, or a ~~regulation~~ rule
8 promulgated under a law, and the estimated financial cost to the state or any
9 local school district of implementing or complying with the proposed law or
10 ~~regulation~~ rule.

11
12 SECTION 1700. Arkansas Code § 19-1-702 is amended to read as follows:

13 19-1-702. Fiscal impact statements required for ~~regulations~~ rules.

14 Thirty-five (35) days prior to the adoption of any ~~regulation~~ rule or
15 other proposal that will impose a new or increased cost obligation for
16 education on the state or any local school district, the board, commission,
17 agency, department, officer, or other authority, excepting the General
18 Assembly and the courts, shall give notice of such ~~regulation~~ rule or
19 proposal and shall file a fiscal impact statement with the Secretary of State
20 and the House Committee on Education and the Senate Committee on Education.

21
22 SECTION 1701. Arkansas Code § 19-2-307 is amended to read as follows:

23 19-2-307. Rules ~~and regulations~~.

24 The Director of the Department of Finance and Administration is
25 authorized to promulgate such rules ~~and regulations~~ as deemed necessary to
26 implement the provisions and intent of this subchapter.

27
28 SECTION 1702. Arkansas Code § 19-2-509 is amended to read as follows:

29 19-2-509. Effect on other laws.

30 The provisions of this subchapter do not change, amend, or repeal any
31 laws or ~~regulations~~ rules regarding a financial institution's normal
32 obligations and responsibilities to maintain customer financial records.

33
34 SECTION 1703. Arkansas Code § 19-3-403 is amended to read as follows:

35 19-3-403. Rules ~~and regulations~~.

36 The State Board of Finance may promulgate appropriate rules ~~and~~

1 ~~regulations~~ for the administration of this subchapter, including the
2 establishment of the necessary forms and loan instruments to be used in
3 connection with making loans under the provisions of this subchapter.
4

5 SECTION 1704. Arkansas Code § 19-3-502(3), concerning the definition
6 of "capital base" under the State Treasury Management Law, is amended to read
7 as follows:

8 (3) "Capital base" means the sum of a bank's capital stock,
9 surplus, and undivided profits, plus any additions and less any subtractions
10 which the Bank Commissioner may by ~~regulation~~ rule prescribe;
11

12 SECTION 1705. Arkansas Code § 19-3-510(d), concerning accounts for
13 deposits established by the Treasurer of State, is amended to read as
14 follows:

15 (d) Funds from the State Treasury shall not be deposited into a bank
16 depository or an investment depository except under the terms of a written
17 agreement entered into between the Treasurer of State and the bank depository
18 or investment depository that complies with applicable state law and rules
19 and federal law, rules, and regulations.
20

21 SECTION 1706. Arkansas Code § 19-4-102(a)(2)(I), concerning the
22 purpose of state accounting and budgetary procedures, is amended to read as
23 follows:

24 (I) Authorize the promulgation of reasonable rules ~~and~~
25 ~~regulations~~ not inconsistent with applicable laws to achieve the purposes and
26 intent of this chapter; and
27

28 SECTION 1707. Arkansas Code § 19-4-104 is amended to read as follows:

29 19-4-104. Rules ~~and regulations~~.

30 The Chief Fiscal Officer of the State is empowered to make, amend, and
31 enforce such reasonable rules ~~and regulations~~, not inconsistent with law, as
32 he or she shall deem necessary and proper to effectively carry out the
33 provisions of this chapter and the public policy as set forth in § 19-4-102.
34 Rules ~~and regulations~~ promulgated shall be published in an administrative
35 procedures manual and distributed to the various state agencies.
36

1 SECTION 1708. Arkansas Code § 19-4-105(c)(1), concerning the duty of
2 the Chief Fiscal Officer of the State and Internal Audit Section to make
3 continuing studies and investigations of the operation of state agencies and
4 the exemption of internal audit documentation from the Freedom of Information
5 Act of 1967, is amended to read as follows:

6 (1) Review the financial and operating controls and the
7 transactions of state agencies to determine the level of conformity with
8 established laws, standards, ~~regulations~~ rules, and procedures;

9
10 SECTION 1709. Arkansas Code § 19-4-507 is amended to read as follows:

11 19-4-507. Fund accounting systems.

12 Governmental accounting systems should be organized and operated on a
13 fund basis. A fund is defined as a fiscal and accounting entity with a self-
14 balancing set of accounts recording cash and other financial resources,
15 together with all related liabilities and residual equities or balances, and
16 changes therein, which are segregated for the purpose of carrying on specific
17 activities or attaining certain objectives in accordance with special
18 ~~regulations~~ rules, restrictions, or limitations.

19
20 SECTION 1710. Arkansas Code § 19-4-522(d)(1)(R), concerning
21 maintenance and general operation classifications under the financial
22 management system of the state, is amended to read as follows:

23 (R) Such other items of operating expense as shall be
24 provided by the appropriation act or under reasonable rules, ~~regulations~~, and
25 procedures issued by the Chief Fiscal Officer of the State; and

26
27 SECTION 1711. Arkansas Code § 19-4-524(a)(3), concerning the
28 construction and permanent improvements classification under the financial
29 management system of the state, is amended to read as follows:

30 (3) The payment of estimates on the various contracts in
31 connection with such construction programs. All construction and improvements
32 of whatever nature shall be subject to the provisions of §§ 19-4-1401 – 19-4-
33 1412 and to the rules ~~and regulations~~ promulgated by the Chief Fiscal Officer
34 of the State. No state agency for which appropriations have been made by the
35 General Assembly for construction or improvements shall make any contract or
36 incur any indebtedness payable from such appropriations unless and until

1 there are sufficient funds on hand, for the benefit of any agency, to pay for
2 the proposed obligations under such contracts. However, any such agency shall
3 have the power to accept and use grants and donations and to use its
4 unobligated cash income or other funds available to it for the purpose of
5 supplementing the appropriations for construction purposes. The
6 appropriations and funds otherwise provided by the General Assembly for
7 personal services, maintenance, and general operation of the agency shall not
8 be used in connection with any proposed construction projects for which
9 specific appropriations have been made by the General Assembly, except for
10 minor repairs and maintenance.

11
12 SECTION 1712. Arkansas Code § 19-4-706 is amended to read as follows:
13 19-4-706. Interest and carrying charges.

14 State agencies, including exempt agencies, may enter into contracts
15 which contemplate the payment of interest, late charges, but only when such
16 late charges are incurred sixty (60) days after payment is due, or carrying
17 charges under such ~~regulations~~ rules as may be promulgated by the State
18 Procurement Director.

19
20 SECTION 1713. Arkansas Code § 19-4-814(4), concerning the requirements
21 for supporting documentation for disbursement of funds, is amended to read as
22 follows:

23 (4) In connection with the laws or ~~regulations~~ rules governing
24 travel, where individuals are reimbursed for expenses incurred for travel in
25 connection with their official duties, the supporting papers shall be the
26 forms or statements of such expenses prescribed by the Chief Fiscal Officer
27 of the State. In the case of per diem or other expenses established by law,
28 the disbursing officer shall attach to the voucher issued in payment of such
29 allowances a citation of his or her authority for making such payments;

30
31 SECTION 1714. Arkansas Code § 19-4-901 is amended to read as follows:
32 19-4-901. Rules ~~and regulations~~ generally.

33 The Chief Fiscal Officer of the State shall promulgate rules ~~and~~
34 ~~regulations~~ with respect to travel and travel allowances and prescribe the
35 forms and procedures for reporting, approving, and paying such travel
36 allowances for all officers and employees of the state government or for

1 other persons who are authorized to carry out official duties in connection
2 with the business of the state.

3
4 SECTION 1715. Arkansas Code § 19-4-903(b)(2)(C), concerning state
5 business travel expenses, standard reimbursements, and special
6 authorizations, is amended to read as follows:

7 (C) The Chief Fiscal Officer of the State by ~~regulation~~
8 rule may establish procedures and the rate for reimbursing individuals for
9 the use of privately owned airplanes while traveling on official business for
10 the state.

11
12 SECTION 1716. Arkansas Code § 19-4-903(c), concerning state business
13 travel expenses, standard reimbursements, and special authorizations, is
14 amended to read as follows:

15 (c) The Chief Fiscal Officer of the State shall promulgate rules ~~and~~
16 ~~regulations~~ to implement the provisions of this subchapter.

17
18 SECTION 1717. Arkansas Code § 19-4-904(a)(1), concerning persons and
19 agencies exempt from state travel regulations, is amended to read as follows:

20 (a)(1) The limitations of this subchapter relating to travel
21 ~~regulations~~ rules shall not be applicable to:

22 (A) Except as provided in § 19-4-903(b), the
23 constitutional or elective officials and their employees; or

24 (B) Official guests of the state.

25
26 SECTION 1718. Arkansas Code § 19-4-904(b)(1), concerning persons and
27 agencies exempt from state travel regulations, is amended to read as follows:

28 (b)(1) Personal reimbursement will not be allowed to any state
29 official, state employee, or any other person traveling on official business
30 for expenses covering personal entertainment, flowers, valet service, laundry
31 and cleaning, or other personal expenses, as those expenses shall be defined
32 in the state travel ~~regulations~~ rules. All such persons shall be required to
33 submit their travel reimbursement requests upon forms prescribed by the
34 Department of Finance and Administration, itemized in such detail as shall be
35 necessary to carry out the purposes and intent of this section.

36

1 SECTION 1719. Arkansas Code § 19-4-904(d)(5), concerning persons and
2 agencies exempt from state travel regulations, is amended to read as follows:

3 (5) Other personal expenses to be paid only from auxiliary funds
4 not inconsistent with standards, rules, ~~regulations~~, or prohibitions
5 established by recognized national or state governing associations pertaining
6 to the respective students and employees and the institutions they are
7 representing.

8
9 SECTION 1720. Arkansas Code § 19-4-905(c), concerning licensing of
10 state-owned motor vehicles, is amended to read as follows:

11 (c) The Chief Fiscal Officer of the State shall make rules ~~and~~
12 ~~regulations~~ for obtaining the required license plates and for returning the
13 plates when the vehicles are disposed of and shall notify all state agencies
14 of procedures to be followed.

15
16 SECTION 1721. Arkansas Code § 19-4-1007(a), concerning the restriction
17 of use of oil company credit cards not approved by the Chief Fiscal Officer
18 of the State, is amended to read as follows:

19 (a) If it is determined by the Chief Fiscal Officer of the State to be
20 essential to enable an agency, board, or commission to effectively carry out
21 its responsibilities, the Chief Fiscal Officer of the State may authorize an
22 agency, board, or commission, or certain employees thereof, to use state
23 credit cards for which the state agency assumes liability for payment, under
24 rules ~~and regulations~~ as may be prescribed by the Chief Fiscal Officer of the
25 State.

26
27 SECTION 1722. Arkansas Code § 19-4-1008(a)(1), concerning the
28 revolving fund for expenses regarding oil company credit cards, is amended to
29 read as follows:

30 (a)(1) The Chief Fiscal Officer of the State is authorized to
31 promulgate appropriate rules ~~and regulations~~ authorizing state agencies,
32 boards, commissions, and institutions of higher education to establish
33 revolving funds which shall be within such limitations as the Chief Fiscal
34 Officer of the State may prescribe or to make advances of expense funds for
35 authorized travel by officials and employees of state agencies, boards,
36 commissions, and institutions of higher education whose travel is in

1 conjunction with institutionally sponsored events or programs. The advanced
2 funds shall be reimbursed by the individual borrowing the funds from moneys
3 to the individual upon filing an authorized expense account in connection
4 with the travel.

5
6 SECTION 1723. Arkansas Code § 19-4-1008(b), concerning the revolving
7 fund for expenses regarding oil company credit cards, is amended to read as
8 follows:

9 (b) The ~~regulations~~ rules may authorize the state agency, board,
10 commission, or institution of higher education to require the employee to
11 file an agreement authorizing the agency to recover any amounts advanced for
12 travel expense purposes from the amounts claimed and allowed the employee or
13 student as reimbursement for actual expenses incurred, to recover them from
14 the next or future salary payments to the employee, or add them to the
15 receivables account of the student.

16
17 SECTION 1724. Arkansas Code § 19-4-1103(b), concerning the
18 responsibility of agency head to ensure payment of obligations, is amended to
19 read as follows:

20 (b) It shall also be the responsibility of the agency head to
21 establish a system of pre-audit within his or her agency to ensure that
22 checks and vouchers, before being released by the agency, are prepared in
23 accordance with all applicable purchasing and fiscal laws, and rules, ~~and~~
24 ~~regulations~~ by performing the following functions. He or she shall determine
25 that:

26 (1) Services, materials, supplies, and equipment received comply
27 with specifications indicated on purchase documents;

28 (2) Quantities received, as being indicated on the invoice,
29 agree with those shown on the receiving report;

30 (3) Unit prices agree with those indicated on the purchase
31 documents;

32 (4) The extensions and footings of the invoice are correct;

33 (5) The voucher or check is prepared in sufficient time to take
34 advantage of all available discounts being offered;

35 (6) Sufficient appropriation and funds are available for payment
36 of the obligation; and

1 (7) The obligation was incurred in conformity with all
2 purchasing and fiscal laws.

3
4 SECTION 1725. Arkansas Code § 19-4-1103(c)(4), concerning the
5 responsibility of agency head to ensure payment of obligations, is amended to
6 read as follows:

7 (4) The proposed voucher is prepared in accordance with the
8 established general accounting procedures relating to appropriation titles
9 and codes and the proposed transactions are identified and classified in
10 accordance with the administrative ~~regulations~~ rules on the subject; and

11
12 SECTION 1726. Arkansas Code § 19-4-1104 is amended to read as follows:
13 19-4-1104. Duty to examine and approve.

14 It shall be the duty of the Chief Fiscal Officer of the State to design
15 the state's financial management system to provide reasonable assurances that
16 financial transactions conform to the provisions of law and ~~regulation~~ rules.
17 He or she shall not be required to pass upon the propriety of any financial
18 transaction if it is found to conform to the provisions of this subchapter.
19 However, the Chief Fiscal Officer of the State may perform examinations of
20 transactions to determine the propriety of the transactions in conformity
21 with applicable laws and ~~regulations~~ rules.

22
23 SECTION 1727. Arkansas Code § 19-4-1107(4)(A), concerning supporting
24 documents for the disbursement of state funds, is amended to read as follows:

25 (4)(A) In connection with the laws or ~~regulations~~ rules
26 governing travel, when individuals are reimbursed for expenses incurred for
27 travel in connection with their official duties, the supporting papers shall
28 be the forms or statements of such expenses prescribed by the Chief Fiscal
29 Officer of the State.

30
31 SECTION 1728. Arkansas Code § 19-4-1206(b)(2), concerning the duties
32 of bonded disbursing officers for state agencies or funds, is amended to read
33 as follows:

34 (2) Keep advised as to the laws or administrative ~~regulations~~
35 rules relating to general accounting procedures and restrictions for the
36 disbursement of funds; and

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SECTION 1729. Arkansas Code § 19-4-1209 is amended to read as follows:
19-4-1209. Compliance with other laws.

The disbursement of funds authorized by the General Assembly shall be limited to the appropriations and the funds made available for the support of such appropriations. The restrictions of the Arkansas Procurement Law, § 19-11-201 et seq., the Uniform Classification and Compensation Act, § 21-5-201 et seq., the Revenue Stabilization Law, § 19-5-101 et seq., and ~~regulations~~ rules promulgated by the Department of Finance and Administration authorized by law shall be strictly complied with in the disbursement of the funds.

SECTION 1730. Arkansas Code § 19-4-1210(a), concerning disbursement of funds when revenues are insufficient to meet appropriations, is amended to read as follows:

(a) The disbursements of funds shall be subject to the controls of the procedures authorized by this subchapter, other acts of the General Assembly, and rules ~~and regulations~~ established by the Department of Finance and Administration.

SECTION 1731. Arkansas Code § 19-4-1210(b)(2), concerning disbursement of funds when revenues are insufficient to meet appropriations, is amended to read as follows:

(2) The Chief Fiscal Officer of the State shall exercise the powers of his or her office to enforce the fiscal laws of the state to prohibit deficit spending and to promulgate rules ~~and regulations~~ which will require that all agencies comply with such fiscal laws. He or she may require, whenever he or she deems necessary, a financial report from any agency. If any such financial report or any other available information of any agency which has appropriated funds or an agency which has both state and bank funds shall reveal that the agency is in financial distress, then he or she may direct that all of the funds of the agency, including any bank funds, shall be subject to approval under the provisions of this chapter;

SECTION 1732. Arkansas Code § 19-4-1415(b)(4) and (5), concerning procedures for construction of building and facility projects exceeding five million dollars (\$5,000,000), are amended to read as follows:

1 (4) The division shall have the authority to promulgate rules
2 ~~and regulations~~ pertaining to the process for awarding and overseeing the
3 contracts.

4 (5) The Board of Trustees of the University of Arkansas and the
5 Board of Trustees of Arkansas State University shall be exempt from review
6 and approval by the division and any ~~regulations~~ rules promulgated by it,
7 provided that the Board of Trustees of the University of Arkansas and the
8 Board of Trustees of Arkansas State University have adopted policies and
9 procedures involving the awarding and oversight of the contracts for design
10 and construction services.

11
12 SECTION 1733. Arkansas Code § 19-4-1415(e)(3)(B), concerning
13 procedures for construction of building and facility projects exceeding five
14 million dollars (\$5,000,000), is amended to read as follows:

15 (B) Contracts for architectural, engineering, and land
16 surveying professional consultant services shall be negotiated on the basis
17 of demonstrated competence and qualifications for the type of services
18 required and at fair and reasonable prices without the use of competitive
19 bidding, and no rule ~~or regulation~~ shall inhibit the agency's authority to
20 negotiate fees for the services.

21
22 SECTION 1734. Arkansas Code § 19-4-1501(3), concerning the uniform
23 system of perpetual inventory, is amended to read as follows:

24 (3) By ~~regulation~~ rule, distinguish between items of equipment,
25 and consumable supplies or goods, and such minor tools, materials, and parts
26 as shall be deemed by him or her to be expendable within a reasonable period
27 of time. He or she may also prescribe that minor equipment costing less than
28 some minimum amount shall not be included in the perpetual inventory.

29
30 SECTION 1735. Arkansas Code § 19-4-1602(c), concerning payroll
31 deductions for state employees, is amended to read as follows:

32 (c) Deductions authorized by this section shall be made in compliance
33 with rules, ~~regulations~~, and procedures established by the Chief Fiscal
34 Officer of the State.

35
36 SECTION 1736. Arkansas Code § 19-4-1802(b), concerning petty cash

1 imprest funds for state agencies, is amended to read as follows:

2 (b) The petty cash imprest funds shall not be used to circumvent
3 purchasing ~~regulations~~ rules, nor for the purpose of reimbursing individuals
4 for travel expenses.

5
6 SECTION 1737. Arkansas Code § 19-4-1906(b)(2)(C), concerning
7 procedures for the use of letters of credit, is amended to read as follows:

8 (C) The Chief Fiscal Officer of the State, after
9 consulting with the Auditor of State and the Treasurer of State, may
10 prescribe such rules ~~and regulations~~ as necessary to implement a checks-paid
11 or delay-of-drawdown letter of credit system.

12
13 SECTION 1738. Arkansas Code § 19-4-2201(a)(2), concerning the
14 definition of "nondiscretionary grant", is amended to read as follows:

15 (2) "Nondiscretionary grant" means a grant in which the
16 recipient of the grant funds or the formula for the grant award is
17 specifically stated in the legislation authorizing the grant, or in specific
18 agency ~~regulations~~ rules promulgated by the agency and reviewed by the
19 Legislative Council, or in the case of federal funds, in the statute,
20 regulation, or other federal directive which restricts the disbursement of
21 the funds according to federal guidelines; and

22
23 SECTION 1739. Arkansas Code § 19-5-704(c), concerning the
24 administration of the Revenue Stabilization Law by the Chief Fiscal Officer
25 of the State, is amended to read as follows:

26 (c) The Chief Fiscal Officer of the State shall have the authority to
27 make such rules ~~and regulations~~ as are necessary to enforce the provisions of
28 this subchapter.

29
30 SECTION 1740. Arkansas Code § 19-5-804 is amended to read as follows:
31 19-5-804. Administration.

32 This subchapter shall be administered by the Chief Fiscal Officer of
33 the State. The Chief Fiscal Officer of the State shall have the authority to
34 establish procedures and to make such rules ~~and regulations~~ as are necessary
35 to enforce the provisions of this subchapter.

36

1 SECTION 1741. Arkansas Code § 19-5-944(b), concerning the
2 establishment of the County Assessors' Continuing Education Trust Fund, is
3 amended to read as follows:

4 (b) The funds in the County Assessors' Continuing Education Trust Fund
5 shall be used exclusively for the establishment and operation of a continuing
6 education program for county assessors and for paying the meals, lodging,
7 registration fees, and mileage at the rate prescribed in state travel
8 ~~regulations~~ rules of county assessors who attend the continuing education
9 programs.

10
11 SECTION 1742. Arkansas Code § 19-5-953(b), concerning the
12 establishment of the Long-Term Care Trust Fund, is amended to read as
13 follows:

14 (b) The Long-Term Care Trust Fund shall consist of all moneys and
15 interest received from the imposition of civil penalties levied by the state
16 on long-term care facilities found to be out of compliance with the
17 requirements of federal ~~or state~~ law or regulations, or state law or rules,
18 there to be administered by the Director of the Department of Human Services
19 solely for the protection of the health or property of residents of long-term
20 care facilities, including, but not limited to, the payment for the costs of
21 relocation of residents to other facilities, maintenance and operation of a
22 facility pending correction of deficiencies or closure, and reimbursement of
23 residents for personal funds lost.

24
25 SECTION 1743. Arkansas Code § 19-5-972(b), concerning the
26 establishment of the Special State Assets Forfeiture Fund, is amended to read
27 as follows:

28 (b) The fund shall consist of revenues as provided in § 5-64-
29 505(i)(1)(B)(iv) and any other revenues as may be provided by law, there to
30 be administered through rules ~~and regulations~~ established by the Arkansas
31 Drug Director and distributed by the Arkansas Alcohol and Drug Abuse
32 Coordinating Council in accordance with the intent and purposes of the
33 Uniform Controlled Substances Act, § 5-64-101 et seq.

34
35 SECTION 1744. Arkansas Code § 19-5-1011(d), concerning the
36 establishment of the Crime Information System Fund, is amended to read as

1 follows:

2 (d) Notwithstanding any other rule, ~~regulation~~, or provision of law to
3 the contrary, the Arkansas Crime Information Center may transfer
4 appropriation from the Contingency line item authorized for the Arkansas
5 Crime Information Center to the Scrap Metal Logbook line item appropriation.

6
7 SECTION 1745. Arkansas Code § 19-5-1024(b), concerning the
8 establishment of the Public Service Commission Tax Division Fund, is amended
9 to read as follows:

10 (b) The Public Service Commission Tax Division Fund shall be used for
11 the maintenance, operations, and improvement of the Tax Division of the
12 Arkansas Public Service Commission in carrying out its functions, powers, and
13 duties as set out by law and by ~~rule and regulation~~ rules not inconsistent
14 with law.

15
16 SECTION 1746. Arkansas Code § 19-5-1131(b)(2), concerning the
17 establishment of the Department of Workforce Services Training Trust Fund, is
18 amended to read as follows:

19 (2) The fund shall be used for worker training under rules ~~and~~
20 ~~regulations~~ promulgated by the Director of the Department of Workforce
21 Services.

22
23 SECTION 1747. Arkansas Code § 19-6-475 is amended to read as follows:
24 19-6-475. Securities Department Fund.

25 The Securities Department Fund shall consist of the first two million
26 five hundred thousand dollars (\$2,500,000) of those special revenues as
27 specified in § 19-6-301(173), (174), (245), and (259) and such other funds as
28 may be provided by law or regulatory action, there to be used for
29 maintenance, operation, support, and improvement of the State Securities
30 Department in carrying out its functions, powers, and duties as set out by
31 law and by ~~and regulation~~ rules not inconsistent with law, as set out in §
32 23-42-211.

33
34 SECTION 1748. Arkansas Code § 19-10-203(b), concerning the duties of
35 the Director of the Arkansas State Claims Commission, is amended to read as
36 follows:

1 (b) The director shall be responsible for maintenance and custody of
2 the docket, files, and records of the commission, including the transcripts
3 of testimony and exhibits, with all papers and requests filed in proceedings,
4 the minutes of all actions taken, and all of the commission's findings,
5 determinations, opinions, reports, orders, and rules, ~~and regulations~~.

6
7 SECTION 1749. Arkansas Code § 19-10-205 is amended to read as follows:
8 19-10-205. Rules ~~and regulations~~.

9 The Arkansas State Claims Commission shall have the power to make and
10 alter or amend all rules ~~and regulations~~ governing the procedure before it
11 which may be deemed necessary and expedient for the orderly discharge of its
12 duties and which shall not be inconsistent with any of the provisions of this
13 subchapter or other laws.

14
15 SECTION 1750. Arkansas Code § 19-11-102 is amended to read as follows:
16 19-11-102. Use of soybean ink in state printing.

17 Notwithstanding any law, or rule, ~~or regulation~~ to the contrary, all
18 printing which is chargeable to or which is paid for with funds appropriated
19 wholly or in part by the state, or any state department, division, bureau,
20 board, commission, or agency, shall be printed in soybean ink; provided,
21 however, that the soybean ink is comparable in price to other inks, and that
22 it is equally suitable for use.

23
24 SECTION 1751. Arkansas Code § 19-11-203(1)(A), concerning the
25 definition of "agency procurement official" under the Arkansas Procurement
26 Law, is amended to read as follows:

27 (1)(A) "Agency procurement official" means any person authorized
28 by a state agency to enter into and administer contracts and make written
29 determinations and findings with respect to contracts, in accordance with
30 procedures prescribed by this subchapter and the ~~regulations~~ rules
31 promulgated under it.

32
33 SECTION 1752. Arkansas Code § 19-11-203(21), concerning the definition
34 of "procurement agency" under the Arkansas Procurement Law, is amended to
35 read as follows:

36 (21) "Procurement agency" means any state agency that is

1 authorized by this subchapter, by implementing ~~regulations~~ rules, or by way
2 of delegation from the State Procurement Director to contract on its own
3 behalf rather than through the central contracting authority of the State
4 Procurement Director;

5
6 SECTION 1753. Arkansas Code § 19-11-208 is amended to read as follows:
7 19-11-208. Exemptions.

8 Commodities and services need not be procured through the Office of
9 State Procurement, if procured by the out-of-state offices of state agencies
10 for that out-of-state office's use but shall, nevertheless, be procured
11 subject to the requirements of this subchapter and the state procurement
12 ~~regulations~~ rules.

13
14 SECTION 1754. Arkansas Code § 19-11-213 is amended to read as follows:
15 19-11-213. Federal assistance requirements.

16 If federal assistance requirements or federal contract requirements
17 conflict with this subchapter or ~~regulations~~ rules promulgated under it,
18 nothing in this subchapter or its ~~regulations~~ rules shall prevent a state
19 agency or political subdivision from complying with the terms and conditions
20 of the federal assistance requirements or the federal contract requirements.

21
22 SECTION 1755. Arkansas Code § 19-11-215(b)(2), concerning the creation
23 of the Office of State Procurement, is amended to read as follows:

24 (2) The rules ~~and regulations~~ authorized in this subchapter
25 shall be approved by the Director of the Department of Finance and
26 Administration prior to the filing of the rules ~~and regulations~~ in accordance
27 with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

28
29 SECTION 1756. Arkansas Code § 19-11-217(b)(1), concerning the powers
30 and duties of the State Procurement Director, is amended to read as follows:

31 (b)(1) Except as otherwise provided in this subchapter and upon the
32 approval of the Director of the Department of Finance and Administration, the
33 State Procurement Director shall have the authority and responsibility to
34 promulgate ~~regulations~~ rules consistent with this subchapter.

35
36 SECTION 1757. Arkansas Code § 19-11-217(c)(7) and (8), concerning the

1 powers and duties of the State Procurement Director, are amended to read as
2 follows:

3 (7) May establish, by ~~regulation~~ rule, a fee for receiving a
4 written or electronic notice of invitations for bid; and

5 (8) Shall ensure compliance with this subchapter and
6 implementing ~~regulations~~ rules by reviewing and monitoring procurements
7 conducted by any designee, department, agency, or official delegated
8 authority under this subchapter.

9

10 SECTION 1758. Arkansas Code § 19-11-218(3), concerning the authority
11 of the State Procurement Director to delegate authority, is amended to read
12 as follows:

13 (3) Delegate authority to such designees or to any state agency
14 as the director may deem appropriate, within the limitations of state law and
15 the state procurement ~~regulations~~ rules.

16

17 SECTION 1759. Arkansas Code § 19-11-220(a), concerning agency
18 procurement officials, is amended to read as follows:

19 (a) In addition to any state agency authorized by ~~regulation~~ rule to
20 have an agency procurement official, each of the following state agencies may
21 elect to have such an official for commodities, technical and general
22 services, and professional and consultant services, which are not within the
23 exclusive jurisdiction of the State Procurement Director and which are not
24 under state contract:

- 25 (1) Arkansas Department of Transportation;
26 (2) Arkansas State University-Beebe;
27 (3) Arkansas State University;
28 (4) Arkansas State University System;
29 (5) Arkansas Tech University;
30 (6) Henderson State University;
31 (7) Southern Arkansas University;
32 (8) University of Arkansas at Fayetteville;
33 (9) University of Arkansas Fund entities;
34 (10) University of Arkansas at Little Rock;
35 (11) University of Arkansas at Monticello;
36 (12) University of Arkansas at Pine Bluff;

- 1 (13) University of Arkansas for Medical Sciences;
- 2 (14) University of Central Arkansas;
- 3 (15) Arkansas State University-Mountain Home;
- 4 (16) Arkansas State University-Newport;
- 5 (17) Black River Technical College;
- 6 (18) Cossatot Community College of the University of Arkansas;
- 7 (19) East Arkansas Community College;
- 8 (20) National Park College;
- 9 (21) Arkansas Northeastern College;
- 10 (22) Arkansas State University Mid-South;
- 11 (23) North Arkansas College;
- 12 (24) Northwest Arkansas Community College;
- 13 (25) College of The Ouachitas;
- 14 (26) Ozarka College;
- 15 (27) Phillips Community College of the University of Arkansas;
- 16 (28) University of Arkansas Community College at Morrilton;
- 17 (29) University of Arkansas – Pulaski Technical College;
- 18 (30) University of Arkansas Community College at Rich Mountain;
- 19 (31) SAU-Tech;
- 20 (32) Southeast Arkansas College;
- 21 (33) South Arkansas Community College;
- 22 (34) University of Arkansas Community College at Batesville;
- 23 (35) University of Arkansas Community College at Hope;
- 24 (36) University of Arkansas at Fort Smith; and
- 25 (37) Department of Higher Education.

26

27 SECTION 1760. Arkansas Code § 19-11-220(b)(1), concerning agency
28 procurement officials, is amended to read as follows:

29 (b)(1) Each official shall manage and establish internal procedures
30 for the procurement office of the state agency authorized to have the
31 official to ensure adequate administrative procedures and controls pursuant
32 to law and the procurement ~~regulations~~ rules.

33

34 SECTION 1761. Arkansas Code § 19-11-220(c), concerning agency
35 procurement officials, is amended to read as follows:

36 (c) Except for the promulgation by the State Procurement Director of

1 rules ~~and regulations~~ authorized in this subchapter and the letting of state
2 contracts, all rights and practices granted herein to the Office of State
3 Procurement and the State Procurement Director are granted to an official in
4 the administration of contracts for the state agency authorized to have the
5 official.

6
7 SECTION 1762. Arkansas Code § 19-11-221(b), concerning agency
8 procurement officials for the Department of Correction, is amended to read as
9 follows:

10 (b)(1) The officials of the Department of Correction and the
11 Department of Community Correction shall have exclusive authority to procure
12 perishable food items in accordance with applicable administrative procedures
13 and controls established pursuant to this subchapter and the procurement
14 ~~regulations~~ rules.

15 (2) Except as noted in this subsection and in subsection (c) of
16 this section, the officials of the departments shall be subject to all other
17 provisions and requirements of this subchapter and administrative procedures
18 controls and procurement ~~regulations~~ rules provided in or promulgated
19 pursuant to it.

20
21 SECTION 1763. Arkansas Code § 19-11-221(c)(2)(B), concerning agency
22 procurement officials for the Department of Correction, is amended to read as
23 follows:

24 (B) In the advertising for bids and the awarding of
25 contracts, the state laws, procurement procedures, and rules ~~and regulations~~
26 shall be complied with in awarding the contracts.

27
28 SECTION 1764. Arkansas Code § 19-11-221(c)(3)(C)(i), concerning agency
29 procurement officials for the Department of Correction, is amended to read as
30 follows:

31 (C)(i) All purchases of farm machinery and equipment shall
32 be in accordance with the applicable state procurement laws and rules ~~and~~
33 ~~regulations~~ promulgated thereunder.

34
35 SECTION 1765. Arkansas Code § 19-11-224 is amended to read as follows:
36 19-11-224. Interest and carrying charges.

1 State agencies, including exempt agencies, may enter into contracts
2 which contemplate the payment of interest and late charges, but only when
3 such late charges are incurred sixty (60) days after payment is due or
4 carrying charges under such ~~regulations~~ rules as may be promulgated by the
5 State Procurement Director.

6
7 SECTION 1766. Arkansas Code § 19-11-225 is amended to read as follows:
8 19-11-225. ~~Regulations~~ Rules.

9 (a) ~~Regulations~~ Rules shall be promulgated by the State Procurement
10 Director in accordance with the applicable provisions of this subchapter and
11 of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

12 (b) No ~~regulation~~ rule shall change any commitment, right, or
13 obligation of the state or of a contractor under a contract in existence on
14 the effective date of the ~~regulation~~ rule.

15 (c)(1) No clause which is required by ~~regulation~~ rule to be included
16 shall be considered to be incorporated by operation of law in any state
17 contract without the consent of both parties to the contract to the
18 incorporation.

19 (2) The parties to the contract may give such consent to
20 incorporation by reference at any time after the contract has been entered
21 into and without the necessity of consideration passing to either party.

22
23 SECTION 1767. Arkansas Code § 19-11-229(b)(2), concerning competitive
24 sealed bidding, is amended to read as follows:

25 (2) The director may provide by ~~regulation~~ rule that it is not
26 practicable to procure specified types of commodities, technical and general
27 services, or professional and consultant services by competitive sealed
28 bidding.

29
30 SECTION 1768. Arkansas Code § 19-11-229(g)(1), concerning competitive
31 sealed bidding, is amended to read as follows:

32 (g)(1) Correction of patent or provable errors in bids that do not
33 prejudice other bidders or withdrawal of bids may be allowed only to the
34 extent permitted under ~~regulations~~ rules promulgated by the director and upon
35 written approval of the Attorney General or a designee of such officer.

36

1 SECTION 1769. Arkansas Code § 19-11-232(a), concerning proprietary or
2 sole source procurements, is amended to read as follows:

3 (a) Under ~~regulations~~ rules promulgated under this subchapter, a
4 contract may be awarded for a required or designated commodity or service to
5 a sole or mandatory supplier when the State Procurement Director, the head of
6 a procurement agency, or a designee of either officer above the level of
7 agency procurement official determines in writing that it is not practicable
8 to use other than the required or designated commodity or service.

9
10 SECTION 1770. Arkansas Code § 19-11-233 is amended to read as follows:

11 19-11-233. Emergency procurements.

12 The State Procurement Director, the head of a procurement agency, or a
13 designee of either officer may make or authorize others to make emergency
14 procurements as defined in § 19-11-204(4) and in accordance with ~~regulations~~
15 rules promulgated by the director.

16
17 SECTION 1771. Arkansas Code § 19-11-235(a)(1), concerning
18 responsibility of bidders and offerors in state procurement, is amended to
19 read as follows:

20 (a)(1) A determination of nonresponsibility of a bidder or offeror
21 shall be made in accordance with ~~regulations~~ rules promulgated by the State
22 Procurement Director.

23
24 SECTION 1772. Arkansas Code § 19-11-235(c), concerning responsibility
25 of bidders and offerors in state procurement, is amended to read as follows:

26 (c) The State Procurement Director or the agency procurement official
27 may require the posting of a bid bond, a performance bond, or a similar
28 assurance by any actual or prospective bidder, offeror, or contractor, under
29 ~~regulations~~ rules promulgated under this subchapter.

30
31 SECTION 1773. Arkansas Code § 19-11-241(b), concerning specifications
32 for commodities, technical and general services, and professional and
33 consultant services, is amended to read as follows:

34 (b) The State Procurement Director shall promulgate ~~regulations~~ rules
35 governing the preparation, maintenance, and content of standard and
36 nonstandard specifications for commodities, technical and general services,

1 and professional and consultant services procured by the Office of State
2 Procurement.

3
4 SECTION 1774. Arkansas Code § 19-11-242 is amended to read as follows:

5 19-11-242. Commodity management ~~regulations~~ rules.

6 The State Procurement Director shall promulgate ~~regulations~~ rules
7 governing:

8 (1) The sale, lease, or disposal of surplus commodities by
9 public auction, competitive sealed bidding, or other appropriate method
10 designated by ~~regulation~~ rule, and no employee of the Department of Finance
11 and Administration or member of the employee's immediate family shall be
12 entitled to purchase any such commodities;

13 (2) The transfer of excess commodities within the state; and

14 (3) The sale, lease, or disposal of surplus commodities to not-
15 for-profit organizations under § 22-1-101.

16
17 SECTION 1775. Arkansas Code § 19-11-243 is amended to read as follows:

18 19-11-243. Proceeds from surplus commodities.

19 The State Procurement Director shall promulgate ~~regulations~~ rules for
20 the allocation of proceeds from the sale, lease, or disposal of surplus
21 commodities, to the extent practicable, to the using agency which had
22 possession of the commodity.

23
24 SECTION 1776. Arkansas Code § 19-11-245(b)(1)(A)(i), concerning
25 debarment or suspension from consideration for award of contracts, is amended
26 to read as follows:

27 (b)(1)(A)(i) After reasonable notice to the person involved and
28 reasonable opportunity for that person to have a hearing before a committee
29 according to ~~regulations~~ rules promulgated by the State Procurement Director,
30 the director or the head of a procurement agency shall have authority to
31 debar a person for cause from consideration for award of contracts, provided
32 that doing so is in the best interests of the state.

33
34 SECTION 1777. Arkansas Code § 19-11-245(b)(2), concerning debarment or
35 suspension from consideration for award of contracts, is amended to read as
36 follows:

1 (2) The authority to debar or suspend shall be exercised in
2 accordance with ~~regulations~~ rules promulgated by the director.

3
4 SECTION 1778. Arkansas Code § 19-11-245(c), concerning debarment or
5 suspension from consideration for award of contracts, is amended to read as
6 follows:

7 (c) The causes for debarment or suspension because of unsuitability
8 for award of a contract shall be set forth in ~~regulations~~ rules promulgated
9 by the director.

10
11 SECTION 1779. Arkansas Code § 19-11-246(b)(2), concerning resolution
12 of contract and breach of contract controversies, is amended to read as
13 follows:

14 (2) This authority shall be exercised in accordance with the law
15 governing the Arkansas State Claims Commission and the ~~regulations~~ rules
16 promulgated by the director.

17
18 SECTION 1780. Arkansas Code § 19-11-246(c)(1), concerning resolution
19 of contract and breach of contract controversies, is amended to read as
20 follows:

21 (c)(1) If such a claim or controversy is not resolved by mutual
22 agreement, and after reasonable notice to the contractor and reasonable
23 opportunity for the contractor to present the claim or controversy in
24 accordance with the ~~regulations~~ rules promulgated by the director, the head
25 of a procurement agency, the director, or the designee of either officer
26 shall promptly issue a decision in writing.

27
28 SECTION 1781. Arkansas Code § 19-11-248 is amended to read as follows:
29 19-11-248. Finality of administrative determinations.

30 In any judicial action or other action provided by law, factual or
31 legal determinations by employees, agents, or other persons appointed by the
32 state shall have no finality and shall not be conclusive, notwithstanding any
33 contract provision, ~~regulation~~, or rule of law to the contrary, except to the
34 extent provided in:

35 (1) Section 19-11-239, which refers to finality of
36 determinations;

1 (2) Section 19-11-244(e), which refers to resolution of
2 protested solicitations and awards, finality of decision;

3 (3) Section 19-11-245(f), which refers to debarment or
4 suspension, finality of decision; and

5 (4) Section 19-11-246(e), which refers to resolution of contract
6 and breach of contract controversies, finality of decision.

7
8 SECTION 1782. Arkansas Code § 19-11-251 is amended to read as follows:
9 19-11-251. Intergovernmental use of commodities or services.

10 Any public procurement unit may enter into an agreement with any other
11 public procurement unit or external procurement activity for the
12 intergovernmental use of commodities, technical and general services, or
13 professional and consultant services under the terms agreed upon between the
14 parties and in accordance with the rules ~~and regulations~~ promulgated under
15 this subchapter, independent of the requirements of:

16 (1) Sections 19-11-204, 19-11-228 – 19-11-240, and 19-11-263
17 that refer to source selection and contract formation; and

18 (2) Sections 19-11-205, 19-11-242, and 19-11-243 that refer to
19 commodity management.

20
21 SECTION 1783. Arkansas Code § 19-11-252 is amended to read as follows:
22 19-11-252. Rules ~~and regulations~~.

23 The State Procurement Director may promulgate reasonable rules ~~and~~
24 ~~regulations~~ pertaining to the sale or acquisition of any commodities,
25 technical and general services, or professional and consultant services
26 belonging to or produced by another public procurement unit or external
27 procurement activity as authorized in §§ 19-11-206 and 19-11-249 – 19-11-258.

28
29 SECTION 1784. Arkansas Code § 19-11-261(b), concerning cooperative
30 purchase of paper products for local governments, is amended to read as
31 follows:

32 (b)(1) The director shall promulgate ~~regulations~~ rules for
33 administration of the program.

34 (2) The ~~regulations~~ rules shall be reviewed by the House
35 Committee on Public Health, Welfare, and Labor and the Senate Committee on
36 Public Health, Welfare, and Labor or appropriate subcommittees of the

1 committees.

2
3 SECTION 1785. Arkansas Code § 19-11-708(b), concerning the prohibition
4 against contingent fees, is amended to read as follows:

5 (b) Representation of Contractor. Before being awarded a state
6 contract other than by procedures set forth in the Arkansas Procurement Law,
7 § 19-11-201 et seq., and ~~regulations~~ rules promulgated under the Arkansas
8 Procurement Law, § 19-11-201 et seq., for small purchases, every person shall
9 represent, in writing, that such person has not retained anyone in violation
10 of subsection (a) of this section. Failure to do so constitutes a breach of
11 ethical standards.

12
13 SECTION 1786. Arkansas Code § 19-11-712(b) and (c), concerning civil
14 and administrative remedies against employees who breach ethical standards,
15 are amended to read as follows:

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

- 20 (1) Oral or written warnings or reprimands;
21 (2) Forfeiture of pay without suspension;
22 (3) Suspension with or without pay for specified periods of
23 time; and
24 (4) Termination of employment.

25 (c) Right to Recover from Employee Value Received in Breach of Ethical
26 Standards. The value of anything received by an employee in breach of the
27 ethical standards of this subchapter, or ~~regulations~~ rules promulgated under
28 this subchapter, shall be recoverable by the state as provided in § 19-11-
29 714, which refers to recovery of value transferred or received in breach of
30 ethical standards.

31
32 SECTION 1787. Arkansas Code § 19-11-713(b) and (c), concerning civil
33 and administrative remedies against nonemployees who breach ethical
34 standards, are amended to read as follows:

35 (b) Supplemental Remedies. In addition to the existing remedies for
36 breach of the ethical standards of this subchapter, or ~~regulations~~ rules

1 promulgated under this subchapter, the Director of the Department of Finance
2 and Administration may impose any one (1) or more of the following:

- 3 (1) Oral or written warnings or reprimands;
- 4 (2) Termination of transactions; and
- 5 (3) Suspension or debarment from being a contractor or

6 subcontractor under state contracts.

7 (c) Right to Recover from Nonemployee Value Transferred in Breach of
8 Ethical Standards. The value of anything transferred in breach of the
9 ethical standards of this subchapter, or ~~regulations~~ rules promulgated under
10 this subchapter, by a nonemployee shall be recoverable by the state from such
11 person as provided in § 19-11-714, which refers to recovery of value
12 transferred or received in breach of ethical standards.

13
14 SECTION 1788. Arkansas Code § 19-11-714(a), concerning recovery of
15 value transferred or received in breach of ethical standards by an employee
16 or a nonemployee, is amended to read as follows:

17 (a) General Provisions. The value of anything transferred or received
18 in breach of the ethical standards of this subchapter, or ~~regulations~~ rules
19 promulgated under this subchapter, by an employee or a nonemployee may be
20 recovered from both the employee and the nonemployee.

21
22 SECTION 1789. Arkansas Code § 19-11-715(a) and (b), concerning the
23 duties of the Director of the Department of Finance and Administration, are
24 amended to read as follows:

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

30 (b) Advisory Opinions. On written request of employees or contractors
31 and in consultation with the Attorney General, the director may render
32 written advisory opinions regarding the appropriateness of the course of
33 conduct to be followed in proposed transactions. Such requests and advisory
34 opinions may be duly published in the manner in which ~~regulations~~ rules of
35 this state are published. Compliance with the requirements of a duly
36 promulgated advisory opinion of the director shall be deemed to constitute

1 compliance with the ethical standards of this subchapter.

2
3 SECTION 1790. Arkansas Code § 19-11-716(b)(1), concerning
4 participation in business incubators, is amended to read as follows:

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

12
13 SECTION 1791. Arkansas Code § 19-11-718(a)(2)(A)(ii), concerning
14 special state employees, conflicts of interest, and definition of "covered
15 board", is amended to read as follows:

16 (ii) An entity that is created by ~~regulation~~ rule,
17 statute, legislative direction, executive order, or other informal means if
18 the entity has decision-making authority over procurement criteria,
19 contracts, appointment of individuals to negotiate procurement directly or
20 indirectly, or the approval of procurements.

21
22 SECTION 1792. Arkansas Code § 19-11-902(e), concerning definitions and
23 rules governing state procurement, is amended to read as follows:

24 (e) Arkansas Rehabilitation Services and the Division of State
25 Services for the Blind shall undertake the inspection on a continuing basis
26 of the workshops certified by each respective state agency to determine that
27 they operate in accordance with the requirements of the statute and the
28 ~~regulations~~ rules of this section.

29
30 SECTION 1793. Arkansas Code § 19-11-902(k), concerning definitions and
31 rules governing state procurement, is amended to read as follows:

32 (k) Any alleged violation of these ~~regulations~~ rules shall be
33 investigated by the Office of State Procurement, which shall notify the work
34 center concerned and afford it an opportunity to submit a statement of facts
35 and evidence.

1 SECTION 1794. Arkansas Code § 19-11-1005 is amended to read as
2 follows:

3 19-11-1005. General guidelines and ~~regulations~~ rules.

4 The State Procurement Director, after soliciting suggestions from state
5 agencies and after seeking and receiving the advice of the Attorney General
6 and review by the Legislative Council or by the Joint Budget Committee, if
7 the General Assembly is in session, shall publish general guidelines for the
8 procurement of professional and consultant services contracts and general
9 ~~regulations~~ rules governing the use of each type of contract.

10
11 SECTION 1795. Arkansas Code § 19-11-1007(1), concerning the
12 certification of contracts by an agency head, is amended to read as follows:

13 (1) All information required by law and by ~~regulation~~ rule is
14 supplied;

15
16 SECTION 1796. Arkansas Code § 19-11-1008(b), concerning the approval
17 or disapproval of contracts by the State Procurement Director, is amended to
18 read as follows:

19 (b) The director shall return to the contracting state agency any
20 contract which fails to comply with the applicable laws and ~~regulations~~ rules
21 governing the contract and shall approve any contract that complies with this
22 subchapter.

23
24 SECTION 1797. Arkansas Code § 19-11-1010(c), concerning the
25 development and use of performance-based contracts, is amended to read as
26 follows:

27 (c) Under ~~regulations~~ rules promulgated by the State Procurement
28 Director, all state agencies, boards, commissions, and institutions of higher
29 education shall use performance-based standards in professional and
30 consultant service contracts.

31
32 SECTION 1798. Arkansas Code § 19-11-1012(b)(9)(B)(ii), concerning
33 standard contract forms for state procurement contracts, is amended to read
34 as follows:

35 (ii) This reporting shall be done to allow the
36 director to determine whether the state agency is utilizing a series of

1 contracts to avoid the use of the standard form and to avoid the application
2 of appropriate ~~regulations~~ rules;

3
4 SECTION 1799. Arkansas Code § 19-11-1101(g), concerning state contract
5 rules, procedures, and guidelines, is amended to read as follows:

6 (g) The Chief Fiscal Officer of the State may promulgate such rules,
7 ~~regulations~~, procedures, and guidelines as he or she may deem necessary and
8 proper in order to carry out the provisions of this section.

9
10 SECTION 1800. Arkansas Code § 19-11-1207(b), concerning administration
11 of the Guaranteed Energy Cost Savings Act, is amended to read as follows:

12 (b) The Arkansas Pollution Control and Ecology Commission may
13 promulgate ~~regulations~~ rules for the administration of this subchapter to
14 include without limitation the following:

15 (1) Standards for measuring and verifying the performance of
16 energy cost savings measures;

17 (2) A standard contract form for use by a state agency in
18 entering into a guaranteed energy cost savings contract;

19 (3) The adoption of the International Performance Measurement
20 and Verification Protocol as it existed on a specific date; and

21 (4) To establish and collect a reasonable fee to cover the costs
22 of administering this subchapter.

23
24 SECTION 1801. Arkansas Code § 20-2-104(c), concerning reimbursement
25 for expenses for members of the Arkansas Minority Health Commission, is
26 amended to read as follows:

27 (c) Any expense reimbursement shall not exceed the rate established
28 for state employees in the state travel ~~regulations~~ rules.

29
30 SECTION 1802. Arkansas Code § 20-7-101 is amended to read as follows:
31 20-7-101. Violations – Penalties.

32 (a)(1) Every firm, person, or corporation violating any of the
33 provisions of this act or any of the orders, or rules, ~~or regulations~~ made
34 and promulgated in pursuance hereof shall be deemed guilty of a misdemeanor
35 and upon conviction thereof shall be punished by a fine of not less than one
36 hundred dollars (\$100) nor more than five hundred dollars (\$500) or by

1 imprisonment not exceeding one (1) month, or both.

2 (2) Each day of violation shall constitute a separate offense.

3 (b)(1)(A)(i) Every firm, person, or corporation who violates any of
4 the rules ~~or regulations~~ issued or promulgated by the State Board of Health
5 or who violates any condition of a license, permit, certificate, or any other
6 type of registration issued by the board may be assessed a civil penalty by
7 the board. The penalty shall not exceed one thousand dollars (\$1,000) for
8 each violation.

9 (ii) Each day of a continuing violation may be
10 deemed a separate violation for purposes of penalty assessments.

11 (B) However, no civil penalty may be assessed until the
12 person charged with the violation has been given the opportunity for a
13 hearing on the violation.

14 (2) All fines collected under this subsection shall be deposited
15 into the State Treasury and credited to the Public Health Fund to be used to
16 defray the costs of administering this section.

17 (3) Subject to such rules ~~and regulations~~ as may be implemented
18 by the Chief Fiscal Officer of the State, the disbursing officer for the
19 Department of Health may transfer all unexpended funds relative to fines
20 collected under this subsection, as certified by the Chief Fiscal Officer of
21 the State, to be carried forward and made available for expenditures for the
22 same purpose for any following fiscal year.

23 (4) All rules ~~and regulations~~ promulgated pursuant to this
24 subsection shall be reviewed by the House Committee on Public Health,
25 Welfare, and Labor and the Senate Committee on Public Health, Welfare, and
26 Labor or appropriate subcommittees thereof.

27
28 SECTION 1803. Arkansas Code § 20-7-109(a) and (b), concerning the
29 authority of the State Board of Health to regulate public health, are amended
30 to read as follows:

31 (a)(1) Power is conferred on the State Board of Health to make all
32 necessary and reasonable rules ~~and regulations~~ of a general nature for:

33 (A) The protection of the public health and safety;

34 (B) The general amelioration of the sanitary and hygienic
35 conditions within the state;

36 (C) The suppression and prevention of infectious,

1 contagious, and communicable diseases;

2 (D) The proper enforcement of quarantine, isolation, and
3 control of such diseases; and

4 (E) The proper control of chemical exposures that may
5 result in adverse health effects to the public.

6 (2) All rules ~~and regulations~~ promulgated pursuant to this
7 subsection shall be reviewed by the House Committee on Public Health,
8 Welfare, and Labor and the Senate Committee on Public Health, Welfare, and
9 Labor or appropriate subcommittees thereof.

10 (b) However, if a patient can be treated with reasonable safety to the
11 public health, he or she shall not be removed from his or her home without
12 his or her consent, or the consent of the parents or guardian in the case of
13 a minor, and the rules ~~and regulations~~, when made, shall be printed in
14 pamphlet form, with such numbers of copies as may be necessary for the
15 distribution of the information to health bodies, health and sanitary
16 officers, and the public generally.

17
18 SECTION 1804. Arkansas Code § 20-7-110(a)(2), concerning the study and
19 prevention of diseases by the State Board of Health, is amended to read as
20 follows:

21 (2) The board shall make a study of the causes and prevention of
22 infectious, contagious, and communicable diseases, and, except as otherwise
23 provided in this act, the board shall have direction and control of all
24 matters of quarantine ~~regulations~~ rules and enforcement. The board shall have
25 full power and authority to prevent the entrance of such diseases from points
26 outside the state.

27
28 SECTION 1805. Arkansas Code § 20-7-114(c), concerning the public
29 health laboratory of the State Board of Health, is amended to read as
30 follows:

31 (c) Subject to rules ~~and regulations~~ as may be implemented by the
32 Chief Fiscal Officer of the State, the disbursing officer for the department
33 may transfer all unexpended funds relative to the laboratory services that
34 pertain to fees collected, as certified by the Chief Fiscal Officer of the
35 State, to be carried forward and made available for expenditures for the same
36 purpose for any following fiscal year.

1
2 SECTION 1806. Arkansas Code § 20-7-115(b), concerning the rules for
3 the transportation of dead bodies by the State Board of Health, is amended to
4 read as follows:

5 (b) Any violation of these rules ~~and regulations~~ shall be a
6 misdemeanor.

7
8 SECTION 1807. Arkansas Code § 20-7-117(b)(2), concerning the creation
9 of the State Hospice Office within the Department of Health, is amended to
10 read as follows:

11 (2) All functions and duties of the office shall be carried out
12 in accordance with the laws of Arkansas and the rules and regulations of the
13 Health Services Permit Agency, the Health Services Permit Commission, and the
14 Centers for Medicare & Medicaid Services.

15
16 SECTION 1808. Arkansas Code § 20-7-117(c)(1), concerning the creation
17 of the State Hospice Office within the Department of Health, is amended to
18 read as follows:

19 (c)(1) The ~~regulations~~ rules and requirements of the Health Services
20 Permit Agency and the Health Services Permit Commission shall be revised to
21 include separate permit-of-approval categories of healthcare facilities
22 entitled "hospice facilities" and "hospice agencies" and to develop criteria
23 for granting the permits of approval for hospice facilities and for hospice
24 agencies for which applications shall be filed in accordance with the
25 criteria.

26
27 SECTION 1809. Arkansas Code § 20-7-123(b)(2)(A), concerning fees
28 collected by the State Board of Health or Department of Health, is amended to
29 read as follows:

30 (2)(A) A fee to be collected for the review of plans and
31 specifications covering improvements that by law or ~~regulation~~ rule are
32 required to be reviewed by the State Board of Health or Department of Health,
33 including without limitation plans and specifications covering waterworks,
34 sewage works, swimming pools, hospitals and related facilities, food service
35 and food processing establishments, and plumbing in public facilities.

36

1 SECTION 1810. Arkansas Code § 20-7-123(b)(3), concerning fees
2 collected by the State Board of Health or Department of Health, is amended to
3 read as follows:

4 (3) A fee of fifty dollars (\$50.00) to be collected by the board
5 or the department for each cemetery inspection as required by law or
6 ~~regulation~~ rule.

7
8 SECTION 1811. Arkansas Code § 20-7-128(c)(2), concerning the State
9 Board of Health maintenance fee for breath testing instruments, is amended to
10 read as follows:

11 (2) Subject to such rules ~~and regulations~~ as may be implemented
12 by the Chief Fiscal Officer of the State, the disbursing officers for the
13 department may transfer all unexpended funds relative to the blood alcohol
14 instrument maintenance program funds outlined in this section, as certified
15 by the Chief Fiscal Officer of the State, to be carried forward and made
16 available for the expenditures for the same purpose for any following year.

17
18 SECTION 1812. Arkansas Code § 20-7-129(d)(2), concerning the
19 Department of Health reimbursement system for certain medical supplies or
20 services, is amended to read as follows:

21 (2) Subject to rules ~~and regulations~~ as may be implemented by
22 the Chief Fiscal Officer of the State, all unexpended funds that pertain to
23 fees collected shall be carried forward and made available for expenditure
24 for the same purposes for any following fiscal year.

25
26 SECTION 1813. Arkansas Code § 20-7-130(b)(1), concerning the recovery
27 of expenditures for extraordinary operations by the Department of Health, is
28 amended to read as follows:

29 (b)(1) The State Board of Health may promulgate rules ~~and regulations~~
30 necessary to carry out the intent and purpose of this section.

31
32 SECTION 1814. Arkansas Code § 20-7-130(e), concerning the recovery of
33 expenditures for extraordinary operations by the Department of Health, is
34 amended to read as follows:

35 (e) Subject to rules ~~and regulations~~ as may be implemented by the
36 Chief Fiscal Officer of the State, the disbursing officer for the department

1 may transfer all unexpended funds relative to the recovery of expenditures
2 program that pertain to moneys collected, as certified by the Chief Fiscal
3 Officer of the State, to be carried forward and made available for
4 expenditures for the same purpose for any following fiscal year.

5
6 SECTION 1815. Arkansas Code § 20-7-135(a), concerning the
7 implementation of nutrition and physical activity standards, is amended to
8 read as follows:

9 (a) After having consulted the Child Health Advisory Committee and the
10 State Board of Health, the State Board of Education shall promulgate
11 appropriate rules ~~and regulations~~ to ensure that nutrition and physical
12 activity standards and body mass index for age assessment protocols are
13 implemented to provide students with the skills, opportunities, and
14 encouragement to adopt healthy lifestyles.

15
16 SECTION 1816. Arkansas Code § 20-7-205(a), concerning the State Board
17 of Health rules for applications for grants, is amended to read as follows:

18 (a)(1) The State Board of Health may develop and implement rules ~~and~~
19 ~~regulations~~ to receive, review, and approve applications for grants for new
20 construction, renovation, or expansion of local health unit facilities from
21 counties or cities.

22 (2) The board may adopt such rules ~~and regulations~~ as may be
23 necessary to provide for the distribution of such funds for the renovation,
24 construction, improvement, and development of the State Health Building.

25
26 SECTION 1817. Arkansas Code § 20-7-205(d)(1), concerning the State
27 Board of Health rules for applications for grants, is amended to read as
28 follows:

29 (d)(1) Application for grants under this subchapter shall be made in
30 accordance with the rules ~~and regulations~~ of the board, and each application
31 shall be considered on a needs-assessment basis.

32
33 SECTION 1818. Arkansas Code § 20-7-303(b)(1)(D), concerning the
34 collection and dissemination of health data, is amended to read as follows:

35 (D) Ensure confidentiality of data by enforcing
36 appropriate rules ~~and regulations~~.

1
2 SECTION 1819. Arkansas Code § 20-7-303(c)(1), concerning the
3 collection and dissemination of health data, is amended to read as follows:

4 (c)(1) All state agencies, including health profession licensing,
5 certification, or registration boards and commissions, which collect,
6 maintain, or distribute health data, including data relating to the Arkansas
7 Medicaid Program, shall make available to the department such data as are
8 necessary for the department to carry out its responsibilities under this
9 subchapter or such rules ~~and regulations~~ as may be adopted as provided in §
10 20-7-305.

11
12 SECTION 1820. Arkansas Code § 20-7-303(c)(3), concerning the
13 collection and dissemination of health data, is amended to read as follows:

14 (3) All hospitals and outpatient surgery centers licensed by the
15 state shall submit information in a form and manner as prescribed by rules
16 ~~and regulations~~ by the State Board of Health pursuant to § 20-7-305. However,
17 if the same information is being collected by another state agency, the
18 department shall obtain the data from the other state agency.

19
20 SECTION 1821. Arkansas Code § 20-7-305(a), concerning the
21 confidentiality of health data, is amended to read as follows:

22 (a) The State Board of Health shall prescribe and enforce such rules
23 ~~and regulations~~ as may be necessary to carry out this subchapter, including
24 the manner in which data are collected, maintained, compiled, and
25 disseminated, and including such rules as may be necessary to promote and
26 protect the confidentiality of data reported under this subchapter.

27
28 SECTION 1822. Arkansas Code § 20-7-307(a)(1), concerning penalties for
29 violation of health data confidentiality rules, is amended to read as
30 follows:

31 (a)(1) Any person, firm, corporation, organization, or institution
32 that violates any of the provisions of this subchapter or any rules ~~and~~
33 ~~regulations~~ promulgated under this subchapter regarding confidentiality of
34 information shall be guilty of a Class C misdemeanor.

35
36 SECTION 1823. Arkansas Code § 20-7-307(b), concerning penalties for

1 violation of health data confidentiality rules, is amended to read as
2 follows:

3 (b) Any person, firm, corporation, organization, or institution
4 knowingly violating any of the provisions of this subchapter or any rules ~~and~~
5 ~~regulations~~ promulgated under this subchapter shall be guilty of a violation
6 and upon conviction shall be punished by a fine of not more than five hundred
7 dollars (\$500).

8

9 SECTION 1824. Arkansas Code § 20-7-307(c)(1), concerning penalties for
10 violation of health data confidentiality rules, is amended to read as
11 follows:

12 (c)(1) Every person, firm, corporation, organization, or institution
13 that violates any of the rules ~~and regulations~~ adopted by the State Board of
14 Health or that violates any provision of this subchapter may be assessed a
15 civil penalty by the board.

16

17 SECTION 1825. Arkansas Code § 20-8-110(g), concerning the collection
18 and dissemination of health data, is amended to read as follows:

19 (g) The director shall prescribe such rules ~~and regulations~~ as may be
20 necessary to carry out the purpose of this section.

21

22 SECTION 1826. Arkansas Code § 20-8-302(b)(1), concerning the use of
23 funds from the Tobacco Settlement Proceeds Act, is amended to read as
24 follows:

25 (b)(1) The department shall promulgate ~~regulations~~ rules to create a
26 grant program which will allow local communities to participate in the Great
27 Strides Grant Program.

28

29 SECTION 1827. Arkansas Code § 20-9-202(a), concerning the penalties
30 for violations under the laws governing health facilities services, is
31 amended to read as follows:

32 (a) Any person, partnership, association, or corporation establishing,
33 conducting, managing, or operating any institution without first obtaining a
34 license therefor as provided or violating any provision of this subchapter or
35 ~~regulations~~ rules lawfully promulgated under this subchapter shall be guilty
36 of a violation.

1
2 SECTION 1828. Arkansas Code § 20-9-205(a)(1), concerning the powers
3 and duties of the State Board of Health, is amended to read as follows:

4 (1) Require such reports, make such inspections and
5 investigations, and prescribe and enforce such reasonable rules ~~and~~
6 ~~regulations~~ as it finds necessary to effectuate the purposes of this
7 subchapter;

8
9 SECTION 1829. Arkansas Code § 20-9-205(a)(8), concerning the powers
10 and duties of the State Board of Health, is amended to read as follows:

11 (8) Prescribe and enforce such reasonable rules ~~and regulations~~
12 as are necessary to adopt a uniform billing form for hospitals within the
13 state and to prescribe penalties for the failure or refusal to utilize and
14 accept such forms. However, the form must be acceptable by Medicare and its
15 intermediaries within the state and consistent with the form adopted at the
16 federal level by Medicare and the National Uniform Billing Committee.

17
18 SECTION 1830. Arkansas Code § 20-9-205(b), concerning the powers and
19 duties of the State Board of Health, is amended to read as follows:

20 (b) The department shall adopt, promulgate, and enforce such rules,
21 ~~regulations~~, and standards as may be necessary for the accomplishment of the
22 purposes of this subchapter. The rules, ~~regulations~~, and standards shall be
23 modified, amended, or rescinded, from time to time, by the department as may
24 be in the public interest.

25
26 SECTION 1831. Arkansas Code § 20-9-209(e), concerning construction
27 program applications for funds, is amended to read as follows:

28 (e) The department by ~~regulation~~ rule shall provide an opportunity for
29 fair hearing and appeal to every applicant who is dissatisfied with any
30 action regarding an application.

31
32 SECTION 1832. Arkansas Code § 20-9-213(b) and (c), concerning licenses
33 required and administered by the State Board of Health, are amended to read
34 as follows:

35 (b) The State Board of Health may provide, by properly promulgating
36 rules ~~and regulations~~, for the issuance of a recuperation center license.

1 (c) The Department of Health may provide, by properly promulgating
2 rules ~~and regulations~~, for the issuance of permanent type licenses, subject
3 to revocation.
4

5 SECTION 1833. Arkansas Code § 20-9-214(a), concerning the fees for the
6 issuance of a license to hospitals or institutions, is amended to read as
7 follows:

8 (a) The State Board of Health shall issue licenses for the operation
9 of institutions, subject to this subchapter, when the institutions are found
10 to comply with the provisions of this subchapter and such ~~regulations~~ rules
11 as are lawfully promulgated by the Department of Health.
12

13 SECTION 1834. Arkansas Code § 20-9-214(c)(2)(B), concerning the fees
14 for the issuance of a license to hospitals or institutions, is amended to
15 read as follows:

16 (B) Applications shall set forth the full name and address
17 of the institution for which the license is sought and such additional
18 information as the department may require, including affirmative evidence of
19 ability to comply with such reasonable standards, and rules, ~~and regulations~~
20 as may be lawfully prescribed in this subchapter.
21

22 SECTION 1835. Arkansas Code § 20-9-214(f), concerning the fees for the
23 issuance of a license to hospitals or institutions, is amended to read as
24 follows:

25 (f) Subject to such rules ~~and regulations~~ as may be implemented by the
26 Chief Fiscal Officer of the State, the disbursing officer for the Department
27 of Health may transfer all unexpended funds relative to the health facility
28 services that pertain to fees collected, as certified by the Chief Fiscal
29 Officer of the State, to be carried forward and made available for
30 expenditures for the same purpose for any following fiscal year.
31

32 SECTION 1836. Arkansas Code § 20-9-215(a)(1), concerning the denial,
33 suspension, and revocation of licenses issued by the State Board of Health,
34 is amended to read as follows:

35 (1) Violation of any of the provisions of this subchapter or the
36 rules ~~and regulations~~ lawfully promulgated under this subchapter; or

1
2 SECTION 1837. Arkansas Code § 20-9-215(f), concerning the denial,
3 suspension, and revocation of licenses issued by the State Board of Health,
4 is amended to read as follows:

5 (f) Witnesses may be subpoenaed by either party and shall be allowed
6 fees at a rate prescribed by ~~regulations~~ rules.

7
8 SECTION 1838. Arkansas Code § 20-9-215(g), concerning the denial,
9 suspension, and revocation of licenses issued by the State Board of Health,
10 is amended to read as follows:

11 (g) The procedure governing hearings authorized by this section shall
12 be in accordance with ~~regulations~~ rules promulgated by the department.

13
14 SECTION 1839. Arkansas Code § 20-9-217(a), concerning the alterations,
15 additions, and new construction of facilities, is amended to read as follows:

16 (a) The State Board of Health shall prescribe by ~~regulation~~ rule that
17 any licensee or applicant desiring to make specified types of alterations or
18 additions to its facilities or to construct new facilities, before commencing
19 the alterations, additions, or new construction, shall submit plans and
20 specifications for them to the Department of Health for preliminary
21 inspection and approval or recommendations with respect to compliance with
22 the ~~regulations~~ rules and standards.

23
24 SECTION 1840. Arkansas Code § 20-9-218(b), concerning emergency
25 service facilities, is amended to read as follows:

26 (b) The emergency services facilities shall be subject to inspection
27 and to all other provisions of this subchapter and §§ 20-10-213 – 20-10-231
28 and all ~~regulations~~ rules promulgated under this subchapter and §§ 20-10-213
29 – 20-10-231.

30
31 SECTION 1841. Arkansas Code § 20-9-219(a)(2)(A), concerning the
32 definition of "hospital" under the laws governing the inspection of health
33 facilities, is amended to read as follows:

34 (2)(A) "Hospital" means a facility used for the purpose of
35 providing inpatient diagnostic care or treatment, including general medical
36 care, surgical care, obstetrical care, psychiatric care, and specialized

1 services or specialized treatment that is subject to the rules ~~and~~
2 ~~regulations~~ for hospitals in Arkansas.

3
4 SECTION 1842. Arkansas Code § 20-9-219(a)(3), concerning the
5 definition of "inspection" under the laws governing the inspection of health
6 facilities, is amended to read as follows:

7 (3) "Inspection" means the on-site review of the physical plant
8 and practices as governed by the current rules ~~and regulations~~ of hospitals;

9
10 SECTION 1843. Arkansas Code § 20-9-219(a)(5), concerning the
11 definition of "survey" under the laws governing the inspection of health
12 facilities, is amended to read as follows:

13 (5) "Survey" means the on-site formal review process of a
14 hospital by the division at regular intervals to ensure compliance with
15 applicable rules ~~and regulations~~ adopted by the Department of Health.

16
17 SECTION 1844. Arkansas Code § 20-9-219(d), concerning the inspection
18 of health facilities, is amended to read as follows:

19 (d) No hospital shall be required to submit accreditation by an
20 accrediting organization, but whenever a hospital does not submit an
21 accreditation certificate, the personnel of the department shall conduct such
22 surveys as are prescribed by ~~regulation~~ rule.

23
24 SECTION 1845. Arkansas Code § 20-9-219(f) and (g), concerning the
25 inspection of health facilities, are amended to read as follows:

26 (f) A validation survey may be conducted on five percent (5%) of
27 deemed hospitals during any calendar year to determine continued compliance
28 with state ~~regulations~~ rules.

29 (g) The department shall continue to have authority over new
30 construction, renovations, and alterations of the hospitals as set forth in
31 the current ~~regulations~~ rules.

32
33 SECTION 1846. Arkansas Code § 20-9-302(b)(3)(B)(iii)(a)(1), concerning
34 abortion clinics and health centers, is amended to read as follows:

35 (1) The applicant or licensee is in
36 violation of any state law, or rule, ~~or regulation~~; and

1
2 SECTION 1847. Arkansas Code § 20-9-302(e), concerning abortion clinics
3 and health centers, is amended to read as follows:

4 (e) Subject to such rules ~~and regulations~~ as may be implemented by the
5 Chief Fiscal Officer of the State, the disbursing officer for the department
6 may transfer all unexpended funds relative to the abortion clinics that
7 pertain to fees collected, as certified by the Chief Fiscal Officer of the
8 State, to be carried forward and made available for expenditures for the same
9 purpose for any following fiscal year.

10
11 SECTION 1848. Arkansas Code § 20-9-403 is amended to read as follows:
12 20-9-403. Regulation by Department of Health.

13 (a) The Department of Health shall establish and enforce ~~regulations~~
14 rules:

15 (1) Setting minimum standards for the construction, maintenance,
16 and operation of a free-standing birthing center; and

17 (2) Setting qualifications for medical directors of free-
18 standing birthing centers and for physicians who will perform deliveries in
19 free-standing birthing centers.

20 (b) A freestanding birthing center shall meet life safety code and
21 construction standards developed by the National Fire Protection Association
22 and shall comply with ~~regulations~~ rules developed by the department.

23
24 SECTION 1849. Arkansas Code § 20-9-905(a), concerning the penalty for
25 violations of the laws addressing facility utilization reviews, is amended to
26 read as follows:

27 (a) A person who violates any provision of this subchapter or any
28 ~~regulation~~ rule adopted under this subchapter shall be guilty of a violation
29 and upon conviction shall be subject to a penalty not exceeding one thousand
30 dollars (\$1,000).

31
32 SECTION 1850. Arkansas Code § 20-9-906(a)(1) and (2), concerning the
33 duties of the State Board of Health, are amended to read as follows:

34 (a)(1) In accordance with the Arkansas Administrative Procedure Act, §
35 25-15-201 et seq., the State Board of Health shall adopt ~~regulations~~ rules to
36 implement this subchapter.

1 (2) ~~Regulations~~ Rules governing utilization review plans under
2 this subchapter shall impose no greater requirements than those required for
3 utilization review activities for state-certified health maintenance
4 organizations under the laws of this state, as amended from time to time.
5

6 SECTION 1851. Arkansas Code § 20-9-906(b), concerning the duties of
7 the State Board of Health, is amended to read as follows:

8 (b) The board shall issue a certificate to an applicant that has met
9 all the requirements of this subchapter and all applicable ~~regulations~~ rules
10 of the board.
11

12 SECTION 1852. Arkansas Code § 20-9-906(c)(2), concerning the duties of
13 the State Board of Health, is amended to read as follows:

14 (2) Determine if the utilization review programs are in
15 compliance with this subchapter and applicable ~~regulations~~ rules.
16

17 SECTION 1853. Arkansas Code § 20-9-908(a)(2), concerning the fee for
18 application for certification by the State Board of Health, is amended to
19 read as follows:

20 (2) Pay to the board the application fee established by the
21 board ~~through regulation~~ by rule.
22

23 SECTION 1854. Arkansas Code § 20-9-910(b)(2), concerning the
24 expiration of a certificate and renewal, is amended to read as follows:

25 (2) Pays the State Board of Health the renewal fee set by the
26 board ~~through regulation~~ by rule; and
27

28 SECTION 1855. Arkansas Code § 20-9-911(a), concerning revocation or
29 denial of a renewal certificate, is amended to read as follows:

30 (a) The State Board of Health may revoke or deny a certificate if the
31 holder does not comply with performance assurances under this section,
32 violates any provision of this subchapter, or violates any ~~regulation~~ rule
33 adopted pursuant to this subchapter.
34

35 SECTION 1856. Arkansas Code § 20-9-911(b)(2), concerning revocation or
36 denial of a renewal certificate, is amended to read as follows:

1 (2) Meet any applicable ~~regulations~~ rules the board adopted
2 under this subchapter relating to the qualifications of private review agents
3 or the performance of utilization review; and
4

5 SECTION 1857. Arkansas Code § 20-10-111(b)(2)(A), concerning
6 disclosure statements for residential care and assisted living facilities, is
7 amended to read as follows:

8 (A) Any medication administration, assistance taking
9 medication, or reminders to take medication that the facility may by law,
10 rule, or regulation provide;
11

12 SECTION 1858. Arkansas Code § 20-10-203(b), concerning the powers and
13 duties of the Office of Long-Term Care, is amended to read as follows:

14 (b) The office may promulgate such rules ~~and regulations~~ not
15 inconsistent with this chapter as it shall deem necessary or desirable to
16 properly and efficiently carry out the purposes and intent of this chapter.
17

18 SECTION 1859. Arkansas Code § 20-10-204(a), concerning a notice of
19 violation after an inspection or investigation by the Office of Long-Term
20 Care, is amended to read as follows:

21 (a) If upon inspection or investigation the Office of Long-Term Care
22 determines that a licensed long-term care facility is in violation of any
23 federal or state law, rule, or regulation pertaining to Title XIX Medicaid
24 certification or licensure, the office shall promptly serve by certified mail
25 or other means that gives actual notice, a notice of violation upon the
26 licensee when the violation is a classified violation as described in § 20-
27 10-205.
28

29 SECTION 1860. Arkansas Code § 20-10-205(a), concerning the
30 classification of violations by the Office of Long-Term Care, is amended to
31 read as follows:

32 (a) The Office of Long-Term Care shall promulgate rules ~~and~~
33 ~~regulations~~ specifying classified violations in accordance with this section.
34

35 SECTION 1861. Arkansas Code § 20-10-206(b)(3), concerning civil
36 penalties assessed by the Director of the Office of Long-Term Care, is

1 amended to read as follows:

2 (3) The extent to which the applicable statutes, rules, or
3 regulations were violated;

4

5 SECTION 1862. Arkansas Code § 20-10-206(b)(4)(A), concerning civil
6 penalties assessed by the Director of the Office of Long-Term Care, is
7 amended to read as follows:

8 (A) Awareness of the applicable statutes, rules, and
9 regulations and reasonable diligence in securing compliance;

10

11 SECTION 1863. Arkansas Code § 20-10-206(c), concerning civil penalties
12 assessed by the Director of the Office of Long-Term Care, is amended to read
13 as follows:

14 (c) Assessment of a civil penalty provided by this section shall not
15 affect the right of the Office of Long-Term Care to take such other action as
16 may be authorized by law, rule, or regulation.

17

18 SECTION 1864. Arkansas Code § 20-10-207(g)(1), concerning notice of
19 violations provided to the media by the Office of Long-Term Care, is amended
20 to read as follows:

21 (g)(1) A long-term care facility required to be licensed under this
22 subchapter shall post in a conspicuous place, readily accessible to residents
23 and visitors, the final certification survey following final administrative
24 determination as defined by ~~regulation~~ rule of the statement of deficiencies
25 and plans-of-correction survey report received by the facility.

26

27 SECTION 1865. Arkansas Code § 20-10-209(a)(2), concerning the
28 disposition of funds to the Long-Term Care Trust Fund, is amended to read as
29 follows:

30 (2) The fund shall consist of all moneys and interest received
31 from the imposition of civil penalties levied by the state on long-term care
32 facilities found to be out of compliance with the requirements of federal or
33 state law, rules, or regulations, there to be administered by the Director of
34 the Department of Human Services solely for the protection of the health or
35 property of residents of long-term care facilities, including, but not
36 limited to, the payment for the costs of relocation of residents to other

1 facilities, maintenance and operation of a facility pending correction of
2 deficiencies or closure, and reimbursement of residents for personal funds
3 lost.

4
5 SECTION 1866. Arkansas Code § 20-10-211(a) and (b), concerning the
6 regulation of staffing of long-term care facilities, are amended to read as
7 follows:

8 (a) The agency responsible for licensure and certification of long-
9 term care facilities shall promulgate appropriate rules ~~and regulations~~
10 prescribing minimum staffing requirements for all long-term care facilities
11 in the state. The agency shall conform to the requirements of the Arkansas
12 Administrative Procedure Act, § 25-15-201 et seq., and other appropriate
13 state laws in promulgating and placing rules ~~and regulations~~ into effect.

14 (b) Failure to comply with the rules ~~and regulations~~ promulgated by
15 the appropriate agency pursuant to subsection (a) of this section shall be
16 cause for revocation or suspension of the license or certification of any
17 long-term care facility.

18
19 SECTION 1867. Arkansas Code § 20-10-214(a), concerning penalties for
20 licensure violations of long-term care facilities, is amended to read as
21 follows:

22 (a) Any person, partnership, association, or corporation establishing,
23 conducting, managing, or operating any institution or facility or any
24 combination of separate entities working in concert within the meaning of §§
25 20-10-213 – 20-10-228 without first obtaining a license therefor as provided
26 or violating any provision of §§ 20-10-213 – 20-10-228 or ~~regulation~~ rule
27 lawfully promulgated under §§ 20-10-213 – 20-10-228 shall be guilty of a
28 violation.

29
30 SECTION 1868. Arkansas Code § 20-10-216(a)(1), concerning the powers
31 and duties of the Department of Human Services, is amended to read as
32 follows:

33 (1) Require such reports, make such inspections and
34 investigations, and prescribe and enforce such reasonable rules ~~and~~
35 ~~regulations~~ as it finds necessary to effectuate §§ 20-10-213 – 20-10-228;

36

1 SECTION 1869. Arkansas Code § 20-10-216(b), concerning the powers and
2 duties of the Department of Human Services, is amended to read as follows:

3 (b) The department shall adopt, promulgate, and enforce such rules,
4 ~~regulations~~, and standards as may be necessary for the accomplishment of §§
5 20-10-213 – 20-10-228. The rules, ~~regulations~~, and standards shall be
6 modified, amended, or rescinded by the department as may be in the public
7 interest.

8
9 SECTION 1870. Arkansas Code § 20-10-220(e), concerning applications
10 for medical facilities construction projects, is amended to read as follows:

11 (e) The department by ~~regulation~~ rule shall provide an opportunity for
12 fair hearing and appeal to every applicant who is dissatisfied with any
13 action regarding an application.

14
15 SECTION 1871. Arkansas Code § 20-10-224(b)(1), concerning licenses
16 required by the Department of Human Services for long-term care facilities,
17 is amended to read as follows:

18 (b)(1) By properly promulgating rules ~~and regulations~~, the Department
19 of Human Services may provide for the issuance of provisional long-term care
20 facility licenses and long-term care facility licenses, including the
21 licensure of facilities with specialized wings, units, or rooms for dementia
22 residents, those suffering from Alzheimer's disease, and other related
23 conditions.

24
25 SECTION 1872. Arkansas Code § 20-10-225(a), concerning alterations,
26 additions, and new construction of facilities, is amended to read as follows:

27 (a) The Department of Human Services shall prescribe by ~~regulation~~
28 rule that any licensee or applicant desiring to make specified types of
29 alterations or additions to its facilities or to construct new facilities
30 shall, before commencing such alterations, additions, or new construction,
31 submit plans and specifications for them to the department for preliminary
32 inspection and approval or recommendations with respect to compliance with
33 the ~~regulations~~ rules and standards.

34
35 SECTION 1873. Arkansas Code § 20-10-226 is amended to read as follows:
36 20-10-226. Inspections of facilities.

1 The Department of Human Services shall make such inspections as it may
2 prescribe by ~~regulation~~ rule.

3
4 SECTION 1874. Arkansas Code § 20-10-232 is amended to read as follows:

5 20-10-232. ~~Regulations~~ Rules, client rights, and sanctions.

6 (a) The Office of Long-Term Care shall promulgate and maintain
7 pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,
8 separate ~~regulations~~ rules, client rights, and sanctions for intermediate
9 care facilities for individuals with developmental disabilities operations
10 and for other long-term care facilities regulated by the office.

11 (b) ~~Regulations~~ Rules which cover all facilities regulated by the
12 office shall be included in each separate set of ~~regulations~~ rules. Changes
13 and updates to each set of ~~regulations~~ rules shall specify which type of
14 ~~regulations~~ rules are being updated or changed.

15
16 SECTION 1875. Arkansas Code § 20-10-403(a), concerning the
17 qualifications for long-term care facility administrators, is amended to read
18 as follows:

19 (a) The Office of Long-Term Care is vested with the authority and duty
20 to prescribe minimum qualifications for long-term care facility
21 administrators and license persons as long-term care facility administrators
22 who make application for licensure and meet the minimum qualifications as
23 prescribed in this section and by ~~regulation~~ rule of the office.

24
25 SECTION 1876. Arkansas Code § 20-10-404(d), concerning the application
26 and fee for nursing home administrators, is amended to read as follows:

27 (d) This section and §§ 20-10-405 and 20-10-408 only apply to nursing
28 home administrators and are not intended to require administrators in other
29 kinds of long-term care facilities unless provided by ~~regulation~~ rule.

30
31 SECTION 1877. Arkansas Code § 20-10-405(d), concerning nursing home
32 administrator's license renewal, is amended to read as follows:

33 (d) No request for renewal postmarked or received by the office after
34 July 1 shall be considered unless, in addition to other requirements imposed
35 by law or ~~regulation~~ rule, the licensee tenders a late charge in the amount
36 of fifty dollars (\$50.00).

1
2 SECTION 1878. Arkansas Code § 20-10-406(a), concerning reciprocity for
3 long-term care facility administrators, is amended to read as follows:

4 (a) The Office of Long-Term Care may by ~~regulation~~ rule establish
5 terms and conditions for reciprocity licensure of individuals currently
6 licensed in good standing as long-term care facility administrators in other
7 states.

8
9 SECTION 1879. Arkansas Code § 20-10-407(a), concerning the denial,
10 revocation, or suspension of a long-term care facility administrator's
11 license, is amended to read as follows:

12 (a) The Office of Long-Term Care may refuse to issue or renew a long-
13 term care facility administrator's license or may revoke or suspend the
14 license of a long-term care facility administrator if the office finds that
15 the applicant or licensee does not qualify for licensure or has violated §
16 20-10-101(1)-(6), § 20-10-203(b), § 20-10-212, §§ 20-10-301 – 20-10-303
17 [repealed], § 20-10-402, § 20-10-403, § 20-10-405(b), § 20-10-406, and this
18 section or ~~regulations~~ rules of the office relating to the proper
19 administration and management of a long-term care facility.

20
21 SECTION 1880. Arkansas Code § 20-10-408(b), concerning the disposition
22 of funds by the Office of Long-Term Care, is amended to read as follows:

23 (b) Subject to rules ~~and regulations~~ as may be implemented by the
24 Chief Fiscal Officer of the State, the disbursing officer for the Department
25 of Human Services may transfer all unexpended funds relative to the licensure
26 of nursing home administrators that pertain to fees collected, as certified
27 by the Chief Fiscal Officer of the State, to be carried forward and made
28 available for expenditures for the same purpose for any following fiscal
29 year.

30
31 SECTION 1881. Arkansas Code § 20-10-705 is amended to read as follows:
32 20-10-705. ~~Regulations~~ Rules.

33 (a) The Office of Long-Term Care shall promulgate ~~regulations~~ rules
34 necessary to implement an aide training program for all long-term care
35 facilities in this state, to prescribe in-service training programs, and to
36 enforce compliance with those programs.

(b)(1) The ~~regulations~~ rules shall require training programs to:

(A) Provide no fewer than ninety (90) clock hours of training; and

(B) Include in those ninety (90) clock hours no fewer than fifteen (15) clock hours of training specific to Alzheimer’s disease and related dementia.

(2) The training programs required under this subsection shall take effect only if funds are available.

(3) The training program established under this section shall be known as the “Barbara Broyles Training Program”.

SECTION 1882. Arkansas Code § 20-10-803(a)(1), concerning penalties for violations of the laws governing home healthcare services, is amended to read as follows:

(a)(1) Any person who violates any provision of this subchapter or ~~regulations~~ rules lawfully promulgated under this subchapter shall be guilty of a violation.

SECTION 1883. Arkansas Code § 20-10-806(b), concerning the rules adopted by the State Board of Health and administered by the Division of Health Facilities Services, is amended to read as follows:

(b) The State Board of Health 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 board as may be in the public interest, after first complying with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 1884. Arkansas Code § 20-10-808(a)(4), concerning the application for a license to provide home healthcare services, is amended to read as follows:

(4) Cooperate with any inspections the division may require for a license and comply with ~~regulations~~ rules and standards promulgated under this subchapter; and

SECTION 1885. Arkansas Code § 20-10-809(a)(1), concerning the issuance

1 of licenses for home healthcare services agencies, is amended to read as
2 follows:

3 (a)(1) The Director of the Division of Health Facilities Services
4 shall issue licenses for the operation of home healthcare services agencies
5 which are found to comply with this subchapter and with the ~~regulations~~ rules
6 of the State Board of Health.

7
8 SECTION 1886. Arkansas Code § 20-10-810(1), concerning the denial,
9 suspension, or revocation of a license to operate a home healthcare services
10 agency, is amended to read as follows:

11 (1) Violation of this subchapter or the rules ~~and regulations~~
12 lawfully promulgated under this subchapter; and

13
14 SECTION 1887. Arkansas Code § 20-10-812(c), concerning fees levied by
15 the Division of Health Facilities Services, is amended to read as follows:

16 (c) Subject to those rules ~~and regulations~~ that may be implemented by
17 the Chief Fiscal Officer of the State, the disbursing officer for the
18 Department of Health may transfer all unexpended funds relative to this
19 subchapter that pertain to fees collected except for those collected under
20 subsection (a) of this section, as certified by the Chief Fiscal Officer of
21 the State, to be carried forward and made available for expenditures for the
22 same purposes for any following fiscal year.

23
24 SECTION 1888. Arkansas Code § 20-10-904(2), concerning the grounds for
25 the appointment of a receiver to operate a long-term care facility, is
26 amended to read as follows:

27 (2) A facility is in substantial or habitual violation of the
28 standards of health, safety, or resident care established under state rules
29 or federal regulations to the detriment of the welfare of the residents;

30
31 SECTION 1889. Arkansas Code § 20-10-909(12), concerning the duties of
32 the receiver to operate a long-term health care facility, is amended to read
33 as follows:

34 (12) Shall remedy violations of federal and state rules and
35 regulations governing the operation of the facility;

36

1 SECTION 1890. Arkansas Code § 20-10-915(a)(2), concerning monitoring
2 of a facility by the Department of Human Services, is amended to read as
3 follows:

4 (2) The monitor shall observe operation of the facility, assist
5 the facility by advising it on how to comply with the state and federal rules
6 and regulations, and report periodically to the department on the operation
7 of the facility.

8
9 SECTION 1891. Arkansas Code § 20-10-915(c), concerning monitoring of a
10 facility by the Department of Human Services, is amended to read as follows:

11 (c) The department may promulgate any rules ~~and regulations~~ as
12 necessary to implement this section.

13
14 SECTION 1892. The introductory language of Arkansas Code § 20-10-
15 1003(b), concerning the rights of residents in long-term care facilities, is
16 amended to read as follows:

17 (b) The Office of Long-Term Care shall promulgate through rules ~~and~~
18 ~~regulations~~ a residents' bill of rights which shall include provisions
19 addressing each of the following as a minimum statement of residents' rights.
20 The office may place restrictions or limitations on any right listed in this
21 subsection when that is necessary to protect the health, welfare, or safety
22 of the resident or other residents:

23
24 SECTION 1893. Arkansas Code § 20-10-1003(g), concerning the rights of
25 residents in long-term care facilities, is amended to read as follows:

26 (g) The office shall prescribe through rules ~~and regulations~~ a
27 synopsis of the residents' bill of rights which shall be posted at all times
28 in a conspicuous location accessible to residents and the public in the
29 facility.

30
31 SECTION 1894. The introductory language of Arkansas Code § 20-10-
32 1005(a), concerning the procedure for transfer or discharge of residents to
33 be followed by long-term care facilities, is amended to read as follows:

34 (a) The Office of Long-Term Care shall prescribe through rule ~~or~~
35 ~~regulation~~ the procedure for transfer or discharge of residents to be
36 followed by long-term care facilities. The procedure shall include:

1
2 SECTION 1895. Arkansas Code § 20-10-1005(a)(1), concerning the
3 procedure for transfer or discharge of residents to be followed by long-term
4 care facilities, is amended to read as follows:

5 (1) Provisions for a written notice to be furnished to the
6 resident, sponsor, and other appropriate parties thirty (30) days prior to
7 any involuntary transfer or discharge and for ~~regulations~~ rules setting forth
8 the following circumstances for which the written notice need not be
9 furnished:

10 (A) The transfer or discharge is necessary to meet the
11 resident's welfare, and the resident's welfare cannot be met in the facility;

12 (B) The transfer or discharge is appropriate because the
13 resident's health has improved sufficiently so that the resident no longer
14 needs the services provided by the facility;

15 (C) The safety of individuals in the facility is
16 endangered;

17 (D) The health of individuals in the facility would
18 otherwise be endangered;

19 (E) The resident has failed, after reasonable and
20 appropriate notice, to pay or to have paid under state-administered programs
21 on the resident's behalf an allowable charge imposed by the facility for an
22 item or service requested by the resident and for which a charge may be
23 imposed consistent with federal and state laws, rules, and regulations; or

24 (F) The facility ceases to operate;

25
26 SECTION 1896. The introductory language of Arkansas Code § 20-10-
27 1006(a), concerning the establishment of a residents' council within each
28 long-term care facility, is amended to read as follows:

29 (a) The Office of Long-Term Care shall prescribe through rule ~~or~~
30 ~~regulation~~ the establishment of a residents' council within each long-term
31 care facility. The residents' council's duties shall include, but need not be
32 limited to:

33
34 SECTION 1897. Arkansas Code § 20-10-1006(c), concerning the
35 establishment of a residents' council within each long-term care facility, is
36 amended to read as follows:

1 (c) The office shall prescribe rules ~~or regulations~~ which encourage
2 the establishment of family councils for residents' families to meet in the
3 facility with the families of other residents. The office shall require each
4 facility to inform residents' families of their right to establish a family
5 council within the facility.

6
7 SECTION 1898. Arkansas Code § 20-10-1203(2), concerning the
8 administration and management of long-term care facilities, is amended to r

9 (2) Have available the regular, consultative, and emergency services
10 of physicians licensed by the state and required by state and federal rules
11 and regulations;

12
13 SECTION 1899. Arkansas Code § 20-10-1304(a), concerning the
14 implementation of rules to provide for immunization against the influenza
15 virus and pneumococcal disease in nursing home facilities, is amended to read
16 as follows:

17 (a)(1)(A) The State Board of Health may promulgate rules ~~and~~
18 ~~regulations~~ to provide for the immunization against the influenza virus and
19 pneumococcal disease as provided for in this subchapter.

20 (B) The Office of Long-Term Care shall be granted
21 authority to enforce the rules ~~and regulations~~.

22 (2) The board may also promulgate rules ~~and regulations~~ to
23 provide for the immunization of other individuals and require other
24 institutions and facilities to provide the immunizations provided for in this
25 subchapter.

26
27 SECTION 1900. Arkansas Code § 20-10-1402(a), concerning staffing
28 standards for nursing facilities, is amended to read as follows:

29 (a) The Department of Human Services shall not issue or renew a
30 license of a nursing facility unless that facility employs the direct-care
31 staff needed to provide continuous twenty-four-hour nursing care and service
32 to meet the needs of each resident of the nursing facility and the staffing
33 standards required by all state rules and federal regulations.

34
35 SECTION 1901. Arkansas Code § 20-10-1403(c), concerning the ratio of
36 staff to residents of nursing facilities, is amended to read as follows:

1 (c) Nursing facilities shall provide in-service training to their
2 direct-care staffs pursuant to ~~regulations~~ rules promulgated by the office.

3
4 SECTION 1902. Arkansas Code § 20-10-1408(b), concerning penalties for
5 a pattern of failure of a facility assessed by the Office of Long-Term Care,
6 is amended to read as follows:

7 (b) The penalties stated in this subchapter are supplemental to any
8 provisions in state or federal laws, rules, or regulations.

9
10 SECTION 1903. Arkansas Code § 20-10-1409(b), concerning the staffing
11 standards for nursing facilities, is amended to read as follows:

12 (b)(1) If the Director of the Department of Human Services determines
13 that the reimbursement methodology or available funding is insufficient or
14 unable to pay for the minimum staffing standards under § 20-10-1403, the
15 office, by ~~regulation~~ rule, may modify the requirements of § 20-10-1403 to
16 ensure minimum staffing funds.

17 (2) If the Director of the Office of Long-Term Care determines
18 that the minimum staffing standards under § 20-10-1403 or § 20-10-1404 have
19 become insufficient at any time to ensure the health, safety, or welfare of
20 nursing facility residents, by ~~regulation~~ rule, the office may increase
21 minimum staffing standards or otherwise promulgate ~~regulations~~ rules to
22 ensure the health, safety, or welfare of the nursing facility residents.

23
24 SECTION 1904. Arkansas Code § 20-10-1604(b), concerning administration
25 by the Director of the Division of Medical Services of the Department of
26 Human Services, is amended to read as follows:

27 (b)(1) In accordance with the Arkansas Administrative Procedure Act, §
28 25-15-201 et seq., the Division of Medical Services shall promulgate rules
29 ~~and regulations~~ and prescribe forms for:

30 (A) The proper imposition and collection of the quality
31 assurance fee;

32 (B)(i) The enforcement of this subchapter, including, but
33 not limited to, license nonrenewal, letters of caution, sanctions, or fines.

34 (ii) The fine shall be at least ten thousand dollars
35 (\$10,000) but no more than twenty thousand dollars (\$20,000). The fine and
36 outstanding quality assurance fee shall accrue interest at the maximum rate

1 permitted by law from the date the quality assurance fee is due until payment
2 of the quality assurance fee and the fine;

3 (C) The format for reporting by all nursing homes the
4 total patient days and gross receipts; and

5 (D) The administration of the provisions of this
6 subchapter.

7 (2) The rules ~~and regulations~~ shall not grant any exceptions to,
8 or exceptions from, the quality assurance fee.

9
10 SECTION 1905. Arkansas Code § 20-10-1704(b)(1) and (2), concerning the
11 assisted living program, are amended to read as follows:

12 (b)(1) The department shall promulgate rules ~~and regulations~~ not
13 inconsistent with the provisions of this subchapter as it shall deem
14 necessary or desirable to properly and efficiently carry out the purposes and
15 intent of this subchapter.

16 (2) The ~~regulations~~ rules, including documentation, shall take
17 into account the congregate nature of assisted living as opposed to
18 individual settings, and the ~~regulations~~ rules shall include, but not be
19 limited to:

20 (A) Fire, health, and life safety codes;

21 (B) Physical plant requirements, including space
22 requirements for housing, toilet facilities, and related items;

23 (C) Staffing requirements; and

24 (D) Services requirements.

25
26 SECTION 1906. Arkansas Code § 20-10-1704(d)(1) and (2), concerning the
27 assisted living program, are amended to read as follows:

28 (1) The facility shall provide a small refrigerator in each
29 resident's room, except as otherwise provided by ~~regulation~~ rule;

30 (2) The facility shall provide a microwave oven in each
31 resident's room, except as otherwise provided by ~~regulation~~ rule;

32
33 SECTION 1907. Arkansas Code § 20-10-1704(d)(4), concerning the
34 assisted living program, is amended to read as follows:

35 (4) The application conforms to all other assisted living
36 ~~regulations~~ rules, except as provided in this subchapter; and

1
2 SECTION 1908. Arkansas Code § 20-10-1704(f), concerning the assisted
3 living program, is amended to read as follows:

4 (f) Assisted living ~~regulations~~ rules promulgated by the department
5 shall be reasonable and shall not have the effect of excluding residential
6 care facilities from entering the program, provided they meet the
7 requirements of this subchapter.

8
9 SECTION 1909. Arkansas Code § 20-10-1705(b), concerning administrative
10 fees, is amended to read as follows:

11 (b) The department shall promulgate rules ~~and regulations~~ necessary
12 for charging administrative fees.

13
14 SECTION 1910. Arkansas Code § 20-10-1707(a)(2), concerning licensure
15 of assisted living facilities, is amended to read as follows:

16 (2) The department shall promulgate rules ~~and regulations~~ for
17 the licensure and operation of assisted living facilities.

18
19 SECTION 1911. Arkansas Code § 20-10-2204(b)(1)(C), concerning
20 confidentiality of proceedings and records of a quality assurance committee,
21 is amended to read as follows:

22 (C) Records or reports required to be kept by applicable
23 law, rule, or regulation that are not created by or for the quality
24 assurance committee;

25
26 SECTION 1912. Arkansas Code § 20-12-203(e) and (f), concerning the
27 administration of the Rural Medical Clinic Revolving Loan Fund, are amended
28 to read as follows:

29 (e) The State Board of Finance may make such reasonable rules ~~and~~
30 ~~regulations~~ and prescribe such forms and procedures as are deemed appropriate
31 to enable it to enforce this subchapter.

32 (f) In addition to such criteria as are established by the State Board
33 of Finance, the State Board of Health may establish through rules ~~and~~
34 ~~regulations~~ promulgated by the Department of Health criteria to implement the
35 following requirements:

36 (1) That a person with an already established practice will not

1 be considered an eligible applicant except under extreme circumstances
2 threatening the continuance of his or her service to the rural community;

3 (2) That the applicant shall serve a proportionate amount of
4 Medicaid patients for the rural community;

5 (3) That the applicant shall demonstrate a willingness to work
6 within the existing health care system;

7 (4) That the applicant shall practice a minimum of thirty-two
8 (32) hours a week; and

9 (5) That no applicant with professional income guarantees from
10 other sources shall be approved under this program.

11
12 SECTION 1913. Arkansas Code § 20-12-402(a), concerning duties of the
13 Department of Health, is amended to read as follows:

14 (a) It shall be the responsibility of the Department of Health to
15 promulgate all rules ~~and regulations~~ for making application for the matching
16 funds required by this subchapter.

17
18 SECTION 1914. Arkansas Code § 20-12-502(3), concerning the
19 administration of the Department of Health of the physician recruitment and
20 retention program, is amended to read as follows:

21 (3) Adopt and enforce appropriate rules ~~and regulations~~
22 regarding forms to be used by applicants for grants, and eligibility of
23 applicants, and such other rules ~~and regulations~~ as the department deems
24 necessary or appropriate to carry out the purposes and intent of this
25 subchapter and to prevent abuse of the program provided for in this
26 subchapter; and

27
28 SECTION 1915. Arkansas Code § 20-12-603(b), concerning financial
29 assistance for repayment of faculty medical student loans, is amended to read
30 as follows:

31 (b) The University of Arkansas for Medical Sciences shall adopt
32 reasonable ~~regulations~~ rules for the administration of this subchapter.

33
34 SECTION 1916. Arkansas Code § 20-13-101(c)(1), concerning the
35 Emergency Medical Services Revolving Fund Act, is amended to read as follows:

36 (c)(1) It shall be the responsibility of the Division of Emergency

1 Medical Services of the Department of Health to promulgate all rules ~~and~~
2 ~~regulations~~ for making application for the matching funds.

3
4 SECTION 1917. Arkansas Code § 20-13-202(8), concerning the definition
5 of "licensure" under the Emergency Medical Services Act, is amended to read
6 as follows:

7 (8) "Licensure" means official acknowledgment by the department
8 that an individual has demonstrated competence to perform the emergency
9 medical services required for licensure under the rules, ~~regulations,~~ and
10 standards adopted by the board upon recommendation by the Emergency Medical
11 Services Advisory Council;

12
13 SECTION 1918. Arkansas Code § 20-13-203(a), concerning applicability
14 of the Emergency Medical Services Act, is amended to read as follows:

15 (a) All municipal, county, or state-operated rescue services which
16 choose to provide advanced life support skills to the general public but
17 which do not transport patients except in mass casualty incidents shall
18 comply with all rules, ~~regulations,~~ and standards duly promulgated under this
19 subchapter.

20
21 SECTION 1919. Arkansas Code § 20-13-204 is amended to read as follows:
22 20-13-204. Penalties.

23 Any person violating this subchapter or any rule, ~~regulation,~~ or order
24 adopted in accordance with this subchapter shall be guilty of a misdemeanor
25 and shall be punished by a fine of not more than one hundred dollars (\$100)
26 or by imprisonment for a period not to exceed thirty (30) days in the county
27 jail, or by both fine and imprisonment.

28
29 SECTION 1920. Arkansas Code § 20-13-208 is amended to read as follows:
30 20-13-208. State Board of Health – Powers and duties.

31 (a)(1) The State Board of Health shall have the responsibility and
32 authority to hold public hearings and promulgate and implement rules,
33 ~~regulations,~~ and standards which it deems necessary to carry out the
34 provisions of this subchapter.

35 (2) However, before implementing any rules, ~~regulations,~~ or
36 standards, the board shall submit and obtain the review of the House

1 Committee on Public Health, Welfare, and Labor and the Senate Committee on
2 Public Health, Welfare, and Labor or appropriate subcommittees.

3 (b) In addition, the board may establish appropriate rules,
4 ~~regulations~~, and standards defining or limiting the emergency medical
5 procedures or services that may be rendered by licensed emergency medical
6 services personnel who are authorized to legally perform these services under
7 the conditions set forth by the board, except that before implementing any
8 rules, ~~regulations~~, and standards, the board shall submit and obtain the
9 review of the House Committee on Public Health, Welfare, and Labor and the
10 Senate Committee on Public Health, Welfare, and Labor or appropriate
11 subcommittees.

12
13 SECTION 1921. Arkansas Code § 20-13-209(2), concerning the powers and
14 duties of the Department of Health regarding emergency medical personnel, is
15 amended to read as follows:

16 (2) Enforce the rules, ~~regulations~~, and standards promulgated by
17 the State Board of Health for the administration and enforcement of this
18 subchapter;

19
20 SECTION 1922. Arkansas Code § 20-13-209(5), concerning the powers and
21 duties of the Department of Health regarding emergency medical personnel, is
22 amended to read as follows:

23 (5) Issue and renew operational permits for each ambulance or
24 advanced life support rescue or air ambulance service. However, no permit
25 shall be issued unless each ambulance, advanced life support rescue unit, or
26 air ambulance, when in use as such, conforms with the standards,
27 requirements, and ~~regulations~~ rules as set forth by the board;

28
29
30 SECTION 1923. Arkansas Code § 20-13-506(a)(1), concerning the advisory
31 committee regarding the statewide emergency poison control-drug information-
32 toxicological laboratory services program, is amended to read as follows:

33 (a)(1) The Department of Health may appoint an advisory committee to
34 assist in the development and review of ~~regulations~~ rules promulgated under
35 the authority of this subchapter.

36

1 SECTION 1924. Arkansas Code § 20-13-706(b)(5), concerning the Director
2 of the Arkansas Poison and Drug Information Center, is amended to read as
3 follows:

4 (5) Appoint an advisory committee to assist in the development
5 and review of ~~regulations~~ rules promulgated under the authority of this
6 subchapter and reimburse the members for their expenses in accordance with §
7 25-16-901 et seq.;

8
9 SECTION 1925. Arkansas Code § 20-13-706(b)(7), concerning the Director
10 of the Arkansas Poison and Drug Information Center, is amended to read as
11 follows:

12 (7) Formulate, promulgate, adopt, amend, and enforce rules,
13 ~~regulations~~, and regulatory standards necessary to effectuate this
14 subchapter;

15
16 SECTION 1926. Arkansas Code § 20-13-903(a), concerning authorization
17 to follow Emergency Medical Services Do Not Resuscitate Orders in the
18 prehospital setting, is amended to read as follows:

19 (a) Qualified emergency medical services personnel may follow
20 Emergency Medical Services Do Not Resuscitate Orders pertaining to adult
21 patients in the prehospital setting in accordance with ~~regulations~~ rules
22 promulgated by the State Board of Health, if the order available to the
23 personnel is in a format approved by the Department of Health.

24
25 SECTION 1927. Arkansas Code § 20-13-1002(a)(1), concerning the
26 issuance or renewal of an ambulance service license or a provisional
27 ambulance service license, is amended to read as follows:

28 (a)(1) An application for the issuance or renewal of an ambulance
29 service license or a provisional ambulance service license shall be made on
30 forms provided by the Department of Health and shall be accompanied by any
31 fee as required by law or by ~~regulations~~ rules promulgated by the department.

32
33 SECTION 1928. Arkansas Code § 20-13-1002(c), concerning the issuance
34 or renewal of an ambulance service license or a provisional ambulance service
35 license, is amended to read as follows:

36 (c) The department shall promulgate ~~regulations~~ rules for the

1 licensure and renewal of an ambulance service license.

2
3 SECTION 1929. Arkansas Code § 20-13-1005 is amended to read as
4 follows:

5 20-13-1005. Revocation of license.

6 Three (3) formal citations during the license term for failure to
7 comply with this subchapter and any ~~regulations~~ rules promulgated by the
8 Department of Health in regard to ambulance services shall result in
9 revocation of the ambulance service license.

10
11 SECTION 1930. Arkansas Code § 20-13-1006 is amended to read as
12 follows:

13 20-13-1006. Regulation of mass casualty incidents.

14 In mass casualty incidents, which overwhelm the region's available
15 resources, the Department of Health shall promulgate ~~regulations~~ rules which
16 establish procedures for the transportation of patients by ambulances.

17
18 SECTION 1931. Arkansas Code § 20-13-1101(9), concerning the definition
19 of "licensure" under the laws governing criminal records checks, is amended
20 to read as follows:

21 (9) "Licensure" means the official acknowledgment by the
22 Department of Health that an individual has demonstrated competence to
23 perform the emergency medical services required for licensure under the
24 ~~rules, regulations,~~ and standards adopted by the State Board of Health upon
25 recommendation by the Emergency Medical Services Advisory Council;

26
27 SECTION 1932. Arkansas Code § 20-13-1107(b), concerning the procedure
28 to challenge the completeness or accuracy of criminal history information, is
29 amended to read as follows:

30 (b) The Division of Emergency Medical Services of the Department of
31 Health shall follow the established procedures for applicants to challenge
32 determinations in accordance with the Arkansas Administrative Procedure Act,
33 § 25-15-201 et seq., as stated in the current EMS ~~Rules and Regulations~~
34 rules.

35
36 SECTION 1933. Arkansas Code § 20-13-1112 is amended to read as

1 follows:

2 20-13-1112. Forms – ~~Regulations~~ Rules.

3 The Arkansas Crime Information Center, the Identification Bureau of the
4 Department of Arkansas State Police, and the Division of Emergency Medical
5 Services of the Department of Health shall cooperate to prepare forms and
6 promulgate consistent ~~regulations~~ rules as necessary to implement this
7 subchapter.

8

9 SECTION 1934. Arkansas Code § 20-14-502(3)(B), concerning the
10 definition of "early intervention services" under the early intervention
11 program for infants and toddlers, is amended to read as follows:

12 (B) Are provided at no cost except when federal or state
13 law, rules, or regulations provide for a system of payments by families,
14 including a schedule of sliding fees;

15

16 SECTION 1935. Arkansas Code § 20-15-201 is amended to read as follows:

17 20-15-201. Reporting requirements.

18 The Department of Health shall accumulate such data concerning cancer
19 in Arkansas and its residents as is deemed appropriate for the purposes of
20 describing the frequency of cancer, furnishing reports to health
21 professionals and the public, and for planning and evaluating cancer
22 prevention and control programs. The data shall be collected under the
23 authority of ~~regulations~~ rules promulgated by the State Board of Health.

24

25 SECTION 1936. Arkansas Code § 20-15-304(3) and (4), concerning the
26 administration of laws regarding phenylketonuria, hypothyroidism,
27 galactosemia, cystic fibrosis, and sickle-cell anemia by the Department of
28 Health, are amended to read as follows:

29 (3) Promulgate ~~regulations~~ rules in conjunction with the
30 Insurance Commissioner establishing:

31 (A) What persons and institutions shall be required to
32 obtain specimens from newborn infants in compliance with this subchapter;

33 (B) The amount to be charged by the central laboratory for
34 processing the specimens; and

35 (C) The method of billing the charges to the persons and
36 institutions;

1 (4) Furnish copies of this subchapter and the rules promulgated
2 pursuant to this subchapter to physicians, hospitals, or other institutions
3 or persons required by its ~~regulations~~ rules to have tests administered to
4 newborn infants;

5
6 SECTION 1937. Arkansas Code § 20-15-604 is amended to read as follows:

7 20-15-604. State Kidney Disease Commission – Advisory association.

8 (a) In developing rules ~~and regulations~~ and in determining standards
9 for determining eligibility for financial assistance to persons suffering
10 from chronic renal diseases who require lifesaving care and treatment for
11 such renal diseases, the State Kidney Disease Commission shall consult with
12 and obtain the advice of the Arkansas Association for Kidney Disease, Inc., a
13 nonprofit corporation organized under the laws of this state. This
14 organization is recognized as the representative body to serve as an advisory
15 association to the commission and to the deputy director of the appropriate
16 division as determined by the Director of the Department of Health in
17 carrying out their functions and duties under this subchapter.

18 (b) Before promulgating rules ~~and regulations~~ and eligibility
19 standards, the commission shall consult with the advisory association and
20 shall give consideration to its recommendations in performing its duties
21 under the provisions of this subchapter.

22
23 SECTION 1938. Arkansas Code § 20-15-605(b), concerning the
24 disbursement of funds by the State Kidney Disease Commission, is amended to
25 read as follows:

26 (b) The commissioner shall be governed by the policies, rules ~~and~~
27 ~~regulations~~, and procedures promulgated by the commission in disbursing funds
28 appropriated, or otherwise made available, to the commission for renal
29 disease treatment purposes.

30
31 SECTION 1939. Arkansas Code § 20-15-802 is amended to read as follows:

32 20-15-802. Screening program.

33 Every public elementary and secondary school in this state, every other
34 institution supported by state funds which provides education to our minor
35 children, and all private institutions which provide education to our minor
36 children shall as soon as possible institute a continuing scoliosis screening

1 program to be conducted in accordance with ~~regulations~~ rules promulgated by
2 the State Board of Health.

3
4 SECTION 1940. Arkansas Code § 20-15-803 is amended to read as follows:

5 20-15-803. ~~Regulations~~ Rules.

6 (a) The State Board of Health is directed to promulgate ~~regulations~~
7 rules as soon as possible to implement this subchapter.

8 (b) The ~~regulations~~ rules shall not be effective until concurred in by
9 the State Board of Education.

10 (c) The ~~regulations~~ rules shall provide that no child shall be
11 screened if his or her parent or guardian objects to the screening in
12 writing, stating as the basis of the objection that it is contrary to the
13 parent's or guardian's religious beliefs.

14 (d) The ~~regulations~~ rules shall provide that the schools shall not be
15 required to hire personnel on a full-time, part-time, or consultant basis to
16 conduct the screening, but they shall utilize school health personnel,
17 volunteers, and other school employees who are not classroom teachers and who
18 meet the qualifications prescribed by the ~~regulations~~ rules.

19
20 SECTION 1941. Arkansas Code § 20-15-906(b)(7), concerning reports to
21 the Department of Health regarding acquired immunodeficiency syndrome or
22 human immunodeficiency virus antigen or antibodies, is amended to read as
23 follows:

24 (7) Those other persons as are required by the rules ~~and~~
25 ~~regulations~~ of the department.

26
27 SECTION 1942. Arkansas Code § 20-15-909 is amended to read as follows:

28 20-15-909. Implementation.

29 The State Board of Health shall promulgate ~~regulations~~ rules to provide
30 for the distribution of human immunodeficiency virus (HIV) or acquired
31 immunodeficiency syndrome (AIDS) medications to Arkansas citizens without
32 ample resources or available avenues to acquire their medically necessary
33 medications.

34
35 SECTION 1943. Arkansas Code § 20-15-1005(c)(2), concerning fees
36 collected by the Department of Health, is amended to read as follows:

1 (2) Subject to such rules ~~and regulations~~ as may be implemented
2 by the Chief Fiscal Officer of the State, the disbursing officer for the
3 department may transfer all unexpended funds that pertain to fees collected,
4 as certified by the Chief Fiscal Officer of the State, to be carried forward
5 and made available for expenditures for the same purpose in any following
6 fiscal year.

7
8 SECTION 1944. Arkansas Code § 20-15-1102(5), concerning the definition
9 of "risk factors" under the Newborn Infant Hearing Screening Program, is
10 amended to read as follows:

11 (5) "Risk factors" are those criteria or factors, any one (1) of
12 which identifies a newborn infant as being at risk for hearing impairment, as
13 determined by the department and set forth in rules ~~and regulations~~
14 promulgated by the department;

15
16 SECTION 1945. Arkansas Code § 20-15-1103(b)(1), concerning the
17 development of the Newborn Infant Hearing Screening Program, is amended to
18 read as follows:

19 (1) Development through the promulgation of rules ~~and~~
20 ~~regulations~~ and criteria or factors to identify those newborn infants who are
21 at risk for hearing impairment or of developing a progressive hearing
22 impairment;

23
24 SECTION 1946. Arkansas Code § 20-15-1503(g), concerning the Universal
25 Newborn Hearing Screening, Tracking, and Intervention Advisory Board, is
26 amended to read as follows:

27 (g) The board shall have the authority to recommend rules ~~and~~
28 ~~regulations~~ to implement this subchapter, and the department shall promulgate
29 these rules ~~and regulations by July 1, 2000.~~

30
31 SECTION 1947. Arkansas Code § 20-15-1503(h)(2), concerning the
32 Universal Newborn Hearing Screening, Tracking, and Intervention Advisory
33 Board, is amended to read as follows:

34 (2) Subsequent meetings shall be held quarterly at the call of
35 the Chair of the Universal Newborn Hearing Screen, Tracking, and Intervention
36 Advisory Board or as often as necessary to make recommendations to the

1 department so that the rules ~~and regulations~~ implementing this subchapter can
2 be promulgated by July 1, 2000.

3
4 SECTION 1948. Arkansas Code § 20-15-1504(a), concerning hearing test
5 results, is amended to read as follows:

6 (a) After July 30, 1999, and promulgation of rules ~~and regulations~~,
7 every birthing hospital in this state with more than fifty (50) births per
8 year shall provide or arrange for a bilateral physiological hearing screening
9 on each birth admission. Medicaid shall reimburse the birthing hospital for
10 the physiological screening with the reimbursement equal to that amount paid
11 outpatient providers for the same service in addition to the current rate of
12 per diem paid to the hospital.

13
14 SECTION 1949. Arkansas Code § 20-16-502(d), concerning notification of
15 test results for sexually transmitted diseases, is amended to read as
16 follows:

17 (d) Notification shall be submitted in writing and in such form and
18 manner as prescribed by ~~regulations~~ rules of the Infectious Disease Branch of
19 the Department of Health.

20
21 SECTION 1950. Arkansas Code § 20-16-505 is amended to read as follows:

22 20-16-505. Notification – Authority to regulate.

23 The Infectious Disease Branch of the Department of Health may enact
24 each rule ~~and regulation~~ as is necessary to assure compliance with §§ 20-16-
25 501 – 20-16-506.

26
27 SECTION 1951. Arkansas Code § 20-16-1707(a), concerning collection and
28 reporting of information under the Woman's Right-to-Know Act, is amended to
29 read as follows:

30 (a) The Department of Health shall develop and promulgate ~~regulations~~
31 rules regarding reporting requirements.

32
33 SECTION 1952. Arkansas Code § 20-17-801(a)(2), concerning the handling
34 of fetal and human tissue, is amended to read as follows:

35 (2) However, human tissue shall not be delivered except as may
36 be permitted by rules ~~and regulations~~ of the State Board of Health.

1
2 SECTION 1953. Arkansas Code § 20-17-801(c)(1), concerning the handling
3 of fetal and human tissue, is amended to read as follows:

4 (c)(1) The board shall promulgate all reasonable and necessary rules
5 ~~and regulations~~ to implement the provisions of this section.

6
7 SECTION 1954. Arkansas Code § 20-18-105(b)(1), concerning penalties
8 under the Vital Statistics Act, is amended to read as follows:

9 (1) Any person who knowingly refuses to provide information
10 required by this chapter or ~~regulations~~ rules adopted pursuant to this
11 chapter;

12
13 SECTION 1955. Arkansas Code § 20-18-202 is amended to read as follows:

14 20-18-202. Regulatory powers of the State Board of Health.

15 The State Board of Health may adopt, amend, and repeal rules ~~and~~
16 ~~regulations~~ for the purpose of carrying out this chapter. All rules ~~and~~
17 ~~regulations~~ adopted under this chapter shall be reviewed by the House
18 Committee on Public Health, Welfare, and Labor and the Senate Committee on
19 Public Health, Welfare, and Labor or appropriate subcommittees of the House
20 Committee on Public Health, Welfare, and Labor and the Senate Committee on
21 Public Health, Welfare, and Labor.

22
23 SECTION 1956. Arkansas Code § 20-18-203(b)(1)(A), concerning the State
24 Registrar of Vital Records, is amended to read as follows:

25 (A) Administer and enforce this chapter and the rules ~~and~~
26 ~~regulations~~ issued under this chapter and issue instructions for the
27 efficient administration of the statewide system of vital statistics;

28
29 SECTION 1957. Arkansas Code § 20-18-203(b)(5), concerning the State
30 Registrar of Vital Records, is amended to read as follows:

31 (5) To protect the integrity of vital records and to prevent the
32 fraudulent use of birth certificates of deceased persons, the state registrar
33 may match birth and death certificates, in accordance with ~~regulations~~ rules,
34 which require proof beyond a reasonable doubt of the fact of death and to
35 post the facts of death to the appropriate birth certificate and mark the
36 birth certificate "Deceased". Copies issued from birth certificates of

1 deceased persons shall be similarly marked.

2
3 SECTION 1958. Arkansas Code § 20-18-301(a), concerning the content of
4 certificates and reports under the Vital Statistics Act, is amended to read
5 as follows:

6 (a) In order to promote and maintain nationwide uniformity in the
7 system of vital statistics, the forms of certificates, reports, and records
8 required by this chapter or by ~~regulations~~ rules adopted under this chapter
9 shall include as a minimum the items recommended by the federal agency
10 responsible for national vital statistics.

11
12 SECTION 1959. Arkansas Code § 20-18-302(c), concerning persons
13 required to keep records under the Vital Statistics Act, is amended to read
14 as follows:

15 (c) A funeral director, embalmer, sexton, or other person who removes
16 from the place of death or transports or finally disposes of a dead body or
17 fetus, in addition to filing any certificate or other report required by this
18 chapter or ~~regulations~~ rules promulgated under this chapter, shall keep a
19 record which shall identify the dead body, and such information pertaining to
20 the receipt, removal, and delivery of the dead body as may be required in
21 ~~regulations~~ rules adopted by the State Board of Health.

22
23 SECTION 1960. Arkansas Code § 20-18-303(b), concerning the duty to
24 furnish information under the Vital Statistics Act, is amended to read as
25 follows:

26 (b) Any person or institution that in good faith provides information
27 required by this chapter or ~~regulations~~ rules promulgated under this chapter
28 shall not be subject to any action for damages.

29
30 SECTION 1961. Arkansas Code § 20-18-304 is amended to read as follows:
31 20-18-304. Disclosure of information prohibited – Exceptions.

32 (a) To protect the integrity of vital records and vital reports, to
33 ensure their proper use, and to ensure the efficient and proper
34 administration of the system of vital statistics, it shall be unlawful for
35 any person to permit inspection of or to disclose information contained in
36 vital records or vital reports or to copy or issue a copy of all or part of

1 any vital record or vital report except as authorized by this chapter and by
2 ~~regulation~~ rule or by order of a court of competent jurisdiction.

3 (b)(1) The State Board of Health may authorize by ~~regulation~~ rule the
4 disclosure of information contained in vital records for research purposes.

5 (2) The ~~regulations~~ rules shall provide for adequate standards
6 of security and confidentiality of vital records and vital reports.

7 (3)(A) Disclosure of information which may identify any person
8 or institution named in any vital record or vital report may be made only
9 pursuant to ~~regulations~~ rules which require submission of written requests
10 for information by researchers and execution of agreements that protect the
11 confidentiality of the information provided.

12 (B) The agreements shall prohibit the release by the
13 researcher of any information that might identify any person or institution
14 other than releases that may be provided for in the agreement.

15 (4) Nothing in this section prohibits the release of information
16 or data which would not identify any person or institution named in a vital
17 record or vital report.

18 (c)(1) Appeals from decisions of custodians of vital records or vital
19 reports designated under § 20-18-203(b) who refuse to disclose information
20 from vital records or vital reports as prescribed by this section and the
21 ~~regulations~~ rules issued under this section shall be made to the State
22 Registrar of Vital Records, whose decision shall be binding upon such
23 custodians.

24 (2) Within three (3) working days of the receipt of an appeal of
25 a decision of a custodian of a vital record or vital report designated under
26 § 20-18-203(b), the state registrar shall issue a decision on the appeal.

27 (d)(1) The state registrar shall send to the county assessor of each
28 county within this state a monthly report listing the residents of that
29 county who have died.

30 (2) The report shall be sent to each county assessor by email.

31
32 SECTION 1962. Arkansas Code § 20-18-305 is amended to read as follows:

33 20-18-305. Issuance of certified copies and data from system of vital
34 statistics.

35 In accordance with § 20-18-304 and the ~~regulations~~ rules adopted
36 pursuant to § 20-18-304:

1 (1)(A) The State Registrar of Vital Records and other custodians
2 of vital records designated by the state registrar under § 20-18-203(b)(2)
3 shall upon receipt of written application issue a certified copy of a vital
4 record in their custody or a part thereof to the registrant, his or her
5 spouse, child, parent, or guardian or his or her respective authorized
6 designated representative.

7 (B) A requester as defined in § 9-9-801 is authorized to
8 obtain a certified copy of an adoptee's original certificate of birth.

9 (C) Others may be authorized to obtain certified copies
10 when they demonstrate that the vital record is needed for the determination
11 or protection of their personal or property rights.

12 (D) The State Board of Health may adopt ~~regulations~~ rules
13 to further define those who may obtain copies of vital records filed under
14 this chapter;

15 (2) All forms and procedures used in the issuance of certified
16 copies of vital records in the state shall be uniform and approved by the
17 state registrar. All certified copies issued shall have security features
18 that deter persons from altering, counterfeiting, duplicating, or simulating
19 the document;

20 (3) Each copy or abstract issued shall show the date of
21 registration and copies or abstracts issued from records marked "Delayed",
22 "Amended", or "Certificate of Foreign Birth" shall be similarly marked and
23 show the effective date;

24 (4) A certified copy or other copy of a death certificate
25 containing cause-of-death information shall not be issued except as follows:

26 (A) Upon specific request of a spouse, child, parent, or
27 other next of kin of the decedent or an authorized representative;

28 (B) When a documented need for the cause of death to
29 establish a legal right or claim has been demonstrated;

30 (C) When the request for the copy is made by or on the
31 behalf of an organization that provides benefits to the decedent's survivors
32 or beneficiaries;

33 (D) Upon specific request by local, state, or federal
34 agencies for research or administrative purposes approved by the state
35 registrar;

36 (E) When needed for research activities approved by the

1 state registrar; or

2 (F) Upon receipt of an order from a court of competent
3 jurisdiction ordering the release;

4 (5) A certified copy of a vital record or any part thereof
5 issued in accordance with subdivision (1) of this section shall be considered
6 for all purposes the same as the original and shall be prima facie evidence
7 of the facts stated therein, provided that the evidentiary value of a
8 certificate or vital record filed more than one (1) year after the event, or
9 a vital record which has been amended, or a certificate of foreign birth
10 shall be determined by the judicial or administrative body or official before
11 whom the certificate is offered as evidence;

12 (6) The federal agency responsible for national vital statistics
13 may be furnished such copies or data from the system of vital statistics as
14 it may require for national statistics. The state registrar shall enter into
15 an agreement with the federal agency that specifies the statistical or
16 research purposes for which the records, reports, or data may be used. The
17 agreement shall also set forth the support to be provided by the federal
18 agency for the collection, processing, and transmission of such records,
19 reports, or data. Upon written request of the federal agency, the state
20 registrar may approve in writing additional statistical or research uses of
21 the records, reports, or data supplied under the agreement;

22 (7) Upon request, federal, state, local, and other public
23 government agencies may be furnished copies of records, reports, or data,
24 provided that the copies or data shall be used solely in the conduct of their
25 official duties;

26 (8)(A)(i) By agreement, the state registrar may transmit copies
27 of records and other reports required by this chapter to offices of vital
28 statistics outside this state when the records or other reports relate to
29 residents of those jurisdictions or persons born in those jurisdictions.

30 (ii) The agreement shall require that the
31 transcripts be used for statistical and administrative purposes only as
32 specified in the agreement.

33 (iii) The agreement shall provide instruction for
34 the proper retention and disposition of copies.

35 (B) Copies received from other jurisdictions by the
36 Division of Vital Records shall be handled in the same manner as prescribed

1 in this subdivision (8);

2 (9) When one hundred (100) years have elapsed after the date of
3 birth or fifty (50) years have elapsed after the date of death, marriage,
4 divorce, or annulment, the records of these events in the custody of the
5 state registrar shall become available to the public without restriction, in
6 accordance with ~~regulations~~ rules which shall provide for the continued
7 safekeeping of the records;

8 (10) Nothing in this section shall be construed to permit
9 disclosure of information contained in the "Information for Medical and
10 Health Use Only" section of the birth certificate or the "Information for
11 Statistical Purposes Only" section of the certificate of marriage or
12 certificate of divorce or annulment, unless specifically authorized by the
13 state registrar for statistical or research purposes;

14 (11) No person shall prepare or issue any certificate which
15 purports to be an original, certified copy, or copy of a vital record except
16 as authorized in this chapter or ~~regulations~~ rules adopted pursuant to this
17 chapter; and

18 (12) When the state registrar receives information that a
19 certificate may have been registered through fraud or misrepresentation, he
20 or she shall withhold issuance of any copy of that certificate pending an
21 administrative hearing to determine whether fraud or misrepresentation has
22 occurred. The state registrar shall offer the registrant or the registrant's
23 authorized representative notice and opportunity to be heard. If upon
24 conclusion of the hearing no fraud or misrepresentation is found, copies may
25 be issued. If upon conclusion of the hearing, fraud or misrepresentation is
26 found, the state registrar shall remove the certificate from the file. The
27 certificate and evidence shall be retained but shall not be subject to
28 inspection or copying, except upon order of a court of competent jurisdiction
29 or by the state registrar for purposes of administering the vital statistics
30 program.

31

32 SECTION 1963. Arkansas Code § 20-18-307(a), concerning the amendment
33 of vital records and reports, is amended to read as follows:

34 (a) A certificate, vital report, or vital record registered under this
35 chapter may be amended only in accordance with this chapter and ~~regulations~~
36 rules adopted by the State Board of Health to protect the integrity and

1 accuracy of vital records and vital reports.

2
3 SECTION 1964. Arkansas Code § 20-18-307(b)(2), concerning the
4 amendment of vital records and reports, is amended to read as follows:

5 (2) The board shall prescribe by ~~regulation~~ rule the conditions
6 under which additions or minor corrections may be made to certificates or
7 vital records within one (1) year after the date of the event without the
8 certificate's or vital record's being considered as amended.

9
10 SECTION 1965. Arkansas Code § 20-18-307(e), concerning the amendment
11 of vital records and reports, is amended to read as follows:

12 (e) When an applicant does not submit the minimum documentation
13 required in the ~~regulations~~ rules for amending a vital record or when the
14 state registrar has cause to question the validity or adequacy of the
15 applicant's sworn statements or the documentary evidence and if the
16 deficiencies are not corrected, the state registrar shall not amend the vital
17 record and shall advise the applicant of the reason for this action. The
18 state registrar shall advise the applicant of his or her right of appeal to a
19 court of competent jurisdiction.

20
21 SECTION 1966. Arkansas Code § 20-18-308(c), concerning the
22 reproduction of records and files by the State Registrar of Vital Records, is
23 amended to read as follows:

24 (c) The documents from which permanent reproductions have been made
25 may be disposed of as provided by ~~regulation~~ rule.

26
27 SECTION 1967. Arkansas Code § 20-18-402(a), concerning the delayed
28 registration of birth, is amended to read as follows:

29 (a) When the certificate of birth of a person born in the state has
30 not been filed within one (1) year, a delayed certificate of birth may be
31 filed in accordance with ~~regulations~~ rules of the State Board of Health. No
32 delayed certificate shall be registered until the evidentiary requirements as
33 specified in ~~regulations~~ rules have been met.

34
35 SECTION 1968. Arkansas Code § 20-18-402(d), concerning the delayed
36 registration of birth, is amended to read as follows:

1 (d)(1) When an applicant does not submit the minimum documentation
2 required in the ~~regulations~~ rules for delayed registration or when the State
3 Registrar of Vital Records has cause to question the validity or adequacy of
4 the applicant's sworn statement or the documentary evidence and, if the
5 deficiencies are not corrected, the state registrar shall not register the
6 delayed certificate of birth and shall advise the applicant of the reasons
7 for this action. The state registrar shall further advise the applicant of
8 his or her right of appeal to a court of competent jurisdiction.

9 (2) The board may by ~~regulation~~ rule provide for the dismissal
10 of an application which is not actively prosecuted.

11
12 SECTION 1969. Arkansas Code § 20-18-403(b)(3), concerning the judicial
13 procedure to register birth, is amended to read as follows:

14 (3) That diligent efforts by the petitioner have failed to
15 obtain the evidence required in accordance with § 20-18-401 or § 20-18-402
16 and ~~regulations~~ rules adopted pursuant to § 20-18-401 or § 20-18-402;

17
18 SECTION 1970. Arkansas Code § 20-18-404(d), concerning certificates of
19 birth for infants of unknown parentage, is amended to read as follows:

20 (d) If the child is identified and a certificate of birth is found or
21 obtained, the report registered under this section shall be placed in a
22 special file and shall not be subject to inspection except upon order of a
23 court of competent jurisdiction or as provided by ~~regulation~~ rule.

24
25 SECTION 1971. Arkansas Code § 20-18-406(a)(2), concerning new birth
26 certificates issued by the State Registrar of Vital Records, is amended to
27 read as follows:

28 (2) A request that a new certificate be established and any
29 evidence, as required by ~~regulation~~ rule, proving that the person has been
30 legitimated, or that a court of competent jurisdiction has determined the
31 paternity of the person or that both parents have acknowledged the paternity
32 of the person and request that the surname be changed from that shown on the
33 original certificate.

34
35 SECTION 1972. Arkansas Code § 20-18-406(c)-(e), concerning new birth
36 certificates issued by the State Registrar of Vital Records, are amended to

1 read as follows:

2 (c) Upon receipt of a report of an amended certificate of adoption,
3 the certificate of birth shall be amended as provided by ~~regulation~~ rule.

4 (d) Upon receipt of a report of annulment of adoption, the original
5 certificate of birth shall be restored to its place in the files, and the new
6 certificate and evidence shall not be subject to inspection except upon order
7 of a court of competent jurisdiction or as provided by ~~regulation~~ rule.

8 (e) Upon written request of both parents and receipt of a sworn
9 acknowledgment of paternity signed by both parents of a child born out of
10 wedlock, the state registrar shall reflect paternity on the certificate of
11 birth in the manner prescribed by ~~regulation~~ rule if paternity is not already
12 shown on the certificate of birth.

13

14 SECTION 1973. Arkansas Code § 20-18-406(f)(2), concerning new birth
15 certificates issued by the State Registrar of Vital Records, is amended to
16 read as follows:

17 (2) After preparation of the birth certificate in the new name
18 of the adopted person, the state registrar shall seal and file the
19 certificate of adoption. This certificate shall not be subject to inspection
20 except upon order of a court of competent jurisdiction or as provided by
21 ~~regulation~~ rule or as otherwise provided by state law.

22

23 SECTION 1974. Arkansas Code § 20-18-501(e), concerning registration of
24 marriage, is amended to read as follows:

25 (e) A marriage record not filed within the time prescribed by statute
26 may be registered in accordance with ~~regulations~~ rules promulgated by the
27 State Board of Health.

28

29 SECTION 1975. Arkansas Code § 20-18-601(f), concerning the
30 registration and issuance of a death certificate, is amended to read as
31 follows:

32 (f) If the cause of death cannot be determined within forty-eight (48)
33 hours after death, the medical certification shall be completed as provided
34 by ~~regulation~~ rule. The attending physician, State Medical Examiner, or
35 county coroner shall give the funeral director or person acting as the
36 funeral director notice of the reason for the delay, and final disposition of

1 the dead body shall not be made until authorized by the attending physician
2 or State Medical Examiner or county coroner.

3
4 SECTION 1976. Arkansas Code § 20-18-602(a) and (b), concerning delayed
5 registration of a death, are amended to read as follows:

6 (a) When a death occurring in this state has not been registered
7 within the time period prescribed by § 20-18-601, a certificate may be filed
8 in accordance with ~~regulations~~ rules promulgated by the State Board of
9 Health. The certificates shall be registered subject to such evidentiary
10 requirements as the board shall by ~~regulation~~ rule prescribe to substantiate
11 the alleged facts of death.

12 (b) When an applicant does not submit the minimum documentation
13 required by ~~regulation~~ rule for delayed registration or when the State
14 Registrar of Vital Records has cause to question the validity or adequacy of
15 the applicant's sworn statement or the documentary evidence, and if the
16 deficiencies are not corrected, the state registrar shall not register the
17 delayed certificate of death and shall advise the applicant of the reasons
18 for this action and further advise the applicant of his or her right to
19 appeal to a court of competent jurisdiction.

20
21 SECTION 1977. Arkansas Code § 20-18-603(c)(1)(B), concerning
22 registration of termination of pregnancy, is amended to read as follows:

23 (B) A schedule for the disposition of these reports shall
24 be provided for by ~~regulation~~ rule.

25
26 SECTION 1978. Arkansas Code § 20-18-604(a), concerning the final
27 disposition of a dead body or fetus, is amended to read as follows:

28 (a) The funeral director or the person acting as the funeral director
29 who first assumes custody of a dead body shall obtain authorization for final
30 disposition of the dead body as provided in the ~~regulations~~ rules.

31
32 SECTION 1979. Arkansas Code § 20-18-701(8), concerning the definition
33 of "rule" under the laws concerning the Putative Father Registry, is amended
34 to read as follows:

35 (8) "~~Regulations~~ Rules" means ~~regulations~~ rules promulgated by
36 the department for the purpose of implementing this subchapter.

1
2 SECTION 1980. Arkansas Code § 20-19-406(e), concerning the vaccination
3 of wolves or wolf-dog hybrids, is amended to read as follows:

4 (e) If in the future the United States Department of Agriculture
5 approves the use of rabies vaccines in wolves or wolf-dog hybrids, or both,
6 then wolves and wolf-dog hybrids will fall under the same ~~regulations~~ rules
7 as dogs regarding biting humans and rabies control.

8
9 SECTION 1981. Arkansas Code § 20-19-603(a)(8)(A)(iii), concerning
10 exemptions to the laws governing nonhuman primates, is amended to read as
11 follows:

12 (iii) The transporter has complied with all state
13 laws and federal regulations regarding the transport.

14
15 SECTION 1982. Arkansas Code § 20-20-204(a), concerning penalties under
16 the Arkansas Pesticide Use and Application Act, is amended to read as
17 follows:

18 (a)(1) Any commercial or noncommercial applicator, dealer, or pilot
19 who violates any provision of this subchapter or the ~~regulations~~ rules
20 adopted under this subchapter shall be guilty of a violation and upon
21 conviction shall be punished for the first offense by a fine of not less than
22 one hundred dollars (\$100) and not more than one thousand dollars (\$1,000)
23 and for the second and any additional offense by a fine of not less than five
24 hundred dollars (\$500) and not more than two thousand dollars (\$2,000).

25 (2)(A) Any private applicator who violates any provision of this
26 subchapter or the ~~regulations~~ rules adopted under this subchapter subsequent
27 to having received a written warning from the State Plant Board for a prior
28 violation shall be guilty of a violation and upon conviction shall be
29 punished by a fine of not less than one hundred dollars (\$100) and not more
30 than five hundred dollars (\$500) for each offense.

31 (B) An offense committed more than three (3) years after a
32 previous conviction or written warning shall be considered as a first
33 offense.

34
35 SECTION 1983. Arkansas Code § 20-20-206(a), concerning the powers and
36 duties of the State Plant Board, is amended to read as follows:

1 (a)(1) The State Plant Board shall administer and enforce this
2 subchapter and shall have authority to issue ~~regulations~~ rules after a public
3 hearing following due notice to all interested persons to carry out the
4 provisions of this subchapter. When the board finds it necessary to carry out
5 the purpose and intent of this subchapter, ~~regulations~~ rules may relate to
6 the time, place, manner, amount, concentration, or other conditions under
7 which pesticides may be distributed or applied and may restrict or prohibit
8 use of pesticides in designated areas during specified periods of time to
9 prevent unreasonable adverse effects by drift or misapplication to:

10 (A) Plants, including forage plants, or adjacent or nearby
11 lands;

12 (B) Wildlife in the adjoining or nearby areas;

13 (C) Fish and other aquatic life in waters in reasonable
14 proximity to the area to be treated; and

15 (D) Humans, animals, or beneficial insects.

16 (2) In issuing ~~regulations~~ rules, the board shall give
17 consideration to pertinent research findings and recommendations of other
18 agencies of this state, the United States Government, or other reliable
19 sources. The board may by ~~regulation~~ rule require that notice of a proposed
20 application of a pesticide be given to owners or persons in control of lands
21 adjoining the property to be treated or in the immediate vicinity thereof if
22 it finds that the notice is necessary to carry out the purpose of this
23 subchapter.

24
25 SECTION 1984. Arkansas Code § 20-20-206(b)(2)-(4), concerning the
26 powers and duties of the State Plant Board, are amended to read as follows:

27 (2) The sale or distribution of pesticides for such uses in
28 Arkansas or their use in pest control or other operation is prohibited,
29 except in accordance with such rules ~~and regulations~~ as may be made by the
30 board after a public hearing.

31 (3) The rules ~~and regulations~~ shall include rules ~~and~~
32 ~~regulations~~ which prescribe the time when and the conditions under which the
33 materials may be used in different areas of the state.

34 (4) The board in its rules ~~and regulations~~ may charge
35 inspection, permit, and license fees sufficient to cover the cost of
36 enforcement of this subsection.

1
2 SECTION 1985. Arkansas Code § 20-20-206(c) and (d), concerning the
3 powers and duties of the State Plant Board, are amended to read as follows:

4 (c) ~~Regulations~~ Rules adopted under this subchapter shall not permit
5 any pesticide use which is prohibited by the Federal Insecticide, Fungicide,
6 and Rodenticide Act and regulations or orders issued under the Federal
7 Insecticide, Fungicide, and Rodenticide Act.

8 (d) ~~Regulations~~ Rules adopted under this subchapter as to applicators
9 of restricted-use pesticides as designated under the Federal Insecticide,
10 Fungicide, and Rodenticide Act shall not be inconsistent with the
11 requirements of the Federal Insecticide, Fungicide, and Rodenticide Act and
12 regulations promulgated under the Federal Insecticide, Fungicide, and
13 Rodenticide Act.

14
15 SECTION 1986. Arkansas Code § 20-20-207(b)(1), concerning
16 classification of commercial and noncommercial licenses issued by the State
17 Plant Board, is amended to read as follows:

18 (b)(1) The board in promulgating ~~regulations~~ rules under this
19 subchapter shall prescribe standards for the licensing of applicators of
20 pesticides.

21
22 SECTION 1987. Arkansas Code § 20-20-209(b), concerning commercial
23 applicator licenses, is amended to read as follows:

24 (b) The board shall not issue a commercial applicator's license until
25 the individual named in subdivision (a)(1) of this section has qualified by
26 passing an examination to demonstrate to the board his or her knowledge of
27 how to apply pesticides under the classifications applied for and his or her
28 knowledge of the nature and effect of pesticides he or she may apply under
29 the classifications. The scope of the examination may be prescribed by
30 ~~regulation~~ rule.

31
32 SECTION 1988. Arkansas Code § 20-20-209(c)(1)(D), concerning
33 commercial applicator licenses, is amended to read as follows:

34 (D) The applicant has paid the license, test, and
35 equipment fees prescribed by the board in its ~~regulations~~ rules.

36

1 SECTION 1989. Arkansas Code § 20-20-209(d)(4)(A), concerning
2 commercial applicator licenses, is amended to read as follows:

3 (4)(A) Nothing in this subchapter shall be construed to relieve
4 any person from liability for any damages to the person or lands of another
5 caused by the use of pesticides even though the use conforms to the rules ~~and~~
6 ~~regulations~~ of the board.

7
8 SECTION 1990. Arkansas Code § 20-20-210(a)(3), concerning licenses for
9 noncommercial applicators, is amended to read as follows:

10 (3) If the board finds the applicant qualified to apply
11 pesticides in the classifications applied for and if the applicant has paid
12 testing and license fees required by ~~regulation~~ rule, the board shall issue a
13 noncommercial applicator's license limited to the activities and
14 classifications applied for.

15
16 SECTION 1991. Arkansas Code § 20-20-211(b), concerning licenses for
17 private applicators, is amended to read as follows:

18 (b) Certification Standards. Certification standards to determine the
19 individual's competency with respect to the use and handling of the pesticide
20 or types of pesticides the private applicator is to be certified to use shall
21 be relative to hazards involved. In determining these standards, the board
22 shall take into consideration the standards of the United States
23 Environmental Protection Agency and is authorized to adopt these standards by
24 ~~regulation~~ rule.

25
26 SECTION 1992. Arkansas Code § 20-20-212(b) and (c), concerning the
27 requirement for aircraft pesticide applicators to be licensed pilots, are
28 amended to read as follows:

29 (b) The issuance of the license shall be conditioned on his or her
30 filing an application in the form prescribed by the board stating his or her
31 name and address, his or her Federal Aviation Administration commercial or
32 private pilot's certificate number, and his or her meeting any other
33 conditions as may be set by the board in its ~~regulations~~ rules.

34 (c) The application shall be accompanied by a fee as set by the board
35 in its ~~regulations~~ rules.

36

1 SECTION 1993. Arkansas Code § 20-20-213(b), concerning pesticide
2 dealer licenses, is amended to read as follows:

3 (b) Application for a pesticide dealer's license shall be on a form
4 prescribed by the board and be accompanied by a fee as set by the board in
5 its ~~regulations~~ rules.

6
7 SECTION 1994. Arkansas Code § 20-20-216(b), concerning handling of
8 pesticides and containers, is amended to read as follows:

9 (b) The State Plant Board may promulgate rules ~~and regulations~~
10 governing the storage and disposal of pesticides or pesticide containers. In
11 determining these standards, the board shall take into consideration any
12 regulations issued by the United States Environmental Protection Agency.
13

14 SECTION 1995. Arkansas Code § 20-20-217(b)-(d), concerning the
15 inspection and licensing of equipment for the application of pesticides, are
16 amended to read as follows:

17 (b) Requirements for equipment may be adopted by ~~regulation~~ rule.

18 (c) Equipment specified by ~~regulation~~ rule shall be identified by a
19 decal or similar marking furnished by the board. The decal or marking shall
20 be affixed in a location and manner upon the equipment as prescribed by the
21 board.

22 (d) Fees for the decal or similar marking shall be prescribed by the
23 board in its ~~regulations~~ rules.

24
25 SECTION 1996. Arkansas Code § 20-20-218(a), concerning reports of
26 significant pesticide accidents or incidents, is amended to read as follows:

27 (a) The State Plant Board may by ~~regulation~~ rule require the reporting
28 of significant pesticide accidents or incidents to a designated state agency.
29

30 SECTION 1997. Arkansas Code § 20-20-219(b)(1), concerning enforcement
31 by the State Plant Board, is amended to read as follows:

32 (b)(1) With or without the aid and advice of the prosecuting attorney,
33 the board is charged with the duty of enforcing the requirements of this
34 subchapter and any rules ~~or regulations~~ issued pursuant to it.
35

36 SECTION 1998. Arkansas Code § 20-20-219(c), concerning enforcement by

1 the State Plant Board, is amended to read as follows:

2 (c) The board may apply to any court of competent jurisdiction for and
3 the court upon hearing and for cause shown may grant a temporary or permanent
4 injunction restraining any person from violating any provisions of this
5 subchapter, or of the rules ~~and regulations~~ made under authority of this
6 subchapter, the injunction to be without bond.

7
8 SECTION 1999. Arkansas Code § 20-20-224 is amended to read as follows:
9 20-20-224. Information and instruction.

10 In cooperation with the University of Arkansas or other educational
11 institutions, the State Plant Board may publish information and conduct short
12 courses of instruction in the areas of knowledge required by this subchapter
13 or the ~~regulations~~ rules adopted pursuant to this subchapter.

14
15 SECTION 2000. Arkansas Code § 20-20-225 is amended to read as follows:
16 20-20-225. Disposition of funds.

17 All moneys received by the State Plant Board under the provisions of
18 this subchapter and the ~~regulations~~ rules adopted pursuant to this subchapter
19 shall be deposited into the State Plant Board Fund of the State Treasury and
20 be used for carrying out the provisions of this subchapter.

21
22 SECTION 2001. Arkansas Code § 20-20-301 is amended to read as follows:
23 20-20-301. Approved chemicals – Safe reentry times.

24 (a) The Director of the Department of Health may establish by
25 ~~regulation~~ rule a list of approved pesticides and other agricultural
26 chemicals which are safe for the occupational exposure of children twelve
27 (12) and thirteen (13) years of age employed in hand-harvesting short-season
28 crops.

29 (b) The director also may establish by ~~regulation~~ rule safe reentry
30 times for children twelve (12) and thirteen (13) years of age so employed.

31
32 SECTION 2002. Arkansas Code § 20-20-302(b), concerning assessment fees
33 for inclusion on the Department of Health list, is amended to read as
34 follows:

35 (b) The fee shall be established by ~~regulation~~ rule of the department
36 and shall be deposited into the State Treasury to the Public Health Fund

1 Account.

2

3 SECTION 2003. Arkansas Code § 20-21-203(17), concerning the definition
4 of "dental radiographic unit" under the laws regulating the sources of
5 ionizing radiation, is amended to read as follows:

6 (17) "Dental radiographic unit" means any X-ray device that is
7 subject to the requirements for intraoral dental radiographic systems set
8 forth in the rules ~~and regulations~~ for control of sources of ionizing
9 radiation promulgated by the State Board of Health;

10

11 SECTION 2004. Arkansas Code § 20-21-203(20), concerning the definition
12 of "general license" under the laws regulating the sources of ionizing
13 radiation, is amended to read as follows:

14 (20)(A) "General license" means a license effective pursuant to
15 ~~regulations~~ rules promulgated by the agency without the filing of an
16 application with the Department of Health or the issuance of licensing
17 documents to particular persons to transfer, acquire, own, possess, or use
18 quantities of radioactive material or devices or equipment utilizing
19 radioactive material.

20 (B) "Specific license" means a license issued to a named
21 person upon application filed pursuant to ~~regulations~~ rules promulgated under
22 this subchapter to use, manufacture, produce, transfer, receive, acquire,
23 own, or possess quantities of radioactive material or equipment utilizing
24 radioactive material.

25 (C) "Academic broad license" means any radioactive
26 material license issued to a college or university and subject to the special
27 requirements for "specific licenses of broad scope" as set forth in the rules
28 ~~and regulations~~ for control of sources of ionizing radiation promulgated by
29 the State Board of Health.

30 (D) "Academic radioactive material license" means any
31 radioactive material license issued to a college or university, excluding
32 academic broad licenses;

33

34 SECTION 2005. Arkansas Code § 20-21-203(23), concerning the definition
35 of "in vitro laboratory testing" under the laws regulating the sources of
36 ionizing radiation, is amended to read as follows:

1 (23) "In vitro laboratory testing" means nonhuman use of
2 radioactive material for laboratory testing in accordance with a general
3 license authorized by the rules ~~and regulations~~ for control of sources of
4 ionizing radiation promulgated by the State Board of Health;

5
6 SECTION 2006. Arkansas Code § 20-21-203(37), concerning the definition
7 of "private practice" under the laws regulating the sources of ionizing
8 radiation, is amended to read as follows:

9 (37) "Private practice" means any use of radioactive material
10 subject to the requirements for licensing of individual physicians for human
11 use of radioactive materials as set forth in the rules ~~and regulations~~ for
12 control of sources of ionizing radiation promulgated by the State Board of
13 Health, excluding those installations subject to the requirements for X-ray
14 and electron therapy systems with energies of one megaelectronvolt (1 MeV)
15 and above and for teletherapy as set forth in the same rules ~~and regulations~~;

16
17 SECTION 2007. Arkansas Code § 20-21-203(43), concerning the definition
18 of "reciprocity" under the laws regulating the sources of ionizing radiation,
19 is amended to read as follows:

20 (43) "Reciprocity" means the reciprocal recognition of licenses
21 issued by the United States Nuclear Regulatory Commission or any agreement
22 state other than Arkansas, subject to provisions for reciprocal recognition
23 of licenses as set forth in the rules ~~and regulations~~ for control of sources
24 of ionizing radiation promulgated by the State Board of Health;

25
26 SECTION 2008. Arkansas Code § 20-21-203(44), concerning the definition
27 of "registration" under the laws regulating the sources of ionizing
28 radiation, is amended to read as follows:

29 (44) "Registration" means registration with the Department of
30 Health by any person possessing any source of ionizing radiation in
31 accordance with rules, ~~regulations~~, and standards adopted by the Department
32 of Health;

33
34 SECTION 2009. Arkansas Code § 20-21-203(49), concerning the definition
35 of "veterinary medicine radiographic systems" under the laws regulating the
36 sources of ionizing radiation, is amended to read as follows:

1 (49) "Veterinary medicine radiographic systems" means any X-ray
2 device that is subject to the requirements for veterinary medicine
3 radiographic installations set forth in the rules ~~and regulations~~ for control
4 of sources of ionizing radiation promulgated by the State Board of Health;

5
6 SECTION 2010. Arkansas Code § 20-21-204(a), concerning penalties for
7 violations under the laws regulating the sources of ionizing radiation, is
8 amended to read as follows:

9 (a) Criminal Penalties. Any person who willfully violates any of the
10 provisions of this subchapter or rules, ~~regulations~~, or orders in effect
11 pursuant thereto shall be punished by a fine of not less than one hundred
12 dollars (\$100) nor more than two thousand dollars (\$2,000) or by imprisonment
13 for not more than six (6) months, or by both fine and imprisonment.

14
15 SECTION 2011. Arkansas Code § 20-21-204(b)(1)(A) and (B), concerning
16 penalties for violations under the laws regulating the sources of ionizing
17 radiation, are amended to read as follows:

18 (A) Violates any licensing or registration provision of
19 this subchapter or any rule, ~~regulation~~, or order issued under this
20 subchapter, or any term, condition, or limitation of any license or
21 registration certificate issued thereunder; or

22 (B) Commits any violation for which a license or
23 registration certificate may be revoked under rules ~~or regulations~~ issued
24 pursuant to this subchapter.

25
26 SECTION 2012. Arkansas Code § 20-21-204(b)(4)(B), concerning penalties
27 for violations under the laws regulating the sources of ionizing radiation,
28 is amended to read as follows:

29 (B) Specifically identifying the particular provisions of
30 the section, rule, ~~regulation~~, order, license, or registration certificate
31 involved in the violation; and

32
33 SECTION 2013. Arkansas Code § 20-21-204(b)(5)(B), concerning penalties
34 for violations under the laws regulating the sources of ionizing radiation,
35 is amended to read as follows:

36 (B) The person so notified shall be granted an opportunity

1 to show in writing, within such reasonable period as the agency shall by rule
2 ~~or regulation~~ prescribe, why the penalty should not be imposed.

3
4 SECTION 2014. Arkansas Code § 20-21-205(a)(1), concerning enforcement
5 by the State Radiation Control Agency, is amended to read as follows:

6 (a)(1) The State Radiation Control Agency or its authorized
7 representative shall for reasonable cause have the power to enter at all
8 reasonable times upon any private or public property for the purpose of
9 determining whether or not there is compliance with or violation of this
10 subchapter and rules ~~and regulations~~ issued under this subchapter.

11
12 SECTION 2015. Arkansas Code § 20-21-205(b), concerning enforcement by
13 the State Radiation Control Agency, is amended to read as follows:

14 (b) In the event of an emergency, the agency shall have the authority
15 to impound or order the impounding of sources of ionizing radiation which is
16 in the possession of any person that is not equipped to observe or fails to
17 observe the provisions of this subchapter or any rules ~~or regulations~~ issued
18 under this subchapter.

19
20 SECTION 2016. Arkansas Code § 20-21-205(c), concerning enforcement by
21 the State Radiation Control Agency, is amended to read as follows:

22 (c) Whenever in the judgment of the agency any person has engaged in
23 or is about to engage in any acts or practices which constitute or will
24 constitute a violation of any provision of this subchapter or any rule,
25 ~~regulation,~~ or order issued under this subchapter, the Attorney General, upon
26 written notice thereof by the agency, shall make application to a court of
27 competent jurisdiction for an order enjoining the acts or practices or for an
28 order directing compliance, and upon a showing by the agency that the person
29 has engaged or is about to engage in any such acts or practices, a permanent
30 or temporary injunction, restraining order, or other order may be granted.

31
32 SECTION 2017. Arkansas Code § 20-21-209 is amended to read as follows:

33 20-21-209. State Radiation Control Agency – Recognition of other
34 licenses.

35 Rules ~~and regulations~~ promulgated pursuant to this subchapter may
36 provide for recognition of other state or federal licenses as the State

1 Radiation Control Agency may deem desirable, subject to such registration as
2 the agency may prescribe.

3
4 SECTION 2018. Arkansas Code § 20-21-212 is amended to read as follows:

5 20-21-212. License or registration required.

6 It shall be unlawful for any person to use, manufacture, produce,
7 distribute, sell, transport, transfer, install, repair, receive, acquire,
8 own, or possess any source of ionizing radiation unless licensed by or
9 registered with the State Radiation Control Agency in conformance with rules
10 ~~and regulations~~ promulgated in accordance with this subchapter.

11
12 SECTION 2019. Arkansas Code § 20-21-213 is amended to read as follows:

13 20-21-213. Licensing and registration requirements generally.

14 (a) The State Radiation Control Agency shall provide by rule ~~or~~
15 ~~regulation~~ for general or specific licensing of accelerator-produced
16 material, by-product material, source material, special nuclear material, or
17 devices or equipment utilizing such material.

18 (b) The rule ~~or regulation~~ shall provide for amendment, suspension, or
19 revocation of licenses.

20 (c) The rule ~~or regulation~~ shall provide that:

21 (1) Each application for a specific license shall be in writing
22 and shall state such information as the agency by rule ~~or regulation~~ may
23 determine to be necessary to decide the technical, insurance, and financial
24 qualifications or any other qualifications of the applicant as the agency may
25 deem reasonable and necessary to protect the occupational and public health
26 and safety;

27 (2) The agency may at any time after the filing of the
28 application and before the expiration of the license require further written
29 statements and may make such inspections as the agency may deem necessary in
30 order to determine whether the license should be granted or denied or whether
31 the license should be modified, suspended, or revoked;

32 (3) All applications and statements shall be signed by the
33 applicant or licensee;

34 (4) The agency may require any applications or statements to be
35 made under oath or affirmation;

36 (5) Each license shall be in such form and contain such terms

1 and conditions as the agency may by rule ~~or regulation~~ prescribe;

2 (6) No license issued under this subchapter and no right to
3 possess or utilize sources of ionizing radiation granted by any license shall
4 be assigned or in any manner disposed of;

5 (7) The terms and conditions of all licenses shall be subject to
6 amendment, revision, or modification by rules, ~~regulations~~, or orders issued
7 in accordance with this subchapter;

8 (8) Licenses issued by the agency shall:

9 (A) Be nontransferable;

10 (B) Be renewed every five (5) to ten (10) years based on
11 risk factors as determined by the agency; and

12 (C) Expire at a time specified by the agency; and

13 (9) Registrations issued shall:

14 (A) Be nontransferable;

15 (B) Be renewed at a time specified by the agency; and

16 (C) Expire one (1) year after issuance or at a time
17 specified by the agency.

18
19 SECTION 2020. Arkansas Code § 20-21-215 is amended to read as follows:

20 20-21-215. Licensing and registration requirements – Recognition of
21 other licenses.

22 Rules ~~and regulations~~ promulgated pursuant to this subchapter may
23 provide for recognition of other state or federal licenses as the State
24 Radiation Control Agency shall deem desirable, subject to such registration
25 requirements as the agency may prescribe.

26
27 SECTION 2021. Arkansas Code § 20-21-216(b), concerning the licensing
28 and registration requirements for radioactive materials, is amended to read
29 as follows:

30 (b) The agency shall require by rule, ~~regulation~~, or order that,
31 before the termination of any license which is issued after July 4, 1983,
32 title to the land including any interests therein other than land held in
33 trust by the United States for any Indian tribe or owned by an Indian tribe
34 subject to a restriction against alienation imposed by the United States, or
35 land already owned by the United States or by this state, which is used
36 pursuant to the license for the disposal of radioactive material shall be

1 transferred to either the United States or to the state, unless the United
2 States Nuclear Regulatory Commission or any successor thereto determines
3 prior to the termination that transfer of title to the land and the material
4 is not necessary or desirable to protect the public health, safety, or
5 welfare, or to minimize danger to life or property.

6
7 SECTION 2022. Arkansas Code § 20-21-217(i), concerning licensing and
8 registration requirements set by the State Radiation Control Agency, is
9 amended to read as follows:

10 (i) Subject to the rules ~~and regulations~~ as may be implemented by the
11 Chief Fiscal Officer of the State, the disbursing officer for the department
12 may transfer all unexpended funds relative to licensing and registration for
13 use of radioactive materials and X-ray equipment that pertain to fees
14 collected, as certified by the Chief Fiscal Officer of the State, to be
15 carried forward and made available for expenditures for the same purpose for
16 any following fiscal year.

17
18 SECTION 2023. Arkansas Code § 20-21-218(a), concerning the records of
19 the State Radiation Control Agency, is amended to read as follows:

20 (a)(1) The State Radiation Control Agency shall require each person
21 who manufactures, possesses, distributes, sells, installs, repairs, or uses a
22 source of ionizing radiation to maintain records relating to its receipt,
23 storage, transfer, or disposal and such other records as the agency may
24 require subject to such exemptions as may be provided by ~~rules and~~
25 ~~regulations~~ rule.

26 (2) The agency shall require each person who manufactures,
27 possesses, distributes, sells, installs, repairs, or uses a source of
28 ionizing radiation, or who furnishes personnel dosimetry services for agency
29 licensees or registrants to maintain appropriate records showing the
30 radiation exposure of all individuals for whom personnel monitoring is
31 required by ~~rules and regulations~~ of the agency.

32
33 SECTION 2024. Arkansas Code § 20-21-219(a), concerning the storage of
34 radioactive wastes, is amended to read as follows:

35 (a) The operation or administration of any sites acquired under this
36 subchapter for the concentration and storage of radioactive wastes and by-

1 products shall be under the direct supervision of the State Radiation Control
2 Agency and shall be in accordance with the ~~regulations~~ rules promulgated and
3 enforced by that agency to protect the public health and safety.
4

5 SECTION 2025. Arkansas Code § 20-21-222(a)(1), concerning the
6 administrative proceedings of the State Radiation Control Agency, is amended
7 to read as follows:

8 (1) In any proceeding for the issuance or modification of rules
9 ~~or regulations~~ relating to control of sources of ionizing radiation, the
10 State Radiation Control Agency shall provide an opportunity for public
11 participation through written comments or a public hearing, or both;
12

13 SECTION 2026. Arkansas Code § 20-21-222(b), concerning the
14 administrative proceedings of the State Radiation Control Agency, is amended
15 to read as follows:

16 (b)(1) Whenever the agency finds that an emergency exists requiring
17 immediate action to protect the public health and safety, the agency may
18 without notice or hearing issue a ~~regulation~~ rule or order reciting the
19 existence of the emergency and requiring that the action be taken as is
20 necessary to meet the emergency.

21 (2) Notwithstanding any provision of this subchapter, the
22 ~~regulations~~ rule or order shall be effective immediately.

23 (3) Any person to whom the ~~regulation~~ rule or order is directed
24 shall comply with the ~~regulation~~ rule or order immediately but, on
25 application to the agency, shall be afforded a hearing within ten (10) days.

26 (4) On the basis of the hearing, the emergency ~~regulation~~ rule
27 or order shall be continued, modified, or revoked within thirty (30) days
28 after the hearing.
29

30 SECTION 2027. Arkansas Code § 20-21-304(a), concerning penalties for
31 violations of the regulatory program for the control of radiation from
32 electronic products, is amended to read as follows:

33 (a) Any person that willfully violates any of the provisions of this
34 subchapter or ~~rules, regulations,~~ or orders in effect pursuant to this
35 subchapter of the State Radiation Control Agency shall upon conviction be
36 punished by a fine of not less than one hundred dollars (\$100) nor more than

1 two thousand dollars (\$2,000) or by imprisonment for not more than six (6)
2 months, or by both fine and imprisonment.

3
4 SECTION 2028. Arkansas Code § 20-21-305 is amended to read as follows:
5 20-21-305. Enforcement.

6 (a) The State Radiation Control Agency or its authorized
7 representatives shall have the power to enter at all reasonable times upon
8 any private or public property on or in which electronic products are being
9 manufactured, distributed, used, or repaired for the purpose of determining
10 whether or not there is compliance with or violation of this subchapter and
11 rules ~~and regulations~~ issued under this subchapter. However, entry into areas
12 under the jurisdiction of the United States Government shall be effected only
13 with the concurrence of the United States Government or its designated
14 representative.

15 (b) In the event of an emergency, the agency shall have the authority
16 to impound or order the impounding of electronic products in the possession
17 of any person who is not equipped to observe or fails to observe the
18 provisions of this subchapter or any rules ~~or regulations~~ issued under this
19 subchapter.

20 (c) Whenever in the judgment of the agency any person has engaged in
21 or is about to engage in any acts or practices which constitute or will
22 constitute a violation of any provision of this subchapter or any rule,
23 ~~regulation,~~ or order issued under this subchapter, then at the request of the
24 agency, the Attorney General may make application to a court of competent
25 jurisdiction for an order enjoining those acts or practices, or for an order
26 directing compliance and, upon a showing by the agency that the person has
27 engaged in or is about to engage in any such acts or practices, a permanent
28 or temporary injunction, restraining order, or other order may be granted.

29
30 SECTION 2029. Arkansas Code § 20-21-306(d)(2), concerning the State
31 Board of Health's designation as the State Electronic Product Control Agency,
32 is amended to read as follows:

33 (2) Develop programs and formulate, adopt, promulgate, and
34 repeal codes, and rules, ~~and regulations~~ with due regard for compatibility
35 with federal programs for licensing and regulation of certain electronic
36 products and radiation therefrom;

1
2 SECTION 2030. Arkansas Code § 20-21-306(d)(7)(C), concerning the State
3 Board of Health's designation as the State Electronic Product Control Agency,
4 is amended to read as follows:

5 (C) Maintenance of a file of all rules ~~and regulations~~
6 relating to regulation of radiation from electronic products, pending or
7 promulgated, and proceedings thereon.

8
9 SECTION 2031. Arkansas Code § 20-21-307 is amended to read as follows:
10 20-21-307. License or registration required.

11 It shall be unlawful for any person to use, manufacture, distribute,
12 install, repair, acquire, own, or possess an electronic product except in
13 conformance with ~~regulations~~ rules for licensing or registration for that
14 product, if any, promulgated in accordance with this subchapter.

15
16 SECTION 2032. Arkansas Code § 20-21-308(a)(1), concerning the
17 regulation of licensing and registration by the State Electronic Product
18 Control Agency, is amended to read as follows:

19 (1) Require registration or licensing for the manufacture,
20 distribution, installation, repair, and use of electronic products or
21 component parts of such products and for which ~~regulations~~ rules have been
22 promulgated as specified in § 20-21-306(d)(2); and

23
24 SECTION 2033. Arkansas Code § 20-21-308(b), concerning the regulation
25 of licensing and registration by the State Electronic Product Control Agency,
26 is amended to read as follows:

27 (b) Rules ~~and regulations~~ promulgated pursuant to this subchapter may
28 provide for recognition of other state or federal licenses as the agency may
29 deem desirable, subject to such registration requirements as the agency may
30 prescribe.

31
32 SECTION 2034. Arkansas Code § 20-21-309(a), concerning the records
33 required by the State Electronic Product Control Agency, is amended to read
34 as follows:

35 (a) Each person who manufactures, distributes, installs, repairs, or
36 uses electronic products shall establish and maintain such records, make such

1 reports, and provide such information as the State Electronic Product Control
2 Agency may by rule ~~or regulation~~ reasonably require to enable the agency to
3 determine the compliance of the person with this subchapter.
4

5 SECTION 2035. Arkansas Code § 20-21-312(a)(1), concerning the
6 administrative proceedings of the State Electronic Product Control Agency, is
7 amended to read as follows:

8 (1) For the issuance or modification of rules ~~and regulations~~
9 relating to radiation from electronic products;
10

11 SECTION 2036. Arkansas Code § 20-21-312(a)(3), concerning the
12 administrative proceedings of the State Electronic Product Control Agency, is
13 amended to read as follows:

14 (3) For determining compliance with or granting exceptions from
15 rules ~~and regulations~~ of the agency.
16

17 SECTION 2037. Arkansas Code § 20-21-312(b), concerning the
18 administrative proceedings of the State Electronic Product Control Agency, is
19 amended to read as follows:

20 (b)(1) Whenever the agency finds that an emergency exists requiring
21 immediate action to protect the public health and safety, the agency, without
22 notice or hearing, may issue a ~~regulation~~ rule or order reciting the
23 existence of an emergency and requiring that such action be taken as is
24 necessary to meet the emergency.

25 (2) Notwithstanding any provision of this subchapter, the
26 ~~regulation~~ rule or order shall be effective immediately.

27 (3) Any person to whom the ~~regulation~~ rule or order is directed
28 shall comply with the ~~regulation~~ rule or order immediately but, on
29 application to the agency within ten (10) days, shall be afforded a hearing
30 within thirty (30) days.

31 (4) On the basis of the hearing, the emergency ~~regulation~~ rule
32 or order shall be continued, modified, or revoked within thirty (30) days
33 after the hearing.
34

35 SECTION 2038. Arkansas Code § 20-21-502(a), concerning the Department
36 of Health's administration of nuclear planning and response grants, is

1 amended to read as follows:

2 (a) The Department of Health shall serve as the administering and
3 disbursing agency for a program of issuing grants to those local governments
4 located in such close proximity to nuclear-powered electricity generating
5 facilities in this state that federal ~~or state~~ regulations or state rules
6 require those local governments to maintain nuclear disaster response
7 procedures and precautions.

8

9 SECTION 2039. Arkansas Code § 20-21-503(a)(3)(E), concerning
10 cooperative agreements for nuclear planning and response grants, is amended
11 to read as follows:

12 (E) Any other information determined by the department to
13 be necessary to ensure compliance with state rules or federal regulations and
14 to ensure that all expenditures of grant funds are in direct support of
15 radiological emergency planning or response.

16

17 SECTION 2040. Arkansas Code § 20-22-404 is amended to read as follows:

18 20-22-404. Rules ~~and regulations~~ adopted by Office of Long-Term Care.

19 The Office of Long-Term Care of the appropriate division as determined
20 by the Director of the Department of Human Services may adopt appropriate
21 rules ~~and regulations~~ to carry out the purpose and intent of this subchapter.

22

23 SECTION 2041. Arkansas Code § 20-22-503(b), concerning enforcement of
24 fire, police, and safety regulations by employees of multiple-occupancy
25 facilities, is amended to read as follows:

26 (b) It shall be the duty of the persons to enforce all fire, police,
27 and safety ~~regulations~~ rules and to prevent entry to the premises by
28 unauthorized persons or, if the unauthorized entry cannot be prevented, to
29 report it to proper authorities.

30

31 SECTION 2042. Arkansas Code § 20-22-702(a), concerning exceptions for
32 public displays of fireworks, is amended to read as follows:

33 (a) Nothing in this subchapter shall be construed as applying to the
34 shipping, sale, possession, and use of fireworks for public displays by
35 holders of a permit for a public display to be conducted in accordance with
36 the rules ~~and regulations~~ promulgated by the Director of the Department of

1 Arkansas State Police. Such items of fireworks which are to be used for
2 public display only and which are otherwise prohibited for sale and use
3 within the state shall include display shells designed to be fired from
4 mortars and display set pieces of fireworks classified by the regulations of
5 the Surface Transportation Board as Class B special fireworks and shall not
6 include such items of commercial fireworks as cherry bombs, tubular salutes,
7 repeating bombs, aerial bombs, and torpedoes.

8
9 SECTION 2043. Arkansas Code § 20-22-804(a)(1), concerning the powers
10 and duties of the Arkansas Fire Protection Services Board, is amended to read
11 as follows:

12 (1) Prescribe by ~~regulation~~ rule minimum standards for the
13 certification of fire departments and standards for the classification of
14 fire departments as to their level of service, including, but not limited to,
15 standards for training levels for firefighters of fire departments, minimum
16 levels of equipment, and minimum performance standards;

17
18 SECTION 2044. Arkansas Code § 20-22-804(a)(9), concerning the powers
19 and duties of the Arkansas Fire Protection Services Board, is amended to read
20 as follows:

21 (9) Establish other reasonable rules ~~and regulations~~ as may be
22 necessary for the purposes of this subchapter.

23
24 SECTION 2045. Arkansas Code § 20-22-1006(c), concerning the Arkansas
25 Fire Protection Services Resources Plan, is amended to read as follows:

26 (c) The plan or any part thereof may be incorporated into ~~regulations~~
27 rules of the office, the Arkansas Department of Emergency Management, or
28 executive orders which have the force and effect of law.

29
30 SECTION 2046. Arkansas Code § 20-23-101(3), concerning the definition
31 of "internal" and "external" under the laws governing boiler safety, is
32 amended to read as follows:

33 (3) "Internal" and "external" inspection means a thorough and
34 proper inspection as provided for in the rules ~~and regulations~~ by the Boiler
35 Inspection Division of the Department of Labor;

36

1 SECTION 2047. Arkansas Code § 20-23-101(4)(C)(iii), concerning the
2 definition of "pressure piping" under the laws governing boiler safety, is
3 amended to read as follows:

4 (iii) The first threaded joint in that type of
5 connection and which extends up to and includes the valve or valves required
6 by ~~regulation~~ rule;

7
8 SECTION 2048. Arkansas Code § 20-23-102(a)(5), concerning exceptions
9 under the laws governing boiler safety, is amended to read as follows:

10 (5) Unfired pressure vessels, other than air tanks or vessels
11 listed in subdivisions (a)(1)-(4) of this section, where the maximum
12 allowable working pressure is fifteen pounds per square inch (15 psi) or less
13 or a volume of five cubic feet (5 cu. ft.) or less, coil-type steam
14 generators without accumulative drum, or vessels used in connection with or
15 the storage of liquefied petroleum gases. However, all such unfired pressure
16 vessels shall be constructed in compliance with the appropriate regulations,
17 or rules applicable thereto;

18
19 SECTION 2049. Arkansas Code § 20-23-103(a), concerning enforcement
20 under the laws governing boiler safety, is amended to read as follows:

21 (a) The criminal penalties provided by this chapter shall be enforced
22 by the prosecuting attorney of each judicial district. The administrative
23 penalties provided by this chapter shall be imposed pursuant to ~~regulation~~
24 rules of the Director of the Department of Labor.

25
26 SECTION 2050. Arkansas Code § 20-23-203(b), concerning the Chief
27 Inspector of the Boiler Inspection Division's duty to inspect and enforce
28 rules, is amended to read as follows:

29 (b) The chief inspector shall have free access at all reasonable times
30 for himself or herself and his or her deputies to any premises in this state
31 where a boiler or pressure piping is being built or where a boiler or
32 pressure piping or power plant apparatus is being installed or operated, for
33 the purpose of ascertaining whether the boiler or piping or apparatus is
34 built, installed, and fitted with the necessary appliances and operated in
35 accordance with this chapter and the ~~regulations~~ rules adopted pursuant to
36 this chapter.

1
2 SECTION 2051. Arkansas Code § 20-23-301(a)(2), concerning certificates
3 of inspection issued by the Director of the Department of Labor for boilers
4 or pressure vessels, is amended to read as follows:

5 (2)(A) All boilers and pressure vessels installed or in
6 operation in this state shall conform to those ~~regulations~~ rules and
7 standards that shall from time to time be adopted by the Boiler Inspection
8 Division with the approval of the director.

9 (B) The ~~regulations~~ rules and standards shall not exceed
10 those set out in the several sections of the Boiler and Pressure Vessel Code
11 of the American Society of Mechanical Engineers and shall have the force of
12 law immediately upon their approval by the director.

13
14 SECTION 2052. Arkansas Code § 20-23-301(a)(4), concerning certificates
15 of inspection issued by the Director of the Department of Labor for boilers
16 or pressure vessels,, is amended to read as follows:

17 (4) All pressure piping installed in this state shall conform to
18 those ~~regulations~~ rules and standards that shall from time to time be adopted
19 by the division with the approval of the director. The ~~regulations~~ rules and
20 standards shall not exceed those set out in the American Society of
21 Mechanical Engineers Code for Pressure Piping, Power Piping Code, B31.1.

22
23 SECTION 2053. Arkansas Code § 20-23-302(a), concerning reports by a
24 manufacturer, owner, or user of a boiler or unfired pressure vessel, is
25 amended to read as follows:

26 (a) Every manufacturer, owner, or user of a boiler or unfired pressure
27 vessel in use or to be used in any part of the state and subject to
28 inspection by the Boiler Inspection Division, as provided by this chapter,
29 shall report to the division the location of the boiler or unfired pressure
30 vessel at such times and in such manner and form as may be determined by the
31 rules ~~and regulations~~ of the division.

32
33 SECTION 2054. Arkansas Code § 20-23-309 is amended to read as follows:
34 20-23-309. New boilers and unfired pressure vessels – Penalty.

35 Every manufacturer, jobber, dealer, or individual selling or offering
36 for sale or operating any boiler or unfired pressure vessel or installing any

1 pressure piping that does not meet the requirements of the rules ~~and~~
2 ~~regulations~~ adopted under this chapter shall be guilty of a felony and upon
3 conviction shall be fined not less than one hundred dollars (\$100) nor more
4 than five thousand dollars (\$5,000) and in addition may be imprisoned for not
5 more than three (3) years, or both.

6
7 SECTION 2055. Arkansas Code § 20-23-310(a)(1), concerning suspension
8 by the Chief Inspector of the Boiler Inspection Division of an operating
9 certificate, is amended to read as follows:

10 (a)(1) The Chief Inspector of the Boiler Inspection Division or his or
11 her authorized representatives may at any time suspend an inspection
12 certificate when in their opinion the boiler or unfired pressure vessel for
13 which it was issued cannot be operated without menace to the public safety or
14 when the boiler or unfired pressure vessel is found not to comply with the
15 rules ~~and regulations~~ provided in this subchapter.

16
17 SECTION 2056. Arkansas Code § 20-23-310(a)(3), concerning suspension
18 by the Chief Inspector of the Boiler Inspection Division of an operating
19 certificate, is amended to read as follows:

20 (3) The suspension of an operating certificate shall continue in
21 effect until the boiler or pressure vessel shall have been made to conform to
22 the rules ~~and regulations~~ of the Boiler Inspection Division and until the
23 operating certificate shall have been reinstated.

24
25 SECTION 2057. Arkansas Code § 20-23-314(a), concerning pressure piping
26 inspections, is amended to read as follows:

27 (a) The installation of pressure piping shall be periodically
28 inspected during the course of the installation by an inspector commissioned
29 pursuant to the provisions of § 20-23-401 in the manner and with the
30 frequency prescribed by the rules ~~and regulations~~ of the Boiler Inspection
31 Division.

32
33 SECTION 2058. Arkansas Code § 20-23-403(a), concerning boiler
34 inspectors failing to perform duties, is amended to read as follows:

35 (a) Any inspector of boilers who shall report a boiler or pressure
36 vessel for a certificate of inspection as safe to operate while knowing the

1 report is false and that the boiler is unsafe to operate, who shall fail to
2 perform his or her duties as stated in this chapter, or who shall cause the
3 repair, installation, or sale of a boiler or pressure vessel that does not
4 comply with the standards as set out in this chapter and the ~~regulations~~
5 rules provided shall be guilty of a felony.

6
7 SECTION 2059. Arkansas Code § 20-23-405(d), concerning the license
8 required to sell, install, or repair boilers, unfired pressure vessels, hot
9 water storage containers, or pressure piping, is amended to read as follows:

10 (d) The license of any person, firm, or corporation may be revoked by
11 the division upon proof that the person, firm, or corporation is not
12 performing the work in compliance with this chapter and the ~~regulations~~ rules
13 as provided in this chapter.

14
15 SECTION 2060. Arkansas Code § 20-23-406(b), concerning restricted
16 lifetime licenses for boiler inspectors and certificates of competency and
17 commission, is amended to read as follows:

18 (b) The department shall promulgate rules ~~and regulations~~ necessary to
19 carry out the provisions of this section.

20
21 SECTION 2061. Arkansas Code § 20-23-407(a) and (b), concerning steam
22 boiler or pressure vessel owner or user inspection programs, are amended to
23 read as follows:

24 (a) Any owner or user of a steam boiler or pressure vessel subject to
25 this chapter may perform any inspections required by this chapter on such
26 vessels owned or operated by the owner or user if the owner or user meets the
27 requirements prescribed by ~~regulation~~ rule of the Director of the Department
28 of Labor.

29 (b) The director shall set out requirements for the certification of
30 owner or user inspectors and certification of owner or user inspection
31 programs by ~~regulation~~ rule and shall have full authority to promulgate and
32 enforce those ~~regulations~~ rules.

33
34 SECTION 2062. Arkansas Code § 20-23-407(c)(1)(A), concerning steam
35 boiler or pressure vessel owner or user inspection programs, is amended to
36 read as follows:

1 (c)(1)(A) After notice and opportunity for hearing, any owner or user
2 who is found to have violated ~~regulations~~ rules prescribed by the director
3 pursuant to this subchapter shall be assessed a civil monetary penalty of not
4 less than one hundred dollars (\$100) or more than five thousand dollars
5 (\$5,000).

6
7 SECTION 2063. Arkansas Code § 20-24-101(12), concerning the definition
8 of “new installation”, “new elevator”, “dumbwaiter”, “escalator”, or “new
9 conveyance” under the elevator, dumbwaiter, and escalator laws, is amended to
10 read as follows:

11 (12) “New installation”, “new elevator”, “dumbwaiter”,
12 “escalator”, or “new conveyance” means a complete elevator, dumbwaiter,
13 escalator, or other conveyance installation, the application for the permit
14 for the installation or relocation of which is filed on or after the
15 effective date of application of the rules ~~and regulations~~ adopted by the
16 board as provided in § 20-24-106(a)-(c). All other elevators, dumbwaiters,
17 escalators, or other conveyances shall be deemed to be existing
18 installations; and

19
20 SECTION 2064. Arkansas Code § 20-24-104(a), concerning enforcement by
21 the Department of Labor under the elevator, dumbwaiter, and escalator laws,
22 is amended to read as follows:

23 (a) Except when otherwise provided, the Department of Labor shall have
24 the power, and it shall be its duty, to enforce this chapter and the rules
25 ~~and regulations~~ adopted by the Elevator Safety Board.

26
27 SECTION 2065. Arkansas Code § 20-24-106(b), concerning the powers and
28 duties of the Elevator Safety Board, is amended to read as follows:

29 (b) The board shall have the power and it shall be its duty to consult
30 with engineering authorities and organizations studying and developing
31 standard safety codes, including that of the American National Safety
32 Institute/American Society of Mechanical Engineers, and determine what rules
33 ~~and regulations~~ governing the qualifications, training, and duties of
34 elevator operators and the operation, maintenance, construction, alteration,
35 and installation of elevators, dumbwaiters, and escalators and the inspection
36 and tests of new and existing installations are adequate, reasonable, and

1 necessary to provide for the safety of life, limb, and property and to
2 protect the public welfare.

3
4 SECTION 2066. Arkansas Code § 20-24-106(d), concerning the powers and
5 duties of the Elevator Safety Board, is amended to read as follows:

6 (d) The board shall also have the power in any particular case to
7 grant exceptions and variations which shall only be granted when it is
8 clearly evident that they are necessary in order to prevent undue hardship or
9 when the existing conditions prevent compliance with the literal requirements
10 of the rules ~~and regulations~~. In no case shall any exception or variation be
11 granted unless, in the opinion of the board, reasonable safety will be
12 secured thereby.

13
14 SECTION 2067. Arkansas Code § 20-24-107(a)(1) and (2), concerning the
15 adoption and amendment of rules by the Elevator Safety Board, are amended to
16 read as follows:

17 (a)(1) A public hearing shall be held by the Elevator Safety Board
18 prior to the adoption of any rules ~~or regulations~~ authorized by this chapter.

19 (2) Copies of such rules ~~and regulations~~ as are proposed by the
20 board for adoption shall be made available to all interested parties at least
21 thirty (30) days before the hearing.

22
23 SECTION 2068. Arkansas Code § 20-24-107(a)(4), concerning the adoption
24 and amendment of rules by the Elevator Safety Board, is amended to read as
25 follows:

26 (4) The rules ~~and regulations~~ adopted by the board shall be
27 effective and shall be applicable on and after the effective date specified
28 by the board but in no case less than three (3) months after the adoption by
29 the board.

30
31 SECTION 2069. Arkansas Code § 20-24-107(b), concerning the adoption
32 and amendment of rules by the Elevator Safety Board, is amended to read as
33 follows:

34 (b) The rules ~~and regulations~~ adopted by the board shall be amended or
35 repealed in the same manner in which they are adopted.

36

1 SECTION 2070. Arkansas Code § 20-24-107(c)(1) and (2), concerning the
2 adoption and amendment of rules by the Elevator Safety Board, are amended to
3 read as follows:

4 (c)(1) No amendment shall be made to the rules ~~and regulations~~ adopted
5 by the board unless public hearings are held as provided in subsection (a) of
6 this section.

7 (2)(A) Any person engaged in the inspection, alteration,
8 construction, repair, or operation of elevators, dumbwaiters, or escalators,
9 or any owner, insurer, or lessee thereof, may, from time to time, by written
10 petition to the Director of the Department of Labor, request that any rules
11 ~~and regulations~~ adopted by the board under subsection (a) of this section be
12 amended, or the director shall refer the petition to the board for its
13 consideration and recommendation.

14 (B) The board shall hold public hearings with respect to
15 the subject matter of the petition and shall thereafter approve or disapprove
16 the petition.

17
18 SECTION 2071. Arkansas Code § 20-24-108(a)(2)(A), concerning elevator
19 inspector licenses required by the Elevator Safety Board, is amended to read
20 as follows:

21 (A) Have experience in designing, installing, maintaining,
22 or inspecting conveyances to the extent established by ~~regulation~~ rules of
23 the board;

24
25 SECTION 2072. Arkansas Code § 20-24-108(b)(2)(A), concerning elevator
26 inspector licenses required by the Elevator Safety Board, is amended to read
27 as follows:

28 (A) Have three (3) years of verifiable work experience in
29 constructing, maintaining, servicing, and repairing conveyances to the extent
30 established by ~~regulation~~ rules of the board;

31
32 SECTION 2073. Arkansas Code § 20-24-109(c)(2), concerning application
33 and examination for elevator inspector licenses required by the Elevator
34 Safety Board, is amended to read as follows:

35 (2) Submission of proof that the licensee has satisfied the
36 continuing education requirements established by rule ~~or regulation~~ of the

1 board.

2

3 SECTION 2074. Arkansas Code § 20-24-115(a)(1), concerning new
4 construction, relocation, or alteration of an elevator, dumbwaiter, or
5 escalator, is amended to read as follows:

6 (a)(1) On and after the effective date of rules ~~and regulations~~
7 adopted by the Elevator Safety Board under § 20-24-107(a) and (b), detailed
8 plans and specifications of the elevator, dumbwaiter, or escalator to be
9 thereafter installed, relocated, or altered shall be submitted by the
10 contractor, or in the absence of an installing contractor, by a person or the
11 owner, to the Department of Labor. An application for a construction or
12 alteration permit on forms to be furnished or approved by the department
13 shall be submitted at the same time.

14

15 SECTION 2075. Arkansas Code § 20-24-115(d), concerning new
16 construction, relocation, or alteration of an elevator, dumbwaiter, or
17 escalator, is amended to read as follows:

18 (d) A construction permit shall be issued by the department or its
19 authorized representative to the installing contractor or, in his or her
20 absence, the owner, for every new elevator, dumbwaiter, or escalator
21 installation or alteration before the installation thereof is started. The
22 department or its authorized representative shall issue the permit if the
23 plans and specifications required under subsection (a) of this section
24 indicate compliance with the applicable rules ~~and regulations~~ adopted by the
25 board under § 20-24-107(a) and (b).

26

27 SECTION 2076. Arkansas Code § 20-24-116(c) and (d), concerning
28 operating permits for elevators, dumbwaiters, or escalators, are amended to
29 read as follows:

30 (c)(1) If the inspection report required by § 20-24-113 indicates
31 failure of compliance with the applicable rules ~~and regulations~~ approved by
32 the Elevator Safety Board under § 20-24-107 or with the detailed plans and
33 specifications approved by the department or its authorized representative
34 under § 20-24-115(d) and (e), the department or its authorized representative
35 shall give notice to the owner or lessee or the person filing plans and
36 specifications of changes necessary for compliance with the rules ~~and~~

1 ~~regulations~~. After the changes have been made, the department or its
2 authorized representative shall issue an operating permit.

3 (2) If the inspection report required by § 20-24-113 indicates
4 that an elevator, dumbwaiter, or escalator is in an unsafe condition, so that
5 its continued operation may be dangerous to the public safety, then the
6 department or its authorized representative, at its discretion, may require
7 the owner or lessee to discontinue the use thereof until it has been made
8 safe and in conformity with the rules ~~and regulations~~ of the board.

9 (d) If the department or its authorized representative has reason to
10 believe that any owner or lessee to whom an operating permit has been issued
11 is not complying with the applicable rules ~~and regulations~~ adopted by the
12 board under § 20-24-107, it shall so notify the owner or lessee and shall
13 give notice of a date for a hearing hereon to the owner or lessee. If after a
14 hearing the department finds that the owner or lessee is not complying with
15 the rules ~~and regulations~~, it shall revoke the permit.

16
17 SECTION 2077. Arkansas Code § 20-24-116(e)(1), concerning operating
18 permits for elevators, dumbwaiters, or escalators, is amended to read as
19 follows:

20 (e)(1) Pursuant to ~~regulation~~ rules of the board, the department may
21 issue a temporary certificate of operation for a period not to exceed ninety
22 (90) days for new installations.

23
24 SECTION 2078. Arkansas Code § 20-25-102(6), concerning the definition
25 of "installation" under the Arkansas Manufactured Homes Standards Act, is
26 amended to read as follows:

27 (6) "Installation" means work done to stabilize, support, or
28 anchor a manufactured home or to join sections of a multisection manufactured
29 home when any such work is governed by ~~regulations~~ rules adopted by the
30 commission;

31
32 SECTION 2079. Arkansas Code § 20-25-104(d)(1) and (2), concerning
33 penalties under the Arkansas Manufactured Homes Standards Act, are amended to
34 read as follows:

35 (d)(1) If a manufactured home retailer or manufacturer violates any of
36 the provisions of this chapter or any rules ~~or regulations~~ governing the

1 manufactured home program, the retailer or manufacturer may be enjoined from
2 selling any manufactured home until the retailer or manufacturer meets all
3 the requirements of this chapter and rules ~~and regulations~~ promulgated
4 pursuant to this chapter.

5 (2) If any manufactured home installer violates any provision of
6 this chapter or any rule ~~or regulation~~ relating to the federal Manufactured
7 Home Construction and Safety Standards, the installer shall be enjoined from
8 installing manufactured homes until the violations are corrected.

9
10 SECTION 2080. Arkansas Code § 20-25-106(a), concerning the powers and
11 duties of the Arkansas Manufactured Home Commission, is amended to read as
12 follows:

13 (a)(1) The Arkansas Manufactured Home Commission by ~~regulation~~ rule
14 shall set uniform, reasonable standards for the proper:

15 (A)(i) Initial installation of new manufactured homes
16 installed in this state.

17 (ii) The installation standards under subdivision
18 (a)(1)(A)(i) of this section shall equal or exceed installation standards
19 promulgated under the federal standards; and

20 (B) Secondary installation of used manufactured homes
21 installed in this state.

22 (2) The commission by ~~regulation~~ rule shall set the requirements
23 for and require:

24 (A) Licensing and certification of manufacturers of
25 manufactured homes or modular homes in this state and manufacturers of
26 manufactured homes or modular homes in other states selling them in this
27 state;

28 (B) Licensing and certification of any retailer,
29 salesperson, and others engaged in the sale of manufactured homes or modular
30 homes for sale in this state; and

31 (C) Licensing, training, and certification of any
32 installer engaged in the installation of manufactured homes or modular homes
33 in this state.

34
35 SECTION 2081. Arkansas Code § 20-25-106(c), concerning the powers and
36 duties of the Arkansas Manufactured Home Commission, is amended to read as

1 follows:

2 (c)(1) The commission shall by ~~regulation~~ rule establish procedures
3 for the investigation and timely resolution of:

4 (A) Construction or installation defects in manufactured
5 homes that are reported to the commission during the one-year period
6 beginning on the date of installation of the manufactured home, including:

7 (i) Violations of the federal standards; and

8 (ii) Violations of the rules governing the
9 installation of manufactured homes promulgated by the commission; and

10 (B) Disputes among manufacturers, retailers, and
11 installers of manufactured homes regarding responsibility for the correction
12 or repair of construction or installation defects in manufactured homes that
13 are reported to the commission during the one-year period beginning on the
14 date of installation of the manufactured home.

15 (2) The commission shall by ~~regulation~~ rule establish procedures
16 for the timely inspection and certification of a percentage of the initial
17 installations of new manufactured homes installed in the state on a sample
18 basis to assure compliance with installation standards adopted by the
19 commission and to comply with requirements set forth by the United States
20 Department of Housing and Urban Development.

21 (3) The investigations, required corrections, and remedial
22 actions shall be handled in accordance with the code or the ~~regulations~~ rules
23 promulgated under the code.

24

25 SECTION 2082. Arkansas Code § 20-25-106(d)(1), concerning the powers
26 and duties of the Arkansas Manufactured Home Commission, is amended to read
27 as follows:

28 (d)(1) The commission or subcommittee of the commission shall convene
29 hearings and issue orders in cases of violations of this chapter or of the
30 code or the ~~regulations~~ rules promulgated by the commission.

31

32 SECTION 2083. Arkansas Code § 20-25-106(e), concerning the powers and
33 duties of the Arkansas Manufactured Home Commission, is amended to read as
34 follows:

35 (e) The commission shall delegate its authority, except the authority
36 to adopt standards, and rules, ~~and regulations~~ to the director.

1
2 SECTION 2084. Arkansas Code § 20-25-106(f)(4), concerning the powers
3 and duties of the Arkansas Manufactured Home Commission, is amended to read
4 as follows:

5 (4) Violating any provision of this chapter or rules ~~or~~
6 ~~regulations~~ promulgated under this chapter.

7
8 SECTION 2085. Arkansas Code § 20-25-106(m)(2), concerning the powers
9 and duties of the Arkansas Manufactured Home Commission, is amended to read
10 as follows:

11 (2) The commission shall have the authority to impose a monetary
12 penalty not to exceed one thousand dollars (\$1,000) per violation by an
13 unlicensed manufacturer, retailer, or installer of any provision of this
14 chapter or of the ~~regulations~~ rules promulgated under this chapter.

15
16 SECTION 2086. Arkansas Code § 20-25-106(n), concerning the powers and
17 duties of the Arkansas Manufactured Home Commission, is amended to read as
18 follows:

19 (n) The commission shall adopt ~~regulations~~ rules, issue orders, and
20 otherwise act as necessary to:

21 (1) Comply with the National Manufactured Housing Construction
22 and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq., including
23 adopting and enforcing rules reasonably required to implement the
24 notification and correction procedures provided by 42 U.S.C. § 5414; and

25 (2) Provide for the effective enforcement of all the
26 Manufactured Home Construction and Safety Standards, 24 C.F.R. Part § 3280.1,
27 in order to have the state plan authorized by the National Manufactured
28 Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et
29 seq., approved by the United States Secretary of the Department of Housing
30 and Urban Development.

31
32 SECTION 2087. Arkansas Code § 20-25-107(b), concerning the Director of
33 the Arkansas Manufactured Home Commission, is amended to read as follows:

34 (b) The director shall administer the code for manufactured homes and
35 the ~~regulations~~ rules promulgated by the commission.

36

1 SECTION 2088. Arkansas Code § 20-26-202 is amended to read as follows:
2 20-26-202. State Board of Health – Duties.

3 The State Board of Health shall make necessary rules ~~and regulations~~
4 relating to tourist camps, hotels, or rooming houses not in conflict with any
5 provision of this subchapter in order that:

6 (1) The health and safety of guests may be protected; and

7 (2) Tourist camps, hotels, or rooming houses may be operated in
8 a lawful manner.

9
10 SECTION 2089. Arkansas Code § 20-26-205 is amended to read as follows:
11 20-26-205. Enforcement.

12 The Department of Health and the Department of Arkansas State Police
13 are required to assist in the enforcement of this subchapter and of any rules
14 ~~and regulations~~ promulgated by the State Board of Health relating to tourist
15 camps, hotels, and rooming houses.

16
17 SECTION 2090. Arkansas Code § 20-27-210 is amended to read as follows:
18 20-27-210. Regulation of sterilization by State Board of Health.

19 (a) It is made the duty of the State Board of Health to promulgate and
20 publish rules ~~and regulations~~ prescribing the method of sterilization that
21 may be used by those engaged in the manufacturing of mattresses and bedding
22 or in the renovation thereof.

23 (b) All persons, firms, or corporations who shall conform to the
24 ~~regulations~~ rules as promulgated by the board, as directed, shall be deemed
25 as complying with the law.

26
27 SECTION 2091. Arkansas Code § 20-27-603 is amended to read as follows:
28 20-27-603. Political subdivision laws permitted.

29 This subchapter shall not prohibit any political subdivision from
30 enacting and enforcing ordinances or laws for the prevention and control of
31 lead poisoning which provide the same or more restrictive provisions as this
32 subchapter or the rules ~~and regulations~~ promulgated pursuant to this
33 subchapter.

34
35 SECTION 2092. Arkansas Code § 20-27-604 is amended to read as follows:
36 20-27-604. Injunction.

1 When in the judgment of the Department of Health any person has engaged
2 in or is about to engage in any acts or practices of commission or omission
3 which constitute or will constitute a violation of any provision of this
4 subchapter or any rule, ~~regulation~~, or order issued under this subchapter,
5 the Attorney General, upon written notice thereof by the department, shall
6 make application to the court of competent jurisdiction for an order
7 enjoining the acts or practices or for an order directing compliance. Upon a
8 showing by the department that the person has engaged in or is about to
9 engage in any such acts or practices, a permanent or temporary injunction,
10 restraining order, or other order may be granted.

11
12 SECTION 2093. Arkansas Code § 20-27-605(c)(9), concerning the
13 designation of the Department of Health as the Lead Poisoning Prevention and
14 Control Agency, is amended to read as follows:

15 (9) Formulate, adopt, promulgate, amend, and repeal rules ~~and~~
16 ~~regulations~~ for the prevention and control of lead poisoning; and

17
18 SECTION 2094. Arkansas Code § 20-27-607(a), concerning notification of
19 a lead hazard, is amended to read as follows:

20 (a) After completion of an inspection or investigation, the Director
21 of the Department of Health or his or her designee shall notify the owner and
22 tenant of his or her findings and, in the event any lead hazard was found,
23 the notification shall contain instructions pertaining to abatement as
24 prescribed by this subchapter and rules ~~and regulations~~ promulgated pursuant
25 to this subchapter.

26
27 SECTION 2095. Arkansas Code § 20-27-1001 is amended to read as
28 follows:

29 20-27-1001. Purpose.

30 The purpose of this subchapter is to protect the public health and
31 safety and the environment and to qualify the Arkansas Department of
32 Environmental Quality to adopt, administer, and enforce a program for
33 licensing training providers involved with the training of regulated asbestos
34 professionals, for licensing asbestos abatement consultants and asbestos
35 abatement contractors, and for certifying air monitors, contractor-
36 supervisors, inspectors, management planners, project designers, and workers

1 involved with demolitions, renovations, and asbestos-response actions in
2 which regulated asbestos-containing materials are disturbed in accordance
3 with this subchapter, the Arkansas Water and Air Pollution Control Act, § 8-
4 4-101 et seq., and ~~regulations~~ rules issued pursuant thereto.

5
6 SECTION 2096. Arkansas Code § 20-27-1002(a), concerning penalties for
7 violations of rules or orders of order of the Arkansas Pollution Control and
8 Ecology Commission, is amended to read as follows:

9 (a) Any person who violates any provision of this subchapter or
10 commits any unlawful act thereunder or who violates any ~~regulation~~ rule or
11 order of the Arkansas Pollution Control and Ecology Commission shall be
12 subject to the penalty provisions provided in § 8-4-103.

13
14 SECTION 2097. Arkansas Code § 20-27-1003(12)(B), concerning the
15 definition of "facility" under the laws regarding removal of asbestos
16 material, is amended to read as follows:

17 (B) For purposes of this definition, any building,
18 structure, or installation that contains a loft used as a dwelling is not
19 considered a residential structure, installation, or building. Any structure,
20 installation, or building that was previously subject to this ~~regulation~~ rule
21 is not excluded, regardless of its current use or function;

22
23 SECTION 2098. Arkansas Code § 20-27-1004(1), concerning the powers and
24 duties of the Arkansas Department of Environmental Quality, is amended to
25 read as follows:

26 (1) To require and regulate training and examinations for all
27 disciplines certified by this subchapter and the ~~regulations~~ rules
28 promulgated pursuant to this subchapter;

29
30 SECTION 2099. Arkansas Code § 20-27-1004(3) and (4), concerning the
31 powers and duties of the Arkansas Department of Environmental Quality, are
32 amended to read as follows:

33 (3) To enforce ~~regulations~~ rules necessary or appropriate to the
34 implementation of this subchapter, including taking legal action in any court
35 of competent jurisdiction;

36 (4) To issue licenses and certificates to all applicants who

1 satisfy the requirements of this subchapter and any ~~regulations~~ rules issued
2 pursuant to this subchapter, to renew the licenses and certificates, and to
3 suspend or revoke the licenses and certificates for cause and after notice
4 and opportunity for hearing;

5
6 SECTION 2100. Arkansas Code § 20-27-1005 is amended to read as
7 follows:

8 20-27-1005. Procedures.

9 The procedures of the Arkansas Department of Environmental Quality and
10 the Arkansas Pollution Control and Ecology Commission for issuance of rules
11 ~~and regulations~~, conduct of hearings, notice, power of subpoena, review of
12 action on licenses, right of appeal, presumptions, finality of actions, and
13 related matters shall be as provided in the Arkansas Water and Air Pollution
14 Control Act, § 8-4-101 et seq., including, but not limited to, §§ 8-4-205, 8-
15 4-210, 8-4-212 – 8-4-214, and 8-4-218 – 8-4-229.

16
17 SECTION 2101. Arkansas Code § 20-27-1007(2)-(4), concerning
18 prohibitions under the laws addressing the removal of asbestos material, are
19 amended to read as follows:

20 (2) To participate in any response action, demolition, or
21 renovation contrary to the ~~regulations~~ rules or orders issued under this
22 subchapter or contrary to the Arkansas Water and Air Pollution Control Act, §
23 8-4-101 et seq., and the Arkansas Solid Waste Management Act, § 8-6-201 et
24 seq., and the ~~regulations~~ rules promulgated thereunder, whether or not such
25 person is required to have a license or certificate pursuant to this
26 subchapter;

27 (3) To knowingly make any false statement, representation, or
28 certification in any application, record, report, or other document filed or
29 required to be maintained under this subchapter or ~~regulations~~ rules adopted
30 pursuant to this subchapter or to falsify, tamper with, or knowingly render
31 inaccurate any monitoring device or method required to be maintained under
32 this subchapter or any ~~regulations~~ rules adopted pursuant to this subchapter;
33 or

34 (4) To violate any provision of this subchapter or any
35 ~~regulation~~ rule or order adopted or issued under this subchapter.

36

1 SECTION 2102. Arkansas Code § 20-27-1009(b)(3), concerning grant
2 eligibility and the distribution of grant funds by the Arkansas Department of
3 Environmental Quality, is amended to read as follows:

4 (3) A proposed project design and work plan that complies with
5 the ~~regulations~~ rules of the Arkansas Pollution Control and Ecology
6 Commission; and

7
8 SECTION 2103. Arkansas Code § 20-27-1012 is amended to read as
9 follows:

10 20-27-1012. ~~Regulations~~ Rules

11 The Arkansas Pollution Control and Ecology Commission shall promulgate
12 ~~regulations~~ rules to implement this subchapter.

13
14 SECTION 2104. Arkansas Code § 20-27-1101 is amended to read as
15 follows:

16 20-27-1101. Penalty.

17 Any person who knowingly violates any provision of this subchapter or
18 any ~~regulation~~ rule or order adopted pursuant to this subchapter shall be
19 guilty of a Class B misdemeanor.

20
21 SECTION 2105. Arkansas Code § 20-27-1102 is amended to read as
22 follows:

23 20-27-1102. ~~Rules and regulations~~ – Enforcement – Administration.

24 (a) The Director of the Department of Labor shall promulgate
25 ~~regulations~~ rules to establish minimum standards for the qualifications of
26 those individuals performing blasting in Arkansas.

27 (b) The director shall implement, enforce, and administer this
28 subchapter and the ~~regulations~~ rules adopted pursuant to this subchapter.

29 (c) ~~Regulations~~ Rules under this section shall be adopted pursuant to
30 the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

31 (d)(1) The director may establish by ~~regulation~~ rule fees for
32 certifying individuals as qualified to perform blasting in Arkansas.

33 (2) The fees shall not exceed the sum of thirty dollars (\$30.00)
34 per applicant.

35
36 SECTION 2106. Arkansas Code § 20-27-1201(e), concerning sewage

1 disposal plans for mobile home and travel trailer parks, is amended to read
2 as follows:

3 (e) Subject to such rules ~~and regulations~~ as may be implemented by the
4 Chief Fiscal Officer of the State, the disbursing officer for the department
5 may transfer all unexpended funds received from the collection of plan review
6 fees, as certified by the Chief Fiscal Officer of the State, which shall be
7 carried forward and made available for expenditure for the same purpose for
8 any following fiscal year.

9

10 SECTION 2107. Arkansas Code § 20-27-1303(e)(1), concerning blasting
11 standards under the Arkansas Quarry and Open Pit Mine Blasting Control Act,
12 is amended to read as follows:

13 (e)(1) The maximum limits for airblast and ground vibration as
14 specified in subdivisions (b)(1) and (d)(1) of this section shall be
15 construed as the threshold below which blasting damage is unlikely to occur.
16 However, the director shall have the authority to promulgate ~~regulations~~
17 rules requiring more or less restrictive limits, as appropriate.

18

19 SECTION 2108. Arkansas Code § 20-27-1308(a)(1)-(3), concerning the
20 powers and duties of the Director of the Department of Labor under the
21 Arkansas Quarry and Open Pit Mine Blasting Control Act, are amended to read
22 as follows:

23 (1) To promulgate rules ~~and regulations~~ for the administration
24 and enforcement of this subchapter after public hearing and opportunity for
25 public comment;

26 (2) To establish by rule ~~or regulation~~ standards for the
27 performance of blasting operations at mines after public hearing and
28 opportunity for public comment;

29 (3) To investigate as to any violation of this subchapter or any
30 rule, ~~regulation~~, or order issued under this subchapter;

31

32 SECTION 2109. Arkansas Code § 20-27-1308(a)(6), concerning the powers
33 and duties of the Director of the Department of Labor under the Arkansas
34 Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

35 (6) To issue cease and desist orders, as well as orders
36 directing that affirmative measures be taken to comply with this subchapter

1 and any rule ~~or regulation~~ issued under this subchapter;

2
3 SECTION 2110. Arkansas Code § 20-27-1308(a)(10), concerning the powers
4 and duties of the Director of the Department of Labor under the Arkansas
5 Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

6 (10) To issue a variance from any specific requirement of this
7 subchapter or any rule ~~or regulation~~ issued under this subchapter, provided
8 that literal compliance would constitute an undue hardship and that
9 reasonable safety of persons and property is secured;

10
11 SECTION 2111. Arkansas Code § 20-27-1308(a)(13), concerning the powers
12 and duties of the Director of the Department of Labor under the Arkansas
13 Quarry and Open Pit Mine Blasting Control Act, is amended to read as follows:

14 (13) To enforce generally this subchapter and the rules,
15 ~~regulations,~~ and orders issued under this subchapter.

16
17 SECTION 2112. Arkansas Code § 20-27-1310(a), concerning the
18 cooperation between the Department of Labor and the State Fire Marshal under
19 the Arkansas Quarry and Open Pit Mine Blasting Control Act, is amended to
20 read as follows:

21 (a) The Director of the Department of Labor shall consult the State
22 Fire Marshal regarding the adoption of any rules ~~or regulations~~.

23
24 SECTION 2113. Arkansas Code § 20-27-1311(a), concerning existing
25 rules, orders, and remedies under the Arkansas Quarry and Open Pit Mine
26 Blasting Control Act, is amended to read as follows:

27 (a) All existing rules ~~and regulations~~ of any other state agency
28 relating to subjects embraced within this subchapter shall remain in full
29 force and effect unless expressly repealed, amended, or superseded by the
30 state agency affected.

31
32 SECTION 2114. Arkansas Code § 20-27-1312(a), concerning criminal
33 penalties under the Arkansas Quarry and Open Pit Mine Blasting Control Act,
34 is amended to read as follows:

35 (a) Except as provided in subsection (b) of this section, any person
36 who violates any provision of this subchapter or who violates any rule,

1 ~~regulation~~, or order issued under this subchapter shall be guilty of a Class
2 A misdemeanor.

3
4 SECTION 2115. Arkansas Code § 20-27-1312(b)(1)(A) and (B), concerning
5 criminal penalties under the Arkansas Quarry and Open Pit Mine Blasting
6 Control Act, are amended to read as follows:

7 (A) Violate any provision of this subchapter or any rule,
8 ~~regulation~~, or order issued under this subchapter and leave the state or
9 remove his or her person from the jurisdiction of this state;

10 (B) Purposely, knowingly, or recklessly conduct blasting
11 in a manner prohibited by this subchapter or any rule, ~~regulation~~, or order
12 issued under this subchapter and thereby create a substantial likelihood of
13 adversely affecting the health, safety, welfare, or property of any person,
14 including the state or any political subdivision of the state; or

15
16 SECTION 2116. Arkansas Code § 20-27-1313(a)(1), concerning civil
17 penalties under the Arkansas Quarry and Open Pit Mine Blasting Control Act,
18 is amended to read as follows:

19 (a)(1) Any person who violates any provision of this subchapter or who
20 violates any rule, ~~regulation~~, or order issued under this subchapter may be
21 assessed an administrative civil penalty by the Director of the Department of
22 Labor in an amount not to exceed ten thousand dollars (\$10,000) per
23 violation.

24
25 SECTION 2117. Arkansas Code § 20-27-1314(1)(A), concerning restraint
26 of actions under the Arkansas Quarry and Open Pit Mine Blasting Control Act,
27 is amended to read as follows:

28 (1)(A) Enjoin or restrain any violation of or compel compliance
29 with this subchapter and any rules, ~~regulations~~, or orders issued under this
30 subchapter.

31
32 SECTION 2118. Arkansas Code § 20-27-1315 is amended to read as
33 follows:

34 20-27-1315. Private right of action.

35 Any person adversely affected by a violation of this subchapter or any
36 rules, ~~regulations~~, or orders issued pursuant to this subchapter shall have a

1 private right of action for relief against the violator.

2

3 SECTION 2119. Arkansas Code § 20-27-1316 is amended to read as
4 follows:

5 20-27-1316. Joint and several liability.

6 The owner or operator of any quarry or open pit mine where a blast is
7 conducted and any contractor conducting the blast shall be jointly and
8 severally liable for violations of this subchapter and any rules ~~or~~
9 ~~regulations~~ issued under this subchapter.

10

11 SECTION 2120. Arkansas Code § 20-27-1317 is amended to read as
12 follows:

13 20-27-1317. Injunctive relief.

14 In addition to all other remedies provided by this subchapter, the
15 Attorney General and the prosecuting attorney of a county may apply to the
16 circuit court or the judge in vacation of the county where the quarry or open
17 pit mine is located for an injunction to restrain, prevent, or abate a public
18 nuisance related to the subjects embraced by this subchapter or any violation
19 of this subchapter or the rules, ~~regulations~~, or orders issued under this
20 subchapter.

21

22 SECTION 2121. Arkansas Code § 20-27-1807(a), concerning the
23 promulgation and enforcement authority of the State Board of Health, is
24 amended to read as follows:

25 (a) The State Board of Health may adopt reasonable rules ~~and~~
26 ~~regulations~~ that it determines are necessary or useful to carry out the
27 purposes or facilitate enforcement of this subchapter.

28

29 SECTION 2122. Arkansas Code § 20-27-1807(b)(1), concerning the
30 promulgation and enforcement authority of the State Board of Health, is
31 amended to read as follows:

32 (b)(1) The Department of Health and its authorized agents may enforce
33 compliance with this subchapter and any rules ~~and regulations~~ adopted and
34 promulgated under this subchapter by the board.

35

36 SECTION 2123. Arkansas Code § 20-27-1902 is amended to read as

1 follows:

2 20-27-1902. Definition.

3 As used in this subchapter, "motor vehicle" means any motor vehicle,
4 except a school bus, a church bus, or other public conveyance, that is
5 required by federal or state law, rule, or regulation to be equipped with a
6 passenger restraint system.

7
8 SECTION 2124. Arkansas Code § 20-27-2104(d)(3)(B), concerning the test
9 method and performance standard under the Arkansas Cigarette Fire Safety
10 Standard Act, is amended to read as follows:

11 (B) Finds that the officials responsible for implementing
12 those requirements have approved the proposed alternative test method and
13 performance standard for a particular cigarette proposed by a manufacturer as
14 meeting the fire safety standards of that state's law or ~~regulation~~ rules
15 under a legal provision comparable to this section.

16
17 SECTION 2125. Arkansas Code § 20-27-2702(h)(4), concerning bedding
18 labels, is amended to read as follows:

19 (4) Description of filling material as provided in the
20 applicable ~~regulations~~ rules shall be included on the label;

21
22 SECTION 2126. Arkansas Code § 20-29-105(d), concerning complaints
23 filed with the Arkansas Manufactured Home Commission, is amended to read as
24 follows:

25 (d)(1) The commission shall by ~~regulation~~ rule establish procedures
26 for the investigation and timely resolution of claims against the
27 Manufactured Housing Recovery Fund involving participating manufacturers,
28 retailers, and installers of manufactured homes regarding responsibility for
29 the correction or repair of construction or installation defects in
30 manufactured homes that are reported during the one-year period beginning on
31 the date of installation of the home.

32 (2) The investigations, required corrections, and remedial
33 actions shall be handled in accordance with the code and ~~regulations~~ rules
34 promulgated pursuant to the code.

35 (3) The commission shall by ~~regulation~~ rule establish
36 requirements for eligibility of claims against the fund.

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SECTION 2127. Arkansas Code § 20-29-112 is amended to read as follows:

20-29-112. ~~Regulations~~ Rules.

The Arkansas Manufactured Home Commission may establish ~~regulations~~ rules for implementation of this chapter.

SECTION 2128. Arkansas Code § 20-30-102(a), concerning penalties for violations of public swimming pool rules, is amended to read as follows:

(a) Any person operating a public swimming pool in violation of this chapter or rules ~~and regulations~~ adopted pursuant to this chapter shall be guilty of a violation.

SECTION 2129. Arkansas Code § 20-30-103(3) and (4), concerning the authority of the Department of Health over public swimming pools, are amended to read as follows:

(3) To prescribe such rules ~~and regulations~~ governing the alteration, construction, sanitation, safety, and operation of public swimming pools as may be necessary to protect the health and safety of the public and to require every public swimming pool to comply with these rules ~~and regulations~~;

(4) To inspect every public swimming pool in operation in the state to determine compliance with this chapter and rules ~~and regulations~~;

SECTION 2130. Arkansas Code § 20-30-103(6), concerning the authority of the Department of Health over public swimming pools, is amended to read as follows:

(6) To notify the owner, proprietor, or agent in charge of any public swimming pool of such changes or alterations as may be necessary to effect complete compliance with this chapter and rules ~~and regulations~~ governing the construction, alteration, and operation of the facilities and to close the facilities for failure to comply within specified times as provided in this chapter and rules ~~and regulations~~; and

SECTION 2131. Arkansas Code § 20-30-104(c)(2), concerning permits issued by the Department of Health for public swimming pools, is amended to read as follows:

1 (2) Before approval of the application for a permit, the
2 department shall inspect the proposed facility to determine compliance with
3 requirements of this chapter and rules ~~and regulations~~. The department shall
4 issue a permit to the applicant if the inspection reveals that the facility
5 is in compliance with the requirements of this chapter and rules ~~and~~
6 ~~regulations~~.

7
8 SECTION 2132. Arkansas Code § 20-30-107(b), concerning the disposition
9 of funds collected by the Department of Health relative to public swimming
10 pools, is amended to read as follows:

11 (b) Subject to such rules ~~and regulations~~ as may be implemented by the
12 Chief Fiscal Officer of the State, the disbursing officer for the Department
13 of Health may transfer all unexpended funds relative to swimming pools that
14 pertain to fees collected, as certified by the Chief Fiscal Officer of the
15 State, to be carried forward and made available for expenditures for the same
16 purpose for any following fiscal year.

17
18 SECTION 2133. Arkansas Code § 20-31-104(a), concerning establishment
19 by the Board of Electrical Examiners of the State of Arkansas of statewide
20 standards for the construction, installation, and maintenance of electrical
21 facilities, is amended to read as follows:

22 (a) Beginning January 1, 1992, the Board of Electrical Examiners of
23 the State of Arkansas is empowered to adopt rules ~~and regulations~~ to
24 establish statewide standards for the construction, installation, and
25 maintenance of electrical facilities and the performance of electrical work.

26
27 SECTION 2134. Arkansas Code § 20-32-104(b), concerning the disposition
28 of fees and fines relative to the disposal of commercial medical waste, is
29 amended to read as follows:

30 (b) Subject to such rules ~~and regulations~~ as may be implemented by the
31 Chief Fiscal Officer of the State, the disbursing officer for the Department
32 of Health may transfer all unexpended funds relative to the regulation of
33 commercial medical waste that pertain to fees and fines collected, as
34 certified by the Chief Fiscal Officer of the State, to be carried forward and
35 made available for expenditures for the same purpose for any following fiscal
36 year.

1
2 SECTION 2135. Arkansas Code § 20-32-105(a)(1), concerning the
3 authorization to stop vehicles suspected of transporting commercial medical
4 waste, is amended to read as follows:

5 (a)(1) The Department of Arkansas State Police and the enforcement
6 officers of the Arkansas Highway Police Division of the Arkansas Department
7 of Transportation may stop vehicles suspected of transporting commercial
8 medical waste to assure that all required permits for transporting the
9 commercial medical waste have been obtained and to enforce all laws and
10 ~~regulations~~ rules relating to the transportation of commercial medical waste.
11

12 SECTION 2136. Arkansas Code § 20-32-105(b), concerning the
13 authorization to stop vehicles suspected of transporting commercial medical
14 waste, is amended to read as follows:

15 (b) The enforcement officers of the division may conduct vehicle
16 safety inspections of those vehicles transporting or intended to be utilized
17 to transport commercial medical waste, to inquire into the history of any
18 safety or equipment ~~regulation~~ rule violations of the transporter in any
19 state, and to advise the Department of Health of the results of such
20 inspections and inquiries.
21

22 SECTION 2137. Arkansas Code § 20-32-106(b) and (c), concerning the
23 regulation of the segregation, packaging, storage, transportation, treatment,
24 and disposal of commercial medical waste from healthcare-related facilities,
25 are amended to read as follows:

26 (b) These ~~regulations~~ rules shall include:

27 (1) Criteria for issuing operational licenses to treaters or
28 disposers, and transporters of commercial medical waste;

29 (2) Criteria for issuing permits and permit modifications to
30 facilities;

31 (3) Developing a system for record keeping by any person
32 generating, transporting, receiving, treating, or disposing of commercial
33 medical waste;

34 (4) Acceptable methods of treatment and disposal of commercial
35 medical waste;

36 (5) Requirements for the segregation, packaging, and storage of

1 commercial medical waste;

2 (6) Criteria for the development of an operating plan for the
3 handling and disposal of commercial medical waste; and

4 (7) Requirements for the inspection of any facility generating,
5 storing, incinerating, or disposing of commercial medical waste.

6 (c) All rules ~~and regulations~~ promulgated pursuant to this chapter
7 shall be reviewed by the House Committee on Public Health, Welfare, and Labor
8 and the Senate Committee on Public Health, Welfare, and Labor or appropriate
9 subcommittees thereof.

10
11 SECTION 2138. Arkansas Code § 20-32-107(e)(1), concerning the license
12 to transport, treat, or dispose of commercial medical waste, is amended to
13 read as follows:

14 (e)(1) If the treater or disposer, or transporter has a history of
15 noncompliance with any law, rule, or regulation of this state or any other
16 jurisdiction, particularly those laws, rules, or regulations pertaining to
17 the environment and the protection of the health and safety of the public,
18 the department may refuse to issue an operating license.

19
20 SECTION 2139. Arkansas Code § 20-32-112(a), concerning violations of
21 the rules regarding disposal of commercial medical waste, is amended to read
22 as follows:

23 (a) Any person or carrier, or any officer, employee, agent, or
24 representative thereof, while operating any vehicle transporting medical
25 waste or which is authorized to transport medical waste, who shall violate
26 any of the ~~regulations~~ rules, including safety ~~regulations~~ rules, prescribed
27 or hereafter prescribed by the State Highway Commission pursuant to § 23-1-
28 101 et seq. or who shall violate any ~~regulation~~ rule of the Department of
29 Health that specifically relates to the transportation of medical waste shall
30 be guilty of a violation.

31
32 SECTION 2140. Arkansas Code § 20-46-302(a), concerning the power to
33 regulate funding by the Arkansas State Hospital through the Department of
34 Human Services, is amended to read as follows:

35 (a) The Arkansas State Hospital shall have the power to establish
36 guidelines, and rules, ~~and regulations~~ in the administration of this section.

1
2 SECTION 2141. Arkansas Code § 20-46-302(c)(2), concerning the power to
3 regulate funding by the Arkansas State Hospital through the Department of
4 Human Services, is amended to read as follows:

5 (2) The restrictions of the Arkansas Procurement Law, § 19-11-
6 201 et seq.; the General Accounting and Budgetary Procedures Law, § 19-4-101
7 et seq.; the Revenue Stabilization Law, § 19-5-101 et seq.; and other fiscal
8 control laws of the state, where applicable, and ~~regulations~~ rules
9 promulgated by the Department of Finance and Administration, as authorized by
10 law, shall be strictly complied with in disbursement of the funds.

11
12 SECTION 2142. Arkansas Code § 20-46-504 is amended to read as follows:
13 20-46-504. Rules ~~and regulations~~.

14 (a) The Division of Aging, Adult, and Behavioral Health Services of
15 the Department of Human Services shall adopt, promulgate, and enforce the
16 rules, ~~regulations~~, and standards that may be necessary for the
17 accomplishment of this subchapter.

18 (b) The rules, ~~regulations~~, and standards shall be modified, amended,
19 or rescinded from time to time by the division as may be in the public
20 interest.

21
22 SECTION 2143. Arkansas Code § 20-46-703(a)(4), concerning surveys of
23 providers of indigent assistance, is amended to read as follows:

24 (4) Conduct follow-up surveys on an accelerated schedule only
25 upon a finding that a program provider is not in substantial compliance with
26 applicable laws and ~~regulations~~ rules; and

27
28 SECTION 2144. Arkansas Code § 20-47-303(b)(2), concerning multihour
29 daily service rate reimbursement for residential care facilities, is amended
30 to read as follows:

31 (2) The department shall maintain Medicaid provider ~~regulations~~
32 rules appropriate for the delivery of personal care services in congregate
33 settings and the related multihour daily service rate reimbursement
34 methodology.

35
36 SECTION 2145. Arkansas Code § 20-47-303(c), concerning multihour daily

1 service rate reimbursement for residential care facilities, is amended to
2 read as follows:

3 (c) The department shall provide copies to the Administrative Rules
4 ~~and Regulations~~ Subcommittee of the Legislative Council, providers, and the
5 public of all state plan amendments, documentation, and correspondence
6 submitted to or received from the Centers for Medicare and Medicaid Services
7 in regard to this section and shall work jointly with provider
8 representatives in obtaining and maintaining approval for a multihour daily
9 service rate for personal care services delivered in congregate settings from
10 the Centers for Medicare and Medicaid Services.

11

12 SECTION 2146. Arkansas Code § 20-47-406(c), concerning the Department
13 of Human Services agreements for medical care of the indigent mentally ill or
14 tubercular, is amended to read as follows:

15 (c) In order to reimburse the fund for expenditures made by the
16 department in accordance with agreements made with the Arkansas State
17 Hospital and other institutions, the Chief Fiscal Officer of the State shall
18 make rules ~~and regulations~~ for transfers from the respective State Treasury
19 funds or accounts from which the institutions making agreements derive their
20 financial support to the fund in keeping with the provisions of the agreement
21 made between the Arkansas State Hospital or other state institutions and the
22 department.

23

24 SECTION 2147. Arkansas Code § 20-47-705(3), concerning behavioral
25 healthcare initiatives, is amended to read as follows:

26 (3) Revise Medicaid rules ~~and regulations~~ to increase quality,
27 accountability, and appropriateness of Medicaid-reimbursed behavioral
28 healthcare services, including, but not limited to:

29 (A) Clarifying behavioral healthcare services definitions
30 to assure that the definitions are appropriate to the needs of children,
31 youth, and their families;

32 (B) Revising the process for Medicaid to receive, review,
33 and act upon requests for behavioral health care for children and youth
34 classified as seriously emotionally disturbed;

35 (C) Clarifying Medicaid certification rules for providers
36 serving children, youth, and their families to assure that the certification

1 rules correlate with the requirements for enrollment as a Medicaid provider
2 of behavioral healthcare services;

3 (D)(i) Defining a standardized screening and assessment
4 process designed to provide early identification of conditions that require
5 behavioral healthcare services.

6 (ii) The standardized process shall ensure that:

7 (a) Assessments guide service decisions,
8 outcomes, and, if appropriate, development of a multiagency plan of services;
9 and

10 (b) Services delivered are appropriate to meet
11 the needs of the child as identified by the assessment;

12
13 SECTION 2148. Arkansas Code § 20-48-104(b) and (c), concerning
14 intermediate care facilities for the mentally disabled, are amended to read
15 as follows:

16 (b) The committee shall provide oversight for the operation of the
17 program and make recommendations, within the appropriate federal regulations
18 and guidelines, to the Division of Developmental Disabilities Services and
19 the Office of Long-Term Care to establish and clarify the mission, goals,
20 levels of services, and scope of the program and to provide consistency in
21 state ~~regulations~~ rules, guidelines, standards, and policies.

22 (c) The committee shall also make recommendations for adequate funding
23 to ensure the fiscal integrity of the program to allow it to be operated
24 pursuant to the state rules and federal regulations, guidelines, standards,
25 and policies.

26
27 SECTION 2149. Arkansas Code § 20-48-205(b) and (c), concerning the
28 powers and duties of the Board of Developmental Disabilities Services, are
29 amended to read as follows:

30 (b) The board may make such ~~regulations~~ rules respecting the care,
31 custody, training, and discipline of individuals with intellectual
32 disabilities in the centers or receiving services for individuals with
33 intellectual disabilities and respecting the management of the centers and
34 their affairs as it may deem necessary or desirable to the proper performance
35 of its powers and purposes.

36 (c) The board is prohibited from promulgating any rule ~~or regulation~~

1 that would set the salary of any employee at the local level unless
2 specifically required to do so by the federal government.

3
4 SECTION 2150. Arkansas Code § 20-48-207(b), concerning contracts for
5 provision of services for the Board of Developmental Disabilities Services,
6 is amended to read as follows:

7 (b) In this regard, the board is authorized to promulgate ~~regulations~~
8 rules and fix standards necessary to properly ensure that such intellectual
9 disabilities services are furnished in a proper and reasonable manner and on
10 an economical basis.

11
12 SECTION 2151. Arkansas Code § 20-48-208(a), concerning the license for
13 facilities and institutions required by the Board of Developmental
14 Disabilities Services, is amended to read as follows:

15 (a) The Board of Developmental Disabilities Services shall regulate
16 the providing of intellectual disabilities services by private organizations
17 and public agencies. The board shall promulgate ~~regulations~~ rules covering
18 the issuance, suspension, and revocation of licenses and fixing the standards
19 for construction, reconstruction, maintenance, and operation of institutions
20 and facilities, or parts thereof, operated primarily for the providing of
21 developmental disabilities services, unless the facilities or institutions in
22 their entirety are licensed by the Office of Long-Term Care.

23
24 SECTION 2152. Arkansas Code § 20-48-209(c), concerning the planning
25 and implementation for programs by the Board of Developmental Disabilities
26 Services, is amended to read as follows:

27 (c) Effective planning and coordination is essential to the public
28 interest. In order to achieve this to the fullest extent possible, the Board
29 of Developmental Disabilities Services is authorized to establish and
30 promulgate ~~regulations~~ rules fixing standards for intellectual disabilities
31 programs and activities and to evaluate intellectual disabilities programs
32 and activities of public agencies.

33
34 SECTION 2153. Arkansas Code § 20-48-211(b) and (c), concerning the
35 Board of Developmental Disabilities Services community centers, are amended
36 to read as follows:

1 (b) Within the limits of available funds, a program for furnishing
2 intellectual disabilities services shall be developed for each community
3 center which may include a state grants-in-aid program. In this regard, the
4 board is authorized to promulgate ~~regulations~~ rules covering the
5 establishment and operation of community centers, the formulation and
6 implementation of intellectual disabilities programs and activities for
7 community centers, and the funding of the programs and activities.

8 (c) The board is prohibited from promulgating any rule ~~or regulation~~
9 that would set the salary of any employee of a community-based program unless
10 specifically required to do so by the United
11 States Government.

12
13 SECTION 2154. Arkansas Code § 20-48-413(b), concerning facilities for
14 emotionally disturbed individuals, is amended to read as follows:

15 (b) The board is authorized to make such rules ~~and regulations~~
16 regarding eligibility for admission to the facility, care and treatment of
17 the individuals, discharge from and return to the facility, charges for the
18 maintenance, care, and training of individuals admitted to the facility, and
19 such other matters as the board shall deem necessary to carry out the most
20 effective program for the care and treatment of emotionally disturbed
21 intellectually disabled individuals of this state.

22
23 SECTION 2155. Arkansas Code § 20-48-415(i), concerning the powers and
24 duties of the Board of Developmental Disabilities Services, is amended to
25 read as follows:

26 (i) The board may make such rules ~~and regulations~~ respecting the care,
27 custody, training, and discipline of individuals admitted to the centers and
28 the management thereof and of its affairs as it may deem for the best
29 interest of the centers and the State of Arkansas.

30
31 SECTION 2156. Arkansas Code § 20-48-605(c), concerning the inspection
32 and licensure of the operation of family homes, is amended to read as
33 follows:

34 (c) The division shall not issue or renew and may revoke the license
35 of a family home not operating in compliance with this section and
36 ~~regulations~~ rules adopted hereunder.

1
2 SECTION 2157. The introductory language of Arkansas Code § 20-48-
3 606(a), concerning density control for family homes, is amended to read as
4 follows:

5 (a) The Division of Developmental Disabilities Services shall
6 promulgate ~~regulations~~ rules pursuant to the Arkansas Administrative
7 Procedure Act, § 25-15-201 et seq., which shall encompass the following
8 matters:

9
10 SECTION 2158. Arkansas Code § 20-48-606(a)(3), concerning density
11 control for family homes, is amended to read as follows:

12 (3) Protection of the health and safety of the residents of
13 Family Homes I and Family Homes II, however, compliance with these
14 ~~regulations~~ rules shall not relieve the owner or operator of any Family Home
15 I or Family Homes II of the obligation to comply with the requirements or
16 standards of a political subdivision pertaining to setback, lot size, flood
17 zones, outside appearance, building, housing, health, fire, safety, and motor
18 vehicle parking space that generally apply to single-family residences in the
19 zoning district for Family Home I or multi-family use districts for Family
20 Home II. No requirements for business licenses, gross receipt taxes,
21 environmental impact studies, or clearances may be imposed on the homes if
22 those fees, taxes, or clearances are not imposed on all structures in the
23 zoning district housing a like number of persons; and

24
25 SECTION 2159. Arkansas Code § 20-48-606(b), concerning density control
26 for family homes, is amended to read as follows:

27 (b) The division shall furnish a copy of proposed ~~regulations~~ rules
28 promulgated hereunder to the Arkansas Municipal League, Association of
29 Arkansas Counties, and the Capitol Zoning District Commission at least thirty
30 (30) days prior to the public hearing to be held thereon.

31
32 SECTION 2160. Arkansas Code § 20-48-607(c)(2), concerning application
33 for a license to operate a family home, is amended to read as follows:

34 (2) The sign shall contain such statements as required by
35 ~~regulations~~ rules promulgated pursuant to this subchapter.

36

1 SECTION 2161. Arkansas Code § 20-56-209(5)(B), concerning misbranded
2 food, is amended to read as follows:

3 (B) An accurate statement of the quantity of the contents
4 in terms of weight, measure, or numerical count, provided that reasonable
5 variations shall be permitted, and exemptions as to small packages shall be
6 established by ~~regulations~~ rules prescribed by the State Board of Health;

7
8 SECTION 2162. Arkansas Code § 20-56-209(7), concerning misbranded
9 food, is amended to read as follows:

10 (7) If it purports to be or is represented as a food for which a
11 definition and standard of identity has been prescribed by rules or
12 regulations as provided by § 20-56-219 or by the Federal Food, Drug, and
13 Cosmetic Act, unless:

14 (A) It conforms to the definition and standard; and

15 (B) Its label bears the name of the food specified in the
16 definition and standard, and, insofar as may be required by rules or
17 regulations, the common names of optional ingredients other than spices,
18 flavoring, and coloring present in the food;

19
20 SECTION 2163. Arkansas Code § 20-56-209(8), concerning misbranded
21 food, is amended to read as follows:

22 (8) If it purports to be or is represented as:

23 (A) A food for which a standard of quality has been
24 prescribed by rules or regulations as provided in § 20-56-219 or by the
25 Federal Food, Drug, and Cosmetic Act and its quality falls below the
26 standard, unless its label bears, in such manner and form as the rules or
27 regulations specify, a statement that it falls below the standard; or

28 (B) A food for which a standard of fill of container has
29 been prescribed by rules or regulations as provided by § 20-56-219, and it
30 falls below the standard of fill of container applicable thereto unless its
31 label bears, in such manner and form as the rules or regulations specify, a
32 statement that it falls below the standard;

33
34 SECTION 2164. Arkansas Code § 20-56-209(9)(C), concerning misbranded
35 food, is amended to read as follows:

36 (C) However, to the extent that compliance with the

1 requirements of subdivision (9)(B) of this section is impractical or results
2 in deception or unfair competition, exemptions shall be established by
3 ~~regulations~~ rules promulgated by the board;

4
5 SECTION 2165. Arkansas Code § 20-56-209(10) and (11), concerning
6 misbranded food, are amended to read as follows:

7 (10) If it purports to be or is represented for special dietary
8 uses unless its label bears such information concerning its vitamin, mineral,
9 and other dietary properties as the board determines to be, and by
10 ~~regulations~~ rules prescribed as necessary in order to fully inform purchasers
11 as to its value for such uses;

12 (11) If it bears or contains any artificial flavoring,
13 artificial coloring, or chemical preservative unless it bears labeling
14 stating that fact, provided that to the extent that compliance with the
15 requirements of this subdivision (11) is impracticable, exemptions shall be
16 established by ~~regulations~~ rules promulgated by the board; and

17
18 SECTION 2166. Arkansas Code § 20-56-211(2)(B), concerning a misbranded
19 drug or device, is amended to read as follows:

20 (B) An accurate statement of the quantity of the contents
21 in terms of weight, measure, or numerical count. Reasonable variations shall
22 be permitted, and exemptions as to small packages shall be established, by
23 ~~regulations~~ rules prescribed by the State Board of Health;

24
25 SECTION 2167. Arkansas Code § 20-56-211(5)(B), concerning a misbranded
26 drug or device, is amended to read as follows:

27 (B) In case it is fabricated from two (2) or more
28 ingredients, the common or usual name of each active ingredient, including
29 the kind and quantity or proportion of any alcohol, and also including,
30 whether active or not, the name and quantity or proportion of any bromides,
31 ether, chloroform, acetanilid, acetophenetidin, amidopyrine, antipyrine,
32 atropine, hyoscine, hyoscyamine, arsenic, digitalis, glucosides, mercury,
33 ouabain, stophanthin, strychnine, thyroid, or any derivative or preparation
34 of any such substances contained therein. However, to the extent that
35 compliance with the requirements of this subdivision (5)(B) is impracticable,
36 exemptions shall be established by ~~regulations~~ rules promulgated by the

1 board;

2

3 SECTION 2168. Arkansas Code § 20-56-211(6)(B), concerning a misbranded
4 drug or device, is amended to read as follows:

5 (B) Such adequate warning against use in those
6 pathological conditions or by children where its use may be dangerous to
7 health, or against unsafe dosage or methods or duration of administration or
8 application, in such manner and form as are necessary for the protection of
9 users. However, where any requirement of subdivision (6)(A) of this section
10 as applied to any drug or device is not necessary for the protection of the
11 public health, the board shall promulgate ~~regulations~~ rules exempting the
12 drug or device from the requirements;

13

14 SECTION 2169. Arkansas Code § 20-56-211(8), concerning a misbranded
15 drug or device, is amended to read as follows:

16 (8) If it has been found by the board to be a drug liable to
17 deterioration, unless it is packaged in such form and manner and its label
18 bears a statement of such precautions as the board shall by ~~regulations~~ rule
19 require as necessary for the protection of public health. No such ~~regulations~~
20 rules shall be established for any drug recognized in an official compendium
21 until the board shall have informed the appropriate body charged with the
22 revision of the compendium of the need for the packaging or labeling
23 requirements and the body shall have failed within a reasonable time to
24 prescribe the requirements;

25

26 SECTION 2170. Arkansas Code § 20-56-213(2)(B), concerning a misbranded
27 cosmetic, is amended to read as follows:

28 (B) An accurate statement of the quantity of the contents
29 in terms of weight, measure, or numerical count, provided that reasonable
30 variations shall be permitted and exemptions as to small packages shall be
31 established by ~~regulations~~ rules prescribed by the State Board of Health;

32

33 SECTION 2171. Arkansas Code § 20-56-214(b)(2), concerning false or
34 misleading advertisement, is amended to read as follows:

35 (2) However, whenever the State Board of Health determines that
36 an advance in medical science has made any type of self-medication safe as to

1 any of the diseases named in subdivision (b)(1)(A) of this section, the board
2 shall by ~~regulation~~ rule authorize the advertisement of drugs having curative
3 or therapeutic effect for the disease, subject to such conditions and
4 restrictions as the board may deem necessary in the interests of public
5 health.

6
7 SECTION 2172. Arkansas Code § 20-56-215(10), concerning prohibited
8 acts under the Food, Drug, and Cosmetic Act, is amended to read as follows:

9 (10) Forging, counterfeiting, simulating, falsely representing
10 or, without proper authority, using any mark, stamp, tag, label, or other
11 identification device authorized or required by ~~regulations~~ rules promulgated
12 under the provisions of this subchapter.

13
14 SECTION 2173. Arkansas Code § 20-56-217(a), concerning contamination
15 with microorganisms under the Food, Drug, and Cosmetic Act, is amended to
16 read as follows:

17 (a) Whenever the State Board of Health finds after investigation that
18 the distribution in Arkansas of any class of food may, by reason of
19 contamination with microorganisms during manufacture, processing, or packing
20 thereof in any locality, be injurious to health and that the injurious nature
21 cannot be adequately determined after the articles have entered commerce, it
22 then, and in that case only, shall promulgate ~~regulations~~ rules providing for
23 the issuance of permits to manufacturers, processors, or packers of the class
24 of food in the locality. To these permits shall be attached such conditions
25 governing the manufacture, processing, or packing of the class of food for
26 such temporary period of time as may be necessary to protect the public
27 health. After the effective date of the ~~regulations~~ rules and during the
28 temporary period, no person shall introduce or deliver for introduction into
29 commerce any food manufactured, processed, or packed by any manufacturer,
30 processor, or packer unless the manufacturer, processor, or packer holds a
31 permit issued by the board as provided by the ~~regulations~~ rules.

32
33 SECTION 2174. Arkansas Code § 20-56-218(a) and (b), concerning the use
34 of poisonous or deleterious substances under the Food, Drug, and Cosmetic
35 Act, are amended to read as follows:

36 (a) Any poisonous or deleterious substance added to any food, except

1 where the substance is required in the production thereof or cannot be
2 avoided by good manufacturing practice, shall be deemed to be unsafe for
3 purposes of the application of § 20-56-208(2), but when the substance is so
4 required or cannot be so avoided, the State Board of Health shall promulgate
5 ~~regulations~~ rules limiting the quantity therein or thereon to such extent as
6 the board finds necessary for the protection of the public health. Any
7 quantity exceeding the limits so fixed shall also be deemed to be unsafe for
8 purposes of the application of § 20-56-208(2).

9 (b) While such a ~~regulation~~ rule is in effect limiting the quantity of
10 any substance in the case of any food, the food shall not, by reason of
11 bearing or containing any added amount of the substance not in excess of the
12 limit established by ~~regulation~~ rule, be considered to be adulterated within
13 the meaning of § 20-56-208(1).

14
15 SECTION 2175. Arkansas Code § 20-56-219 is amended to read as follows:
16 20-56-219. State Board of Health – Authority to regulate.

17 (a)(1) The authority to promulgate ~~regulations~~ rules for the efficient
18 enforcement of this subchapter is vested in the State Board of Health.

19 (2) The board is authorized to make the ~~regulations~~ rules
20 promulgated under this subchapter conform, insofar as practicable, with those
21 promulgated under the Federal Food, Drug, and Cosmetic Act.

22 (b)(1) Before promulgating any ~~regulations~~ rules contemplated by § 20-
23 56-209(10), § 20-56-211(4) and 20-56-209(6)-(8), § 20-56-214(b), § 20-56-
24 217, or subsection (c) of this section, the board shall give appropriate
25 notice of the proposal and of the time and place for a hearing.

26 (2) The ~~regulation~~ rule so promulgated shall become effective on
27 a date fixed by the board which shall not be prior to thirty (30) days after
28 its promulgation.

29 (3) The ~~regulation~~ rule may be amended or repealed in the same
30 manner as is provided for its adoption, except that, in the case of a
31 ~~regulation~~ rule amending or repealing a ~~regulation~~ rule, the board, to such
32 an extent as it deems necessary in order to prevent undue hardship, may
33 disregard the foregoing provisions regarding notice, hearing, or effective
34 date.

35 (c)(1) Whenever in the judgment of the board such action will promote
36 honesty and fair dealing in the interest of consumers, the board shall

1 promulgate ~~regulations~~ rules fixing and establishing for any food or class of
2 food a reasonable definition and standard of identity or reasonable standard
3 of quality or fill of container.

4 (2) In prescribing a definition and standard of identity for any
5 food or class of food in which optional ingredients are permitted, the board
6 shall, for the purpose of promoting honesty and fair dealing in the interest
7 of consumers, designate the optional ingredients which shall be named on the
8 label.

9 (3) The definitions and standards so promulgated shall conform
10 so far as practicable to the definitions and standards promulgated under
11 authority of the Federal Food, Drug, and Cosmetic Act.

12
13 SECTION 2176. Arkansas Code § 20-57-102(c) and (d), concerning the
14 salvage of food, are amended to read as follows:

15 (c) The State Board of Health is empowered to promulgate and enforce
16 reasonable ~~regulations~~ rules in order to assure that salvaged foods are safe
17 for human or animal consumption, as the case may be.

18 (d) It shall be the duty of the Division of Environmental Health
19 Protection of the Department of Health to administer the provisions of this
20 section and the ~~regulations~~ rules pursuant to it.

21
22 SECTION 2177. Arkansas Code § 20-57-102(f)(1), concerning the salvage
23 of food, is amended to read as follows:

24 (f)(1) A person who violates a provision of this section or a
25 ~~regulation~~ rule pursuant to it shall be punished by a fine of not less than
26 ten dollars (\$10.00) nor more than one hundred dollars (\$100) or shall be
27 sentenced to imprisonment for not more than thirty (30) days, or both fine
28 and imprisonment.

29
30 SECTION 2178. Arkansas Code § 20-57-102(g), concerning the salvage of
31 food, is amended to read as follows:

32 (g) Subject to the rules ~~and regulations~~ which may be implemented by
33 the Chief Fiscal Officer of the State, the disbursing officer for the
34 department is authorized to transfer all unexpended funds relative to the
35 food salvager's permit that pertain to fees collected, as certified by the
36 Chief Fiscal Officer of the State, to be carried forward and made available

1 for expenditures for the same purpose for any following fiscal year.

2
3 SECTION 2179. Arkansas Code § 20-57-204(c), concerning permits
4 required to operate a food service establishment, is amended to read as
5 follows:

6 (c) Any food service establishment may obtain a food service permit by
7 paying an annual permit fee of thirty-five dollars (\$35.00) to the department
8 and by meeting the minimum requirements established by the applicable rules
9 ~~and regulations.~~

10
11 SECTION 2180. Arkansas Code § 20-57-204(f), concerning permits
12 required to operate a food service establishment, is amended to read as
13 follows:

14 (f) Public school cafeterias shall be exempt from payment of the
15 permit fee but shall submit to inspection pursuant to the rules ~~and~~
16 ~~regulations~~ of the State Board of Health.

17
18 SECTION 2181. Arkansas Code § 20-57-205(b), concerning the disposition
19 of funds to the Division of Environmental Health Protection of the Department
20 of Health, is amended to read as follows:

21 (b) Subject to such rules ~~and regulations~~ as may be implemented by the
22 Chief Fiscal Officer of the State, the disbursing officer for the Department
23 of Health is authorized to transfer all unexpended funds relative to the food
24 service program that pertain to fees collected, as certified by the Chief
25 Fiscal Officer of the State, to be carried forward and made available for
26 expenditures for the same purpose for any following fiscal year.

27
28 SECTION 2182. Arkansas Code § 20-57-304 is amended to read as follows:
29 20-57-304. Penalty.

30 Any person who violates any of the provisions of this subchapter, or
31 the orders, or rules, ~~or regulations~~ promulgated by the Director of the
32 Department of Health under authority thereof, shall upon conviction be
33 subject to a fine for each and every offense in a sum not exceeding five
34 hundred dollars (\$500) or to imprisonment for not more than six (6) months,
35 or both fine and imprisonment.

36

1 SECTION 2183. Arkansas Code § 20-57-305(a)(1) and (2), concerning the
2 powers and duties of the State Board of Health and Director of the Department
3 of Health, are amended to read as follows:

4 (1) To make, amend, and rescind such rules ~~and regulations~~ as
5 may be necessary to carry out the provisions of this subchapter, including,
6 but without being limited to, such orders, and rules, ~~and regulations~~ as it
7 is specifically authorized and directed to make;

8 (2) From time to time to adopt such ~~regulations~~ rules changing
9 or adding to the required ingredients for flour or bread specified in §§ 20-
10 57-302, 20-57-303, and 20-57-306 as shall be necessary to conform to the
11 definitions and standard of identity of enriched flour and enriched bread
12 from time to time promulgated by the appropriate federal agency pursuant to
13 the Federal Food, Drug, and Cosmetic Act.

14
15 SECTION 2184. Arkansas Code § 20-57-305(b) and (c), concerning the
16 powers and duties of th State Board of Health and Director of the Department
17 of Health, are amended to read as follows:

18 (b) All orders, and rules, ~~and regulations~~ adopted by the board
19 pursuant to this subchapter shall be published in the manner prescribed in
20 subsection (c) of this section and, within the limits specified by this
21 subchapter, shall become effective upon such date as the Director of the
22 Department of Health shall fix.

23 (c) Whenever under this subchapter publication of any notice, order,
24 or rule, ~~or regulation~~ is required, the publication shall be made at least
25 three (3) times in ten (10) days in newspapers of general circulation in
26 three (3) different sections of the state.

27
28 SECTION 2185. Arkansas Code § 20-57-306(f)(1), concerning vitamins,
29 flour, and other ingredients, is amended to read as follows:

30 (f)(1) The terms of this section shall not apply to flour sold to
31 distributors, bakers, or other processors if the purchaser furnishes to the
32 seller a certificate in such form as the director shall by ~~regulation~~ rule
33 prescribe, certifying that the flour will be:

- 34 (A) Resold to a distributor, baker, or other processor;
35 (B) Used in the manufacture, mixing, or compounding of
36 flour, white bread, or rolls enriched to meet the requirements of this

1 subchapter; or

2 (C) Used in the manufacture of products other than flour,
3 white bread, or rolls.

4

5 SECTION 2186. Arkansas Code § 20-58-204(a), concerning penalties for
6 violations of the Arkansas Egg Marketing Act of 1969, is amended to read as
7 follows:

8 (a) Any person, firm, or corporation violating any of the provisions
9 of this subchapter or ~~regulations~~ rules of the Arkansas Livestock and Poultry
10 Commission shall be guilty of a violation and shall upon conviction:

11 (1) For the first offense, be fined not less than twenty-five
12 dollars (\$25.00) nor more than one hundred dollars (\$100);

13 (2) For the second offense, be fined not less than one hundred
14 dollars (\$100) nor more than two hundred fifty dollars (\$250); and

15 (3) For the third offense, be fined not less than two hundred
16 fifty dollars (\$250) nor more than five hundred dollars (\$500).

17

18 SECTION 2187. Arkansas Code § 20-58-214(a), concerning enforcement of
19 the Arkansas Egg Marketing Act of 1969, is amended to read as follows:

20 (a)(1) The Arkansas Livestock and Poultry Commission shall enforce the
21 provisions of this subchapter and is authorized to make and promulgate such
22 ~~regulations~~ rules as may be necessary thereto.

23 (2) The ~~regulations~~ rules shall be publicized and become
24 effective ninety (90) days after adoption.

25

26 SECTION 2188. Arkansas Code § 20-58-214(b)(2), concerning enforcement
27 of the Arkansas Egg Marketing Act of 1969, is amended to read as follows:

28 (2) If the inspection determines that the eggs in the container
29 do not conform to the grade as labeled on the exterior of the container, the
30 commission or its employees or agents are authorized to examine the invoices
31 and such other records as are needed to determine the cause and place of the
32 violation of the ~~regulation~~ rule of this subchapter.

33

34 SECTION 2189. Arkansas Code § 20-59-201(5), concerning the definition
35 of "miscellaneous products" under the laws governing milk and dairy products,
36 is amended to read as follows:

1 (5) Miscellaneous Products. Varieties, types, and kinds of
2 milk and dairy products which are not defined in this section shall be
3 manufactured and marketed under the standards of composition promulgated by
4 the Bureau of Standards of the United States Food and Drug Administration, or
5 may be promulgated by the Director of the Department of Health under
6 authority vested in him or her to make and promulgate rules ~~and regulations~~;

7
8 SECTION 2190. Arkansas Code § 20-59-202(4), concerning penalties under
9 the laws governing milk and dairy products, is amended to read as follows:

10 (4) Refuse or neglect to conform to the rules ~~and regulations~~ of
11 the Department of Health that have been published as provided in this
12 subchapter regarding the care or condition of any animal kept for dairy
13 purposes or for the sanitary conditions of any room, building, or place where
14 dairy products are kept either for storage or for the purpose of sale and
15 distribution; or

16
17 SECTION 2191. Arkansas Code § 20-59-204(b), concerning the State Board
18 of Health appointment of deputies, is amended to read as follows:

19 (b) The board is further authorized, when not inconsistent with this
20 subchapter, to formulate and prescribe such reasonable rules ~~and regulations~~
21 and define and establish standards for dairy products included in this
22 subchapter as may be deemed necessary to accomplish the purpose of this
23 subchapter.

24
25 SECTION 2192. Arkansas Code § 20-59-205(a)(15)(B), concerning the
26 right of review under the laws governing the manufacture and sale of milk and
27 dairy products, is amended to read as follows:

28 (B) Provided, that the board shall not change, correct,
29 adopt, or promulgate rules ~~or regulations~~ or other health code standards
30 pertaining to the dairy industry of Arkansas, as defined in this section,
31 until such changes have been reviewed by active Arkansas milk producers
32 marketing agents, herein referred to as the "agents", and by the Arkansas
33 Dairy Products Association, hereinafter referred to as the "association", in
34 regular or especially called meetings of the agents and the association, or
35 the governing bodies thereof. However, if meetings of the agents and the
36 association are not held within thirty (30) days after a written notice by

1 the board of intent to change, correct, adopt, or promulgate rules ~~and~~
2 ~~regulations~~, the review of the agents and the association shall be deemed
3 waived.

4
5 SECTION 2193. Arkansas Code § 20-59-205(a)(15)(D), concerning the
6 right of review under the laws governing the manufacture and sale of milk and
7 dairy products, is amended to read as follows:

8 (D) The Director of the Department of Health or the board
9 may change, correct, adopt, or promulgate rules ~~and regulations~~ pertaining to
10 the dairy industry of Arkansas in times of emergency or natural disaster
11 without notice to the agents and the association.

12
13 SECTION 2194. Arkansas Code § 20-59-213(a) and (b), concerning dairy
14 products from another state, are amended to read as follows:

15 (a) It is required that all dairy products as defined by § 20-59-
16 201(2) shipped into this state from another state shall meet the sanitary
17 standards, definitions, and requirements of Arkansas law and the rules ~~and~~
18 ~~regulations~~ promulgated by the State Board of Health.

19 (b) The board is authorized to establish acceptable reciprocal
20 inspection authorities, interstate and intrastate, to properly enforce and
21 administer this section in accordance with specifications and ~~regulations~~
22 rules adopted.

23
24 SECTION 2195. Arkansas Code § 20-59-246(b), concerning manufacturing
25 milk permits, is amended to read as follows:

26 (b) Any dairy may obtain a manufacturing milk permit by paying an
27 annual permit fee of twenty-five dollars (\$25.00) to the Department of Health
28 and by meeting the minimum requirements of the Rules ~~and Regulations~~
29 Pertaining to Milk for Manufacturing Purposes.

30
31 SECTION 2196. Arkansas Code § 20-59-247(b), concerning the disposition
32 of funds relative to manufactured milk, is amended to read as follows:

33 (b) Subject to such rules ~~and regulations~~ as may be implemented by the
34 Chief Fiscal Officer of the State, the disbursing officer for the Department
35 of Health is authorized to transfer all unexpended funds relative to
36 manufactured milk that pertain to fees collected, as certified by the Chief

1 Fiscal Officer of the State, to be carried forward and made available for
2 expenditures for the same purpose for any following fiscal year.

3
4 SECTION 2197. Arkansas Code § 20-59-301 is amended to read as follows:

5 20-59-301. Applicability.

6 Every person, firm, or corporation producing, manufacturing,
7 processing, freezing, or packaging mellorine or mellorine mix shall comply
8 with the same rules ~~and regulations~~ that govern the production and
9 manufacturing of ice cream and other manufactured milk products, as
10 promulgated by the State Board of Health.

11
12 SECTION 2198. Arkansas Code § 20-59-302(a), concerning penalties for
13 violation of the rules about producing, manufacturing, processing, freezing,
14 or packaging mellorine or mellorine mix, is amended to read as follows:

15 (a) Any person, firm, or corporation that violates any of the
16 provisions of this subchapter or any of the rules ~~and regulations~~ issued in
17 connection therewith or any officer, agent, or employee thereof who directs
18 or knowingly permits such a violation or who aids or assists such a violation
19 shall be guilty of a violation and upon conviction shall be subject to a fine
20 of not more than two hundred fifty dollars (\$250) and not less than fifty
21 dollars (\$50.00).

22
23 SECTION 2199. Arkansas Code § 20-59-303(a) and (b), concerning
24 enforcement by the State Board of Health, are amended to read as follows:

25 (a) The State Board of Health, through its constituted officers and
26 agents, is authorized and directed to administer and to supervise the
27 enforcement of this subchapter, to prescribe rules ~~and regulations~~ to carry
28 out its purpose, to provide for such periodic inspections and investigations
29 as it may deem necessary to disclose violations, to receive and provide for
30 the investigation of complaints and to provide for the institution and
31 prosecution of civil or criminal actions, or both.

32 (b) The provisions of this subchapter and the rules ~~and regulations~~
33 issued in connection therewith may be enforced by injunction in any court
34 having jurisdiction to grant injunctive relief. Adulterated or misbranded
35 articles illegally held or otherwise involved in a violation of this
36 subchapter or of the rules ~~and regulations~~ shall be subject to seizure and

1 disposition in accordance with an order of court.

2
3 SECTION 2200. Arkansas Code § 20-59-304(a), concerning production
4 requirements of mellorine and mellorine mix, is amended to read as follows:

5 (a) Any person, firm, or corporation that can and does comply with the
6 rules ~~and regulations~~ as promulgated by the State Board of Health and upon
7 the payment of the permit fee and the issuance of a permit shall be eligible
8 to produce, manufacture, process, freeze, and package mellorine and mellorine
9 mix.

10
11 SECTION 2201. Arkansas Code § 20-59-402(3), concerning the definition
12 of "grade 'A' milk and milk products" under the Advisory Committee to the
13 Arkansas Grade 'A' Milk Program Act of 1981, is amended to read as follows:

14 (3) "Grade 'A' milk and milk products" means milk and milk
15 products that are in compliance with the Grade "A" milk control laws and
16 ~~regulations~~ rules of the State of Arkansas;

17
18 SECTION 2202. Arkansas Code § 20-59-503(a), concerning the Grade "A"
19 Milk Program Advisory Committee under the Advisory Committee to the Arkansas
20 Grade 'A' Milk Program Act of 1981, is amended to read as follows:

21 (a) There is created the Grade "A" Milk Program Advisory Committee to
22 be composed of seven (7) members, to be selected as provided in this section.
23 The committee shall be advisory to the Grade "A" Milk and Milk Products
24 Inspection and Regulation Program for the purpose of recommending rules ~~and~~
25 ~~regulations~~ concerning Grade "A" milk and milk products and other health code
26 standards within the Grade "A" milk industry of the state.

27
28 SECTION 2203. Arkansas Code § 20-59-703 is amended to read as follows:

29 20-59-703. Rules ~~and regulations~~.

30 The Department of Health shall have the authority to promulgate such
31 rules ~~and regulations~~ as necessary to administer this subchapter.

32
33 SECTION 2204. Arkansas Code § 20-59-705(b), concerning the disposition
34 of funds in support of the Milk Laboratory Antibiotic Drug Testing Program,
35 is amended to read as follows:

36 (b) Subject to such rules ~~and regulations~~ as may be implemented by the

1 Chief Fiscal Officer of the State, the disbursing officer for the Department
2 of Health is hereby authorized to transfer all unexpended funds relative to
3 the program that pertain to fees collected, as certified by the Chief Fiscal
4 Officer of the State, to be carried forward and made available for the
5 expenditure for the same purpose for any following fiscal year.

6
7 SECTION 2205. Arkansas Code § 20-60-203(1)(B), concerning the
8 definition of "adulterated" under the Arkansas Meat and Meat Products
9 Inspection Act, is amended to read as follows:

10 (B) If it bears or contains any added poisonous or added
11 deleterious substance, unless the substance is permitted in its production or
12 unavoidable under good manufacturing practices as may be determined by rules
13 ~~and regulations~~ prescribed by the Director of the Department of Health.
14 However, any quantity of added substances exceeding the limit so fixed shall
15 also be deemed to constitute adulteration;

16
17 SECTION 2206. Arkansas Code § 20-60-203(16), concerning the definition
18 of "official inspection mark" under the Arkansas Meat and Meat Products
19 Inspection Act, is amended to read as follows:

20 (16) "Official inspection mark" means any symbol, formulated
21 pursuant to rules ~~and regulations~~ prescribed by the director, stating that an
22 article was inspected and passed;

23
24 SECTION 2207. Arkansas Code § 20-60-203(19)(A), concerning the
25 definition of "unwholesome" under the Arkansas Meat and Meat Products
26 Inspection Act, is amended to read as follows:

27 (A) Unsound, injurious to health, containing any
28 biological residue not permitted by rules ~~or regulations~~ prescribed by the
29 director, or otherwise rendered unfit for human food;

30
31 SECTION 2208. The introductory language of Arkansas Code § 20-60-
32 204(a)(1), concerning exceptions under the Arkansas Meat and Meat Products
33 Inspection Act, is amended to read as follows:

34 (a)(1) The Director of the Department of Health shall, by ~~regulation~~
35 rule and under such conditions as to labeling, sanitary standards, practices,
36 and procedures as he or she may prescribe, exempt from specific provisions of

1 this subchapter:

2

3 SECTION 2209. Arkansas Code § 20-60-204(c)(3)(A), concerning
4 exceptions under the Arkansas Meat and Meat Products Inspection Act, is
5 amended to read as follows:

6 (A) The custom establishment must comply with the
7 ~~regulations~~ rules which the director is authorized to promulgate to assure
8 that any carcasses, parts thereof, meat, or meat food products prepared or
9 any containers or packages containing uninspected, exempted custom products
10 are separated at all times from inspected carcasses, parts thereof, or meat,
11 or meat food products prepared for sale;

12

13 SECTION 2210. Arkansas Code § 20-60-206(a), concerning notice of rules
14 related to the Arkansas Meat and Meat Products Inspection Act, is amended to
15 read as follows:

16 (a)(1) The Director of the Department of Health shall promulgate such
17 rules ~~and regulations~~ and appoint such veterinarians and other qualified
18 personnel as are necessary to carry out the purposes or provisions of this
19 subchapter. The rules ~~and regulations~~ shall be in conformity with the rules
20 and regulations under the Federal Meat Inspection Act as now in effect and
21 with subsequent amendments thereof unless they are considered by the director
22 as not to be in accord with the objectives of this subchapter.

23 (2) Notice of proposed rules ~~and regulations~~ shall be given all
24 establishments licensed under this subchapter. A hearing shall be called by
25 the director at which proponents and opponents of the proposed rules ~~and~~
26 ~~regulations~~ shall be given the opportunity to present arguments supporting
27 their positions. The time, place, and procedure for the hearing shall be
28 determined by the director. No proposed rules ~~and regulations~~ shall become
29 effective until after the hearing.

30

31 SECTION 2211. Arkansas Code § 20-60-209(a), concerning inspection and
32 sanitary practices required under the Arkansas Meat and Meat Products
33 Inspection Act, is amended to read as follows:

34 (a) Each official establishment at which livestock are slaughtered or
35 livestock carcasses or parts thereof or meat food products are processed for
36 intrastate commerce shall have the premises, facilities, and equipment

1 inspected and shall be operated in accordance with such sanitary practices as
2 are required by rules ~~or regulations~~ prescribed by the Director of the
3 Department of Health for the purpose of preventing the entry into and
4 movement in commerce of carcasses, parts thereof, and meat food products
5 which are unwholesome or adulterated.

6
7 SECTION 2212. Arkansas Code § 20-60-211(b)(2), concerning withdrawal
8 and denial of inspection under the Arkansas Meat and Meat Products Inspection
9 Act, is amended to read as follows:

10 (2) The hearing shall be held after notice to the establishment
11 in such manner as the director shall determine by his or her rules ~~and~~
12 ~~regulations~~.

13
14 SECTION 2213. Arkansas Code § 20-60-213(a)(4), concerning labeling and
15 marking under the Arkansas Meat and Meat Products Inspection Act, is amended
16 to read as follows:

17 (4) The Director of the Department of Health may by ~~rules or~~
18 ~~regulations~~ rule require additional marks or label information to appear on
19 livestock carcasses or parts thereof or meat food products when they leave
20 the official establishments or at the time of their transportation or sale in
21 this state. He or she may permit reasonable variations and grant exemptions
22 from the marking and labeling requirements of this section in any number not
23 in conflict with the purposes of this subchapter.

24
25 SECTION 2214. Arkansas Code § 20-60-214(3), concerning prohibited acts
26 under the Arkansas Meat and Meat Products Inspection Act, is amended to read
27 as follows:

28 (3) Falsely making or issuing, altering, forging, simulating,
29 counterfeiting, or using without proper authority any official inspection
30 certificate, memorandum, mark, or other identification, or device for making
31 a mark or identification, used in connection with inspection under this
32 subchapter; or causing, procuring, aiding, assisting in, or being a party to
33 false making, issuing, altering, forging, simulating, counterfeiting, or
34 unauthorized use; or knowingly possessing, without promptly notifying the
35 Director of the Department of Health or his or her representative, uttering,
36 publishing, or using as true, or causing to be uttered, published, or used as

1 true, any falsely made or issued, altered, forged, simulated, or
2 counterfeited official inspection certificate, memorandum, mark, or other
3 identification, or device for making a mark or identification; or
4 representing that any article has been officially inspected under the
5 authority of this subchapter when the article has in fact not been so
6 inspected; or knowingly making any false representation in any certificate
7 prescribed by the director in rules ~~or regulations~~ under this subchapter or
8 any form resembling the certificate;

9
10 SECTION 2215. Arkansas Code § 20-60-214(10), concerning prohibited
11 acts under the Arkansas Meat and Meat Products Inspection Act, is amended to
12 read as follows:

13 (10) Delivering, receiving, transporting, selling, or offering
14 for sale or transportation in intrastate commerce for human consumption any
15 livestock carcass or part thereof or meat food product which has been
16 processed in violation of any requirements under this subchapter except as
17 may be authorized by and pursuant to rules ~~and regulations~~ prescribed by the
18 director;

19
20 SECTION 2216. Arkansas Code § 20-60-215(a), concerning records under
21 the Arkansas Meat and Meat Products Inspection Act, is amended to read as
22 follows:

23 (a) For the purpose of enforcing the provisions of this subchapter,
24 persons engaged in this state in the business of processing for intrastate
25 commerce or transporting, shipping, or receiving in commerce livestock
26 slaughtered for human consumption or meat or meat food products, or holding
27 articles so received, shall maintain the records as the Director of the
28 Department of Health by ~~regulation~~ rule may require, showing, to the extent
29 that they are concerned therewith, the receipt, delivery, sale, movement, or
30 disposition of the articles and shall, upon the request of an authorized
31 representative of the director, permit him or her at reasonable times to have
32 access to and to copy all the records.

33
34 SECTION 2217. Arkansas Code § 20-60-303 is amended to read as follows:

35 20-60-303. Regulatory authority of the Director of the Department of
36 Health.

1 The Director of the Department of Health shall promulgate such rules
2 ~~and regulations~~ as are necessary to carry out the purposes and provisions of
3 this subchapter.

4
5 SECTION 2218. Arkansas Code § 20-61-101(a)(2), concerning the
6 requirements for selling foreign fish, is amended to read as follows:

7 (2) The fish has been packaged and processed under sanitary
8 conditions equal to the standards required by the laws and ~~regulations~~ rules
9 of this state for fish processing plants.

10
11 SECTION 2219. Arkansas Code § 20-61-101(b)(3)(B), concerning the
12 requirements for selling foreign fish, is amended to read as follows:

13 (B) The director is authorized to promulgate rules ~~and~~
14 ~~regulations~~ necessary to enforce subsection (a) and subdivisions (b)(1) and
15 (2) of this section.

16
17 SECTION 2220. Arkansas Code § 20-61-101(b)(4), concerning the
18 requirements for selling foreign fish, is amended to read as follows:

19 (4) In addition, all suppliers of any fresh, cold storage, or
20 frozen fish shall furnish to any distributor or retailer to which the product
21 is sold in this state proof that the fish has been packaged and processed
22 under sanitary conditions equal to the sanitary conditions required of fish
23 processing plants in this state. The proof may be upon certification by the
24 Department of Health or certification by the United States Food and Drug
25 Administration or other appropriate federal agency that the processing plant
26 in which the fish was packaged or processed meets sanitary conditions within
27 at least the minimum requirements of the laws and ~~regulations~~ rules of this
28 state for fish processing plants, or proof may be upon the certification of
29 the supplier that the fish packaged or processed outside this state or in a
30 foreign country was packaged or processed in a fish processing plant that
31 meets at least the minimum requirements of the laws and ~~regulations~~ rules of
32 this state for sanitary conditions for fish processing plants.

33
34 SECTION 2221. Arkansas Code § 20-61-202(1), concerning the definition
35 of "capable of use as human food" under the Arkansas Catfish Marketing Act of
36 1975, is amended to read as follows:

1 (1) "Capable of use as human food" shall mean and shall apply to
2 any catfish, catfish-like species, or part or product of catfish or a
3 catfish-like species unless it is denatured or otherwise identified as
4 required by ~~regulations~~ rules prescribed by the Director of the Arkansas
5 Bureau of Standards to deter its use as human food or unless it is naturally
6 inedible by humans;

7
8 SECTION 2222. Arkansas Code § 20-61-203(d)(1), concerning penalties
9 and injunctions under the Arkansas Catfish Marketing Act of 1975, is amended
10 to read as follows:

11 (d)(1) The director is authorized to apply for and the court to grant
12 a temporary or permanent injunction restraining any person from violating or
13 continuing to violate any of the provisions of this subchapter or any rule ~~or~~
14 ~~regulation~~ promulgated under this subchapter, notwithstanding the existence
15 of other remedies at law.

16
17 SECTION 2223. Arkansas Code § 20-61-205 is amended to read as follows:

18 20-61-205. Rules ~~and regulations~~.

19 (a) The Director of the Arkansas Bureau of Standards is authorized to
20 promulgate such rules ~~and regulations~~ as may be necessary for the efficient
21 enforcement of this subchapter.

22 (b)(1) Before the issuance, amendment, or repeal of any rule ~~or~~
23 ~~regulation~~ authorized by this subchapter, the director shall publish the
24 proposed ~~regulation~~ rule, amendment, or notice to repeal an existing
25 ~~regulation~~ rule in a manner reasonably calculated to give interested parties
26 adequate notice and shall afford all interested persons an opportunity to
27 present their views thereon, orally or in writing, within a reasonable period
28 of time.

29 (2) After consideration of all views presented by interested
30 persons, the director shall take appropriate action to issue the proposed
31 rules ~~or regulations~~ or to amend or repeal an existing rule ~~or regulation~~.

32
33 SECTION 2224. Arkansas Code § 20-61-301(d)(1), concerning the penalty
34 for violations of the laws addressing catfish identification by restaurants,
35 is amended to read as follows:

36 (d)(1) The director is authorized to apply for and the court is

1 authorized to grant a temporary or permanent injunction restraining any
2 person from violating or continuing to violate any of the provisions of this
3 subchapter or any rule ~~or regulation~~ promulgated under this subchapter,
4 notwithstanding the existence of other remedies at law.

5
6 SECTION 2225. Arkansas Code § 20-61-304 is amended to read as follows:

7 20-61-304. Rules ~~and regulations~~.

8 The Director of the Arkansas Bureau of Standards is authorized to
9 promulgate such rules ~~and regulations~~ as may be necessary for the efficient
10 enforcement of this subchapter.

11
12 SECTION 2226. Arkansas Code § 20-64-302(3)(B)(iii), concerning the
13 definition of "depressant or stimulant drug" under the Arkansas Drug Abuse
14 Control Act, is amended to read as follows:

15 (iii) Any substance designated by regulations
16 promulgated under the Federal Food Drug, and Cosmetic Act or by rule
17 promulgated by the board as habit-forming because of its stimulant effect on
18 the central nervous system. In formulating these ~~regulations~~ rules, the board
19 shall take into consideration the regulations promulgated from time to time
20 under the Federal Food, Drug, and Cosmetic Act and shall amend the
21 ~~regulations~~ rules so as to keep them in harmony with the definitions
22 prescribed by the Federal Food, Drug, and Cosmetic Act.

23
24 SECTION 2227. Arkansas Code § 20-64-302(3)(C), concerning the
25 definition of "depressant or stimulant drug" under the Arkansas Drug Abuse
26 Control Act, is amended to read as follows:

27 (C) Any drug which contains any quantity of a substance
28 designated by regulations promulgated under the Federal Food, Drug, and
29 Cosmetic Act or by rule promulgated by the board as having a potential for
30 abuse because of its depressant or stimulant effect on the central nervous
31 system or its hallucinogenic effect, provided that the board in formulating
32 its ~~regulations~~ rules shall take into consideration all regulations
33 promulgated pursuant to the Federal Food, Drug, and Cosmetic Act and shall
34 amend its ~~regulations~~ rules so as to keep them in harmony with the
35 regulations prescribed by the Federal Food, Drug, and Cosmetic Act;

36

1 SECTION 2228. Arkansas Code § 20-64-317 is amended to read as follows:
2 20-64-317. Rules ~~and regulations~~.

3 (a) The authority to promulgate rules ~~and regulations~~ for the
4 efficient enforcement of this subchapter is vested in the State Board of
5 Health.

6 (b) Before the rules ~~or regulations~~ or amendments thereto shall become
7 effective, the board shall publish notice two (2) times weekly for two (2)
8 consecutive weeks in a newspaper of general circulation in this state,
9 setting forth in the newspaper notice a concise summary of the proposed rule,
10 ~~regulation~~, or amendment thereto and setting forth, in addition, the time and
11 place at which open public hearings are to be held on the rules ~~and~~
12 ~~regulations~~.

13 (c) The hearing shall be held not earlier than ten (10) days nor later
14 than fifteen (15) days following the last published notice thereon.

15 (d) The board is authorized to make the ~~regulations~~ rules promulgated
16 under this subchapter conform, insofar as practicable, with those regulations
17 promulgated under the Federal Food, Drug, and Cosmetic Act.

18
19 SECTION 2229. Arkansas Code § 20-64-507 is amended to read as follows:
20 20-64-507. ~~Regulations~~ Rules.

21 (a) The Arkansas State Board of Pharmacy shall adopt ~~regulations~~ rules
22 for the wholesale distribution of prescription drugs which promote the public
23 health and welfare and which comply with the minimum standards, terms, and
24 conditions of the Prescription Drug Marketing Act and federal regulations,
25 including without limitations 21 C.F.R. § 205, for licensing by state
26 authorities of persons who engage in the wholesale distribution in interstate
27 commerce of prescription drugs. The ~~regulations~~ rules shall include without
28 limitation:

29 (1) Minimum information from each wholesale distributor required
30 for licensing and renewal of licenses;

31 (2) Minimum qualifications of persons who engage in the
32 wholesale distribution of prescription drugs;

33 (3) Appropriate education or experience, or both, of persons
34 employed in wholesale distribution of prescription drugs who assume
35 responsibility for positions related to compliance with state licensing
36 requirements;

1 (4) Minimum requirements for the storage and handling of
2 prescription drugs; and

3 (5) Minimum requirements for the establishment and maintenance
4 of prescription drug distribution records.

5 (b) In the event that this subchapter or ~~regulations~~ rules promulgated
6 under this subchapter conflict with the federal Prescription Drug Marketing
7 Act or federal regulations, the federal Prescription Drug Marketing Act or
8 federal regulations shall control.

9 (c) The board shall appoint an advisory committee composed of seven
10 (7) members, one (1) of whom shall be a representative of a pharmacy but who
11 shall not be a member of the board, three (3) of whom shall be
12 representatives of wholesale drug distributors, and three (3) of whom shall
13 be representatives of drug manufacturers. The committee shall review and make
14 recommendations to the board on the merit of all rules ~~and regulations~~
15 dealing with pharmacy distributors, wholesale drug distributors, and drug
16 manufacturers which are proposed by the board.

17
18 SECTION 2230. Arkansas Code § 20-64-508(1) and (2), concerning the
19 revocation or suspension of licenses by the Arkansas State Board of Pharmacy,
20 are amended to read as follows:

21 (1) Violation of any federal, state, or local law, rule, or
22 regulation relating to drugs;

23 (2) Violation of any provisions of this subchapter or any
24 ~~regulation~~ rule promulgated hereunder; or

25
26 SECTION 2231. Arkansas Code § 20-64-602(b)(14), concerning the powers
27 and duties of the Division of Aging, Adult, and Behavioral Health Services of
28 the Department of Human Services for alcohol and drug abuse prevention, is
29 amended to read as follows:

30 (14) Specify uniform methods for keeping statistical information
31 on all individuals receiving services related to the use or misuse of alcohol
32 and drugs and also develop and maintain a centralized data collection and
33 dissemination system for alcohol and drug abuse programs and activities
34 consistent with federal and state statutes, rules, and regulations;

35
36 SECTION 2232. Arkansas Code § 20-64-602(b)(19), concerning the powers

1 and duties of the Division of Aging, Adult, and Behavioral Health Services of
2 the Department of Human Services for alcohol and drug abuse prevention, is
3 amended to read as follows:

4 (19) Develop and promulgate standards, and rules, ~~and~~
5 ~~regulations~~ for accrediting, certifying, and licensing alcohol and drug abuse
6 prevention, treatment, and rehabilitation programs and facilities within the
7 state, under the supervision and direction of the director, provided that the
8 standards, and rules, ~~and regulations~~ shall not supersede standards, and
9 rules, ~~and regulations~~ promulgated by other state agencies for programs or
10 facilities whose primary mission is not alcohol and drug abuse prevention,
11 treatment, and rehabilitation;

12
13 SECTION 2233. Arkansas Code § 20-64-602(b)(22), concerning the powers
14 and duties of the Division of Aging, Adult, and Behavioral Health Services of
15 the Department of Human Services for alcohol and drug abuse prevention, is
16 amended to read as follows:

17 (22) Conduct annual site visits to all state and federally
18 funded alcohol and drug abuse programs and facilities to determine their
19 compliance with the standards, and rules, ~~and regulations~~ for accrediting,
20 certifying, and licensing as set forth in subdivision (b)(19) of this
21 section;

22
23 SECTION 2234. Arkansas Code § 20-64-805(b)(2), concerning inspections
24 by the Division of Aging, Adult, and Behavioral Health Services of the
25 Department of Human Services of facilities or programs for alcohol and other
26 drug abuse, is amended to read as follows:

27 (2) Establish ongoing mechanisms, guidelines, and ~~regulations~~
28 rules for review and refinement of the treatment programs offered in the
29 receiving facilities or programs for alcohol and other drug abuse throughout
30 this state.

31
32 SECTION 2235. Arkansas Code § 20-64-812(a)(3)(B), concerning absence
33 from a treatment facility or program, is amended to read as follows:

34 (B) Statements made by the treating staff to the
35 prosecuting attorney shall be treated as confidential, and the prosecuting
36 attorney shall remain subject to the confidentiality requirements as set

1 forth in state and federal law, rules, and regulations.

2
3 SECTION 2236. Arkansas Code § 20-64-907(b), concerning reporting
4 requirements of alcohol and drug abuse treatment programs, is amended to read
5 as follows:

6 (b) The division shall promulgate ~~regulations~~ rules and prescribe
7 forms for the implementation of this section.

8
9 SECTION 2237. Arkansas Code § 20-76-201(2), concerning the powers and
10 duties of the Department of Human Services, is amended to read as follows:

11 (2) Administer or supervise all child welfare activities in
12 accordance with the rules ~~and regulations~~ of the department, including:

13 (A) The licensing and supervision of private and public
14 child care agencies and institutions;

15 (B) The care of dependent, neglected, and delinquent
16 children and children with mental or physical disabilities in foster family
17 homes or in institutions; and

18 (C) The care and supervision of children placed for
19 adoption;

20
21 SECTION 2238. Arkansas Code § 20-76-201(4), concerning the powers and
22 duties of the Department of Human Services, is amended to read as follows:

23 (4) Administer and make effective the rules ~~and regulations~~
24 governing personnel administration, including the preparation and
25 administration of classification and compensation plans and the method of
26 selection for positions in the department:

27 (A) Develop performance standards and bonus awards for all
28 positions in the program focused on achieving the outcomes; and

29 (B) Remove or transfer employees from the program to other
30 responsibilities within the department if they do not meet performance
31 standards;

32
33 SECTION 2239. Arkansas Code § 20-76-201(12) and (13), concerning the
34 powers and duties of the Department of Human Services, are amended to read as
35 follows:

36 (12) Make rules ~~and regulations~~ and take actions as are

1 necessary or desirable to carry out the provisions of this chapter and that
2 are not inconsistent therewith;

3 (13) Solicit participation of private organizations, nonprofit
4 organizations, charitable organizations, and institutions of education in the
5 delivery of services and in the enactment and revision of rules ~~and~~
6 ~~regulations~~;

7
8 SECTION 2240. Arkansas Code § 20-76-204 is amended to read as follows:
9 20-76-204. County offices – Powers and duties.

10 (a) The appropriate division of the Department of Human Services shall
11 have authority to receive, disburse, and account for funds from the division,
12 county, state, or any other source for purposes and plans approved by the
13 division in accordance with the rules ~~and regulations~~ established by the
14 division.

15 (b) The appropriate division is empowered to receive and disburse
16 funds received from the department for general relief purposes. The funds
17 shall be spent and accounted for by the county offices in accordance with the
18 rules, ~~regulations~~, and policies of the department pertaining to the granting
19 of assistance and relief.

20 (c) The appropriate division is authorized to establish a county
21 welfare fund from which fund the county offices are authorized to make such
22 disbursements and expenditures for general relief as may be necessary to
23 carry out the purposes of this act and in accordance with the rules ~~and~~
24 ~~regulations~~ of the Department of Human Services.

25
26 SECTION 2241. Arkansas Code § 20-76-207(d), concerning political
27 activity of an officer or employee of the Department of Human Services, is
28 amended to read as follows:

29 (d) Any officer or employee of the division or of a county office
30 violating this provision shall be subject to discharge or suspension or such
31 other disciplinary measures as may be provided by the rules ~~and regulations~~
32 of the division.

33
34 SECTION 2242. Arkansas Code § 20-76-212 is amended to read as follows:
35 20-76-212. Reimbursement rate to providers – Arkansas Medicaid
36 program.

1 Notwithstanding any other provision in federal law or departmental
2 commitment which may exist to the contrary, the Department of Human Services
3 shall not increase any reimbursement rate to any provider or provider groups
4 supported in whole or in part by funds administered by the Department of
5 Human Services, nor shall it adopt any other rule, ~~regulation~~, or amendment
6 to the Arkansas Medicaid Program that would result in an obligation of the
7 general revenues of the state without first seeking and receiving the
8 approval of the Governor and the Chief Fiscal Officer of the State.

9
10 SECTION 2243. The introductory language of Arkansas Code § 20-76-
11 401(c), concerning eligibility for the Transitional Employment Assistance
12 Program, is amended to read as follows:

13 (c) The Department of Human Services shall promulgate ~~regulations~~
14 rules to determine resource eligibility and benefit levels for participating
15 families. The ~~regulations~~ rules shall be subject to review and recommendation
16 by the Arkansas Workforce Development Board and shall include, but not be
17 limited to, the following categories of income and resource disregards:

18
19 SECTION 2244. Arkansas Code § 20-76-402(f)(2) and (3), concerning
20 approved work activities for transitional employment assistance recipients,
21 are amended to read as follows:

22 (2) An individual required to care for a recipient child until
23 the child reaches the maximum age specified by ~~regulation~~ rule, not to exceed
24 twelve (12) months of age;

25 (3) A parent or caregiver with a disability, based upon criteria
26 set forth in ~~regulations~~ rules;

27
28 SECTION 2245. Arkansas Code § 20-76-402(f)(5), concerning approved
29 work activities for transitional employment assistance recipients, is amended
30 to read as follows:

31 (5) A parent or caregiver who is caring for a child relative
32 with a disability or an adult relative with a disability, based upon criteria
33 set forth in ~~regulations~~ rules;

34
35 SECTION 2246. Arkansas Code § 20-76-404(a)(3), concerning the duration
36 of assistance and extended support services, is amended to read as follows:

1 (3) The Department of Workforce Services may by ~~regulation~~ rule
2 establish other limitations on the receipt of financial assistance not
3 inconsistent with state or federal law.
4

5 SECTION 2247. Arkansas Code § 20-76-404(c)(5) and (6), concerning the
6 duration of assistance and extended support services, are amended to read as
7 follows:

8 (5) A parent or caregiver who is caring for a disabled child
9 relative or disabled adult relative, based upon criteria set forth in
10 Department of Workforce Services ~~regulations~~ rules;

11 (6) A disabled parent or caregiver, based upon criteria set
12 forth in Department of Workforce Services ~~regulations~~ rules;

13
14 SECTION 2248. Arkansas Code § 20-76-404(c)(10), concerning the
15 duration of assistance and extended support services, is amended to read as
16 follows:

17 (10) Individuals participating in education and training
18 activities who have reached the end of their twenty-four-month cumulative
19 limit on financial assistance, have complied with all transitional employment
20 assistance ~~regulations~~ rules, are making satisfactory academic progress as
21 determined by the academic institution or training program in which the
22 individual is currently enrolled, and are expected to complete the
23 requirements for the education or training program within a reasonable period
24 of time as defined in ~~regulations~~ rules issued by the Department of Workforce
25 Services.
26

27 SECTION 2249. Arkansas Code § 20-76-405(a), concerning diversion from
28 employment assistance, is amended to read as follows:

29 (a) When an applicant applies for employment assistance, the
30 Department of Human Services shall determine whether the applicant is
31 eligible to be diverted from receiving employment assistance. That
32 determination shall be based on an assessment conducted in conformity with
33 ~~regulations~~ rules promulgated by the department.
34

35 SECTION 2250. Arkansas Code § 20-76-419(b)(1), concerning assistance
36 grants to blind persons, is amended to read as follows:

1 (1) Promulgate rules ~~and regulations~~, in terms of ophthalmic
2 measurements, to determine the amount of visual acuity which an applicant may
3 have and still be eligible for assistance grants under this act;
4

5 SECTION 2251. Arkansas Code § 20-76-419(e), concerning assistance
6 grants to blind persons, is amended to read as follows:

7 (e) On the basis of the findings of the ophthalmologist's examination
8 as provided for in this act, supplementary services may be provided by the
9 division to any applicant or recipient who is in need of treatment either to
10 prevent blindness or to restore his or her eyesight whether or not he or she
11 is blind as defined in this act or rules ~~and regulations~~ of the division, if
12 he or she is otherwise qualified for assistance grants under this act. The
13 supplementary services may include necessary traveling and other expenses to
14 receive treatment from a hospital or clinic designated by the division.
15

16 SECTION 2252. Arkansas Code § 20-76-431(b), concerning the transfer of
17 property prohibited during the continuance of assistance, is amended to read
18 as follows:

19 (b) To overcome the presumption of fraud, an immediate investigation
20 will be made to determine whether the property was transferred within the
21 rules ~~and regulations~~ of the division. The fair market value of the
22 transferred property shall be considered as available toward meeting the
23 needs of the recipient.
24

25 SECTION 2253. Arkansas Code § 20-76-433(a)(1)(B), concerning
26 confidentiality of records of persons participating in programs administered
27 by the Department of Human Services, is amended to read as follows:

28 (B) The rulemaking power of the department shall include
29 the power to establish and enforce reasonable rules ~~and regulations~~ governing
30 the custody, use, and preservation of the records, papers, files, and
31 departmental communications.
32

33 SECTION 2254. Arkansas Code § 20-76-433(b), concerning confidentiality
34 of records of persons participating in programs administered by the
35 Department of Human Services, is amended to read as follows:

36 (b) Except for purposes directly connected with the administration of

1 public assistance and in accordance with the rules ~~and regulations~~ of the
2 department, it shall be unlawful for any person or persons to solicit,
3 disclose, receive, make use of, authorize, knowingly permit, participate in,
4 or acquiesce in the use of any list of or names of or any information
5 concerning persons applying for or receiving assistance directly or
6 indirectly derived from the records, papers, files, or communications of the
7 department or acquired in the course of the performance of official duties.

8
9 SECTION 2255. Arkansas Code § 20-76-439(f), concerning self-
10 sufficiency assessments, personal responsibility agreements, and supportive
11 services, is amended to read as follows:

12 (f) The department may develop and promulgate ~~regulations~~ rules
13 requiring program applicants who have been determined to be job-ready to
14 engage in job search activities while the application is being processed.

15
16 SECTION 2256. Arkansas Code § 20-77-102(c), concerning the
17 establishment of a program for long-term care facility care, is amended to
18 read as follows:

19 (c)(1) However, the deputy director of the appropriate division of the
20 department shall, in establishing the level of payment for services and
21 benefits for long-term care facility care to be provided under the provisions
22 of this section, promulgate appropriate rules ~~and regulations~~ to limit the
23 cost of services to the State of Arkansas to funds available or estimated to
24 be available to the appropriate division for that purpose during each fiscal
25 year.

26 (2) The ~~regulations~~ rules promulgated by the deputy director
27 shall provide that all persons eligible within each class of eligibility
28 shall receive equal consideration for benefits.

29 (3) The deputy director of the appropriate division of the
30 department is authorized to promulgate such additional rules ~~and regulations~~
31 as deemed to be necessary to prevent abuse of benefits under this section,
32 yet make available to the residents of this state who are eligible the full
33 benefits of this section within the limitation of funds available therefor.

34
35 SECTION 2257. Arkansas Code § 20-77-106(c), concerning the medical
36 services program for Medicaid-eligible patients of Arkansas Children's

1 Hospital, is amended to read as follows:

2 (c) The Chief Fiscal Officer of the State shall make rules ~~and~~
3 ~~regulations~~ for the transfer of state funds appropriated for the Arkansas
4 Children's Hospital in order to reimburse the account for expenditures made
5 by the appropriate division of the department in accordance with agreements
6 made between the Arkansas Children's Hospital and the appropriate division of
7 the department.

8

9 SECTION 2258. Arkansas Code § 20-77-107(a)(2), concerning the program
10 for indigent medical care, is amended to read as follows:

11 (2) However, eligibility ~~regulations~~ rules for the ARKids First
12 Program Act, § 20-77-1101 et seq., shall not include an assets or a resource
13 test for children or families of children eighteen (18) years of age or
14 younger.

15

16 SECTION 2259. Arkansas Code § 20-77-107(c), concerning the program for
17 indigent medical care, is amended to read as follows:

18 (c) The director may enter into agreements with private or public
19 entities to assist in the enforcement of rules ~~and regulations~~ of an indigent
20 medical program, including:

21 (1) Utilization review; and

22 (2) Professional review of providers participating in the
23 program.

24

25 SECTION 2260. Arkansas Code § 20-77-107(d)(1), concerning the program
26 for indigent medical care, is amended to read as follows:

27 (d)(1) The director shall ensure that any entity with whom the
28 department contracts to assist in the enforcement of rules ~~and regulations~~ of
29 an indigent medical program will fulfill its duties in accordance with state
30 and federal law, rules, and regulations.

31

32 SECTION 2261. Arkansas Code § 20-77-107(f)(1), concerning the program
33 for indigent medical care, is amended to read as follows:

34 (1) The party conducting any professional reviews of providers
35 participating in the program shall be knowledgeable in the specific areas of
36 law, rules, and regulations being enforced;

1
2 SECTION 2262. Arkansas Code § 20-77-108(c), concerning the furnishing
3 of an annual audit by nonprofit Medicaid providers, is amended to read as
4 follows:

5 (c) The department is specifically authorized to promulgate
6 ~~regulations~~ rules establishing subrecipient and provider audit requirements
7 for all programs funded through the department.

8
9 SECTION 2263. Arkansas Code § 20-77-110 is amended to read as follows:
10 20-77-110. Increase in reimbursement rate.

11 Notwithstanding any other provision in federal law or departmental
12 commitment which may exist to the contrary, the Department of Human Services
13 shall not increase any reimbursement rate to any provider or provider groups
14 supported in whole or in part by funds administered by the department, nor
15 shall it adopt any other rule, ~~regulation~~, or amendment to the Arkansas
16 Medicaid Program that would result in an obligation of the general revenues
17 of the state without first seeking and receiving the approval of the Governor
18 and the Chief Fiscal Officer of the State.

19
20 SECTION 2264. Arkansas Code § 20-77-121(d)(2)(A)(i), concerning
21 adverse decisions by the Department of Human Services for a claim for medical
22 assistance, is amended to read as follows:

23 (i) The specific rules or regulations that support
24 the adverse action; or

25
26 SECTION 2265. Arkansas Code § 20-77-121(d)(2)(C), concerning adverse
27 decisions by the Department of Human Services for a claim for medical
28 assistance, is amended to read as follows:

29 (C) The department and others acting on behalf of the
30 department may not cite or rely on policies that are inconsistent with
31 federal or state laws, rules, and regulations or that were not properly
32 promulgated; and

33
34 SECTION 2266. Arkansas Code § 20-77-709(b)(2), concerning the powers
35 of cotrustees of the Special Needs Trust Revolving Fund, is amended to read
36 as follows:

1 (2) Adopt rules ~~and regulations~~ to implement the provisions of
2 this subchapter;

3
4 SECTION 2267. Arkansas Code § 20-77-1303(9), concerning the definition
5 of "rule" under the Medical Assistance Programs Integrity Law, is amended to
6 read as follows:

7 (9) "Rule" means any rule ~~or regulation~~ promulgated by the
8 department in accordance with the Arkansas Administrative Procedure Act, §
9 25-15-201 et seq., and any federal rule or regulation promulgated by the
10 federal government in accordance with federal law; and

11
12 SECTION 2268. Arkansas Code § 20-77-1304(a)(1), concerning claims
13 review and administrative sanctions under the Medical Assistance Programs
14 Integrity Law, is amended to read as follows:

15 (a)(1) Pursuant to rules ~~and regulations~~ promulgated in accordance
16 with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the
17 Director of the Department of Human Services shall establish a process to
18 review a claim made by a healthcare provider to determine whether the claim
19 should be or should have been paid as required by federal or state law or
20 rule.

21
22 SECTION 2269. Arkansas Code § 20-77-1304(b)(1), concerning claims
23 review and administrative sanctions under the Medical Assistance Programs
24 Integrity Law, is amended to read as follows:

25 (b)(1) The director may establish various types of administrative
26 sanctions pursuant to rules ~~and regulations~~ promulgated in accordance with
27 the Arkansas Administrative Procedure Act, § 25-15-201 et seq., which may be
28 imposed on a healthcare provider or other person who violates any provision
29 of this subchapter or any other applicable federal or state law or rule
30 related to the medical assistance programs.

31
32 SECTION 2270. Arkansas Code § 20-77-2205(e), concerning Medicaid
33 payment and reimbursement rules related to development of episodes of care
34 under the Healthcare Quality and Payment Policy Advisory Committee Act, is
35 amended to read as follows:

36 (e) After the public comment period, the department shall retain and

1 make available for public review the report required under subdivision (d)(2)
2 of this section and the text of any final ~~regulation~~ rule issued.

3
4 SECTION 2271. Arkansas Code § 20-78-203(b)(1), concerning penalties
5 under the Child Care Facility Licensing Act, is amended to read as follows:

6 (b)(1) The Division of Child Care and Early Childhood Education of the
7 Department of Human Services is authorized to impose monetary fines as civil
8 penalties to be paid for failure to comply with the provisions of this
9 subchapter or the ~~regulations~~ rules promulgated pursuant thereto.

10
11 SECTION 2272. Arkansas Code § 20-78-203(b)(2)(A), concerning penalties
12 under the Child Care Facility Licensing Act, is amended to read as follows:

13 (A) The gravity of the violation, including the
14 probability that death or serious physical harm to a child will result or has
15 resulted, the severity and scope of the actual or potential harm, and the
16 extent to which the provisions of the applicable statutes or ~~regulations~~
17 rules were violated;

18
19 SECTION 2273. Arkansas Code § 20-78-203(b)(2)(B)(ii), concerning
20 penalties under the Child Care Facility Licensing Act, is amended to read as
21 follows:

22 (ii) Indications of good faith include, but are not
23 limited to, awareness of the applicable statutes and ~~regulations~~ rules and
24 reasonable diligence in securing compliance, prior accomplishments
25 manifesting the desire to comply with the requirements, efforts to correct,
26 and any other mitigating factors in favor of the operator;

27
28 SECTION 2274. Arkansas Code § 20-78-203(d), concerning penalties under
29 the Child Care Facility Licensing Act, is amended to read as follows:

30 (d) With the review and approval of the Arkansas Early Childhood
31 Commission, the division shall publish and promulgate ~~rules and regulations~~
32 classifying violations as follows:

33 (1)(A)(i) Class A violations involve essential standards that
34 must be met for substantial compliance to licensing requirements.

35 (ii) These standards address fire, health, safety,
36 nutrition, staff-to-child ratio, and space.

1 (B)(i) Operation of an unlicensed child care facility
2 shall be considered a Class A violation.

3 (ii) However, the definition of unlicensed child
4 care facility shall not be interpreted to include exempt child care
5 facilities as defined in § 20-78-209.

6 (C) Class A violations are subject to a civil penalty of
7 one hundred dollars (\$100) for each violation; and

8 (2)(A) Class B violations involve administrative standards and
9 standards that do not directly threaten the immediate health, safety, or
10 welfare of the children.

11 (B) Class B violations are subject to a civil penalty of
12 fifty dollars (\$50.00) for each violation.

13
14 SECTION 2275. Arkansas Code § 20-78-206(a)(2)(A)(ii), concerning the
15 rules of the Division of Child Care and Early Childhood Education under the
16 Child Care Facility Licensing Act, is amended to read as follows:

17 (ii) The immunization shall be evidenced by a
18 certificate of a licensed physician or a public health department
19 acknowledging the immunization. The division shall consult with the
20 Commissioner of Education or his or her designated representative in regard
21 to rules ~~and regulations~~ relating to education.

22
23 SECTION 2276. Arkansas Code § 20-78-206(a)(2)(B)(ii) and (iii),
24 concerning the rules of the Division of Child Care and Early Childhood
25 Education under the Child Care Facility Licensing Act, are amended to read as
26 follows:

27 (ii) The parents or legal guardian of the child
28 shall complete an annual application process developed in the rules ~~and~~
29 ~~regulations~~ of the Department of Health for medical, religious, and
30 philosophical exemptions.

31 (iii) The rules ~~and regulations~~ developed by the
32 Department of Health for medical, religious, and philosophical exemptions
33 shall include, but not be limited to:

34 (a) A notarized statement requesting a
35 religious, philosophical, or medical exemption from the Department of Health
36 by the parents or legal guardian of the child regarding the objection;

1 (b) Completion of an educational component
 2 developed by the Department of Health that includes information on the risks
 3 and benefits of vaccination;

4 (c) An informed consent from the parents or
 5 guardian that shall include a signed statement of refusal to vaccinate based
 6 on the Department of Health's refusal-to-vaccinate form; and

7 (d) A signed statement of understanding that:

8 (1) At the discretion of the Department
 9 of Health, the unimmunized child or individual may be removed from day care
 10 or school during an outbreak if the child or individual is not fully
 11 vaccinated; and

12 (2) The child or individual shall not
 13 return to school until the outbreak has been resolved and the Department of
 14 Health approves the return to school.

15
 16 SECTION 2277. Arkansas Code § 20-78-206(a)(3) and (4), concerning the
 17 rules of the Division of Child Care and Early Childhood Education under the
 18 Child Care Facility Licensing Act, are amended to read as follows:

19 (3) The director and the commissioner and their designated
 20 representatives are directed to cooperate with and assist the division in
 21 developing rules ~~and regulations~~ in the respective areas of health and
 22 education.

23 (4) In developing these rules ~~and regulations~~, the division
 24 shall consult with such other agencies, organizations, or individuals as it
 25 shall deem appropriate.

26
 27 SECTION 2278. The introductory language of Arkansas Code § 20-78-
 28 206(b), concerning the rules of the Division of Child Care and Early
 29 Childhood Education under the Child Care Facility Licensing Act, is amended
 30 to read as follows:

31 (b) In establishing requirements and standards for the granting,
 32 revocation, refusal, and suspension of a license for a child care facility,
 33 the division shall adopt such rules ~~and regulations~~ as will:

34
 35 SECTION 2279. Arkansas Code § 20-78-206(e), concerning the rules of
 36 the Division of Child Care and Early Childhood Education under the Child Care

1 Facility Licensing Act, is amended to read as follows:

2 (e) All rules ~~and regulations~~ promulgated pursuant to this section
3 shall be reviewed by the Senate Interim Committee on Children and Youth or an
4 appropriate subcommittee thereof and the Subcommittee on Children and Youth
5 of the House Committee on Aging, Children and Youth, Legislative and Military
6 Affairs.

7
8 SECTION 2280. Arkansas Code § 20-78-206(f)(1), concerning the rules of
9 the Division of Child Care and Early Childhood Education under the Child Care
10 Facility Licensing Act, is amended to read as follows:

11 (f)(1) Any person with reasonable cause to suspect that a child care
12 facility has violated any provision of this subchapter or any rule ~~or~~
13 ~~regulation~~ of the division may immediately notify the Department of Human
14 Services.

15
16 SECTION 2281. Arkansas Code § 20-78-207 is amended to read as follows:

17 20-78-207. Declaratory judgments on licensing rules ~~or regulations~~.

18 Any rule ~~or regulation~~ promulgated by the Division of Child Care and
19 Early Childhood Education of the Department of Human Services under authority
20 of § 20-78-206 or under any other child care facility licensing law shall, at
21 the suit of any interested person instituted in the Pulaski County Circuit
22 Court, be subject to remedies provided by law for obtaining declaratory
23 judgments. However, the division must be named a party defendant and summoned
24 as in an action by ordinary proceedings.

25
26 SECTION 2282. Arkansas Code § 20-78-209(b)(4), concerning religious
27 exceptions for licenses under the Child Care Facility Licensing Act, is
28 amended to read as follows:

29 (4) Standards for corporal punishment shall be as established by
30 present ~~regulations~~ rules unless alternative compliance is granted by the
31 division.

32
33 SECTION 2283. Arkansas Code § 20-78-209(c)(3), concerning religious
34 exceptions for licenses under the Child Care Facility Licensing Act, is
35 amended to read as follows:

36 (3) Challenge to the constitutionality or reasonableness of any

1 ~~regulation~~ rule or statute may be made prior to any appeal under the Arkansas
2 Administrative Procedure Act, § 25-15-201 et seq.

3
4 SECTION 2284. Arkansas Code § 20-78-210(c), concerning the application
5 and issuance of a license under the Child Care Facility Licensing Act, is
6 amended to read as follows:

7 (c) If an applicant meets the requirements of this subchapter and the
8 published rules ~~and regulations~~ of the division regarding minimum standards
9 for a child care facility, then the applicant shall be granted a license by
10 the division as a child care facility. This license shall continue in effect
11 until revoked or suspended as provided in this subchapter.

12
13 SECTION 2285. Arkansas Code § 20-78-211(c), concerning the issuance of
14 a provisional license under the Child Care Facility Licensing Act, is amended
15 to read as follows:

16 (c) Issuance of provisional licenses shall be in accordance with the
17 published rules ~~and regulations~~ adopted by the division in accordance with
18 this subchapter.

19
20 SECTION 2286. Arkansas Code § 20-78-213(a), concerning the denial,
21 revocation, or suspension of a license under the Child Care Facility
22 Licensing Act, is amended to read as follows:

23 (a) The Division of Child Care and Early Childhood Education of the
24 Department of Human Services shall have the power to deny, revoke, or suspend
25 a license for a child care facility if an applicant or licensee has failed to
26 comply with the provisions of this subchapter or any published rule ~~or~~
27 ~~regulation~~ of the division, subject to appeal before the Child Care Appeal
28 Review Panel.

29
30 SECTION 2287. Arkansas Code § 20-78-214(a), concerning the inspection
31 and investigation of child care facilities and personnel for child abuse
32 under the Child Care Facility Licensing Act, is amended to read as follows:

33 (a) The Division of Child Care and Early Childhood Education of the
34 Department of Human Services or any other agency of the State of Arkansas
35 which the division asks to assist it is authorized to make an inspection and
36 investigation of any proposed or operating child care facility and of any

1 personnel connected with that child care facility to the extent that an
2 inspection and investigation is required to determine whether this child care
3 facility will be or is being operated in accordance with this section and
4 with the published rules ~~and regulations~~ of the division for child care
5 facilities.

6
7 SECTION 2288. Arkansas Code § 20-78-215(a)(2), concerning federal
8 funds to reduce the incidence of child sexual abuse under the Child Care
9 Facility Licensing Act, is amended to read as follows:

10 (2) Specifically, ~~regulations~~ rules promulgated by the Director
11 of the Department of Human Services pursuant to this section may address
12 federally mandated requirements for employment history and background checks
13 and nationwide criminal record checks, as may be necessary in accordance with
14 the provisions of Pub. L. No. 92-544, for all operators, staff, or employees,
15 or prospective operators, staff, or employees of the child care facilities or
16 programs as defined in this section.

17
18 SECTION 2289. Arkansas Code § 20-78-215(b), concerning federal funds
19 to reduce the incidence of child sexual abuse under the Child Care Facility
20 Licensing Act, is amended to read as follows:

21 (b) In order to enable the State of Arkansas to fully participate and
22 share in federal funds made available to the states through the Social
23 Services Block Grant Act, or otherwise for the purposes of reducing and
24 eliminating the incidence of child sexual abuse in child care facilities, as
25 defined in § 20-78-202(2), the director is authorized at his or her
26 discretion to promulgate, pursuant to the Arkansas Administrative Procedure
27 Act, § 25-15-201 et seq., rules ~~and regulations~~ implementing such federal
28 requirements as may be placed upon the states to qualify for the funds.

29
30 SECTION 2290. Arkansas Code § 20-78-216 is amended to read as follows:
31 20-78-216. Records and reports.

32 The Division of Child Care and Early Childhood Education of the
33 Department of Human Services may by published rules ~~and regulations~~ require
34 that a licensed child care facility keep and make available to the division
35 records and periodic reports as shall be necessary to assist the division in
36 determining whether the requirements of this subchapter and of the division's

1 rules ~~and regulations~~ regarding child care facilities are being complied
2 with.

3
4 SECTION 2291. Arkansas Code § 20-78-217(b), concerning smoking
5 prohibitions under the Child Care Facility Licensing Act, is amended to read
6 as follows:

7 (b) The division is directed to promulgate sufficient ~~regulations~~
8 rules to ensure that state licensing requirements for day care center
9 operations contain a stipulation which bans smoking within the physical
10 confines of each day care center.

11
12 SECTION 2292. Arkansas Code § 20-78-218 is amended to read as follows:
13 20-78-218. Administration of subchapter.

14 The Division of Child Care and Early Childhood Education of the
15 Department of Human Services shall continue to be the administrative agency
16 to administer the provisions of this subchapter in accordance with the rules,
17 ~~regulations~~, and standards for the licensing and operation of child care
18 facilities as promulgated by the division.

19
20 SECTION 2293. Arkansas Code § 20-78-219(b)(2), concerning fines and
21 penalties under the Child Care Facility Licensing Act, is amended to read as
22 follows:

23 (2) Subject to those rules ~~and regulations~~ as may be implemented
24 by the Chief Fiscal Officer of the State, the disbursing officer for the
25 Department of Human Services is authorized to transfer all unexpended funds
26 relative to the fines and penalties collected from child care facilities as
27 certified by the Chief Fiscal Officer of the State, to be carried forward and
28 made available for expenditures for the same purpose for any following fiscal
29 year.

30
31 SECTION 2294. Arkansas Code § 20-78-221(b)-(e), concerning voluntary
32 registry of day care family homes under the Child Care Facility Licensing
33 Act, are amended to read as follows:

34 (b) Procedure for Registration. Day care family homes exempt from
35 licensure may voluntarily register the home with the registry established,
36 operated, and maintained by the division. A person wishing to participate in

1 the voluntary registry shall make an application to the division. Upon
2 receipt of the application, the division shall review the applicant's written
3 application, qualifications, and proposed operation to determine compliance
4 with registry rules ~~and regulations~~. The division shall issue a certificate
5 of registration to the applicant which authorizes the applicant to operate a
6 registered day care family home only upon final determination of an
7 applicant's compliance with the rules ~~and regulations~~ established for
8 registration.

9 (c) Rules ~~and Regulations~~.

10 (1) The division is authorized to establish rules ~~and~~
11 ~~regulations~~ that a day care family home shall meet in order to be registered
12 by the Department of Human Services.

13 (2) The division shall have the right to enter and inspect a
14 registered day care family home if there is reason to believe that the home
15 is in violation of the registry rules ~~and regulations~~ and to ensure
16 compliance with the rules ~~and regulations~~ established by the division.

17 (d) Removal or Denial of Registration. If after review of the
18 submitted application, it is determined that the day care family home is not
19 in compliance with the rules ~~and regulations~~ for the registry as established
20 by the division, the division shall immediately deny or remove the home from
21 the registry. Upon removal from the registry, a day care family home may no
22 longer be considered a registered home.

23 (e) Right to Appeal.

24 (1) A person whose registration has been denied or who is
25 removed from the voluntary registry due to violation of rules ~~and regulations~~
26 may appeal the action to the department in accordance with Arkansas law and
27 state rules ~~and regulations~~.

28 (2) The appeal does not stay the denial or removal from the
29 registry.

30
31 SECTION 2295. Arkansas Code § 20-78-221(f)(2), concerning voluntary
32 registry of day care family homes under the Child Care Facility Licensing
33 Act, is amended to read as follows:

34 (2) The division shall have the right to investigate and inspect
35 the premises when there is reason to believe that violations exist and to
36 make sure that the home is still in compliance with the rules ~~and regulations~~

1 established for the voluntary registry of day care family homes.

2
3 SECTION 2296. Arkansas Code § 20-78-501(f)(1), concerning the creation
4 of the Arkansas Early Childhood Commission, is amended to read as follows:

5 (f)(1) The members of the commission shall serve without compensation
6 or per diem but shall be entitled to reimbursement for actual expenses
7 incurred in the performance of duties as members of the commission. Expense
8 reimbursement shall be in accordance with state travel and official business
9 expense reimbursement procedures and ~~regulations~~ rules.

10
11 SECTION 2297. Arkansas Code § 20-78-505(a), concerning annual reports
12 of loan guarantees by the Division of Child Care and Early Childhood
13 Education of the Department of Human Services, is amended to read as follows:

14 (a) The Division of Child Care and Early Childhood Education of the
15 Department of Human Services is authorized to develop and implement, with the
16 technical assistance of the Arkansas Early Childhood Commission, necessary
17 rules ~~and regulations~~ to receive, review, and approve applications for loan
18 deficiency guarantee assistance for expansion or development of child care
19 facilities in this state.

20
21 SECTION 2298. Arkansas Code § 20-79-102 is amended to read as follows:
22 20-79-102. Caseworkers for the blind.

23 The deputy director of the appropriate division of the Department of
24 Human Services is authorized and empowered to employ caseworkers for the
25 blind, prepare ~~regulations~~ rules governing personnel standards, define the
26 duties of the caseworkers for the blind, and make such other ~~regulations~~
27 rules as may be necessary to carry out the purpose of this section.

28
29 SECTION 2299. Arkansas Code § 20-79-204(b)(1), concerning the duties
30 of the deputy director supervising the Arkansas Rehabilitation Services, is
31 amended to read as follows:

32 (1) Shall, with the approval of the Director of the Department
33 of Human Services, prepare ~~regulations~~ rules for promulgation by the
34 appropriate division of the department governing personnel standards, the
35 protection of records and confidential information, the manner and form of
36 filing applications, eligibility, and investigation and determination

1 thereof, for rehabilitation services, procedures for fair hearings, and such
2 other ~~regulations~~ rules as he or she finds necessary to carry out the
3 purposes of this subchapter, including the order to be followed in selecting
4 those to whom rehabilitation services are to be provided in situations where
5 service cannot be provided to all who are eligible for service;

6
7 SECTION 2300. Arkansas Code § 20-79-204(b)(5) and (6), concerning the
8 duties of the deputy director supervising the Arkansas Rehabilitation
9 Services, are amended to read as follows:

10 (5) Shall make certification for disbursement, in accordance
11 with ~~regulations~~ rules, of funds available for carrying out the purposes of
12 this subchapter; and

13 (6) May, with the approval of the director, delegate to any
14 officer or employee of the Arkansas Rehabilitation Services such of his or
15 her powers and duties, except the making of ~~regulations~~ rules and the making
16 of recommendations for appointment of personnel, as he or she finds necessary
17 to carry out the purposes of this subchapter.

18
19 SECTION 2301. Arkansas Code § 20-79-205(4), concerning administration
20 of the Arkansas Rehabilitation Services, is amended to read as follows:

21 (4) To license blind persons to operate vending stands under its
22 supervision and control and subject to the terms and conditions in
23 ~~regulations~~ rules issued pursuant to § 20-79-204(b)(1) on:

24 (A) State property;
25 (B) County or municipal property;
26 (C) Federal property, pursuant to delegation of authority
27 under the Randolph-Sheppard Act and any amendment thereto or any act of
28 Congress relating to this subject;

29 (D) Private property; and

30 (E) Subject to Acts 1945, No. 142, § 2 [superseded]; and

31
32 SECTION 2302. Arkansas Code § 20-79-206(b), concerning operation of
33 rehabilitation facilities by the Arkansas Rehabilitation Services, is amended
34 to read as follows:

35 (b) Gifts, grants, fees for services, income from the sale of products
36 or items of manufacture or handwork, and donations may be deposited into one

1 (1) or more banks and expended by the appropriate division of the Department
2 of Human Services, in compliance with the rules ~~and regulations~~ of the
3 Director of the Department of Finance and Administration, in the
4 establishment and operation of rehabilitation facilities and such other
5 program services as may be determined by the appropriate division of the
6 Department of Human Services, which are consistent with the purposes of this
7 subchapter.

8
9 SECTION 2303. Arkansas Code § 20-79-215 is amended to read as follows:
10 20-79-215. Hearings.

11 Any individual applying for or receiving rehabilitation who is
12 aggrieved by any action or inaction of the Arkansas Rehabilitation Services
13 shall be entitled to a hearing in accordance with the ~~regulations~~ rules
14 adopted and promulgated by the appropriate division of the Department of
15 Human Services on that subject.

16
17 SECTION 2304. Arkansas Code § 20-79-216 is amended to read as follows:
18 20-79-216. Use of Arkansas Rehabilitation Services information
19 prohibited – Exception.

20 It shall be unlawful, except for purposes directly connected with the
21 administration of the Arkansas Rehabilitation Services and in accordance with
22 ~~regulations~~ rules, for any person to solicit, disclose, receive, or make use
23 of, or to authorize, knowingly permit, participate in, or acquiesce in the
24 use of any list of, or name of, or any information concerning persons
25 applying for or receiving rehabilitation, directly or indirectly derived from
26 the records.

27
28 SECTION 2305. Arkansas Code § 20-79-303(b), concerning the
29 administration of the Technology Equipment Revolving Loan Fund by the
30 Arkansas Rehabilitation Services, is amended to read as follows:

31 (b) The Arkansas Rehabilitation Services shall submit to the
32 Technology Equipment Revolving Loan Fund Committee proposed rules ~~and~~
33 ~~regulations~~ governing the operation of the fund, including, but not limited
34 to, eligibility for receipt of funds, purposes for which funds may be
35 available, repayment of funds, administrative adjudications in accordance
36 with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and all

1 other matters consistent with and necessary to accomplish the purposes as set
2 out in this subchapter.

3
4 SECTION 2306. Arkansas Code § 20-79-401(a)(2)(B), concerning the
5 establishment of a statewide program to provide access to public
6 telecommunication services to individuals with disabilities, is amended to
7 read as follows:

8 (B) The promulgation of procedures, ~~regulations~~, rules,
9 and criteria necessary to implement and administer this program, including
10 accountability measures which utilize consumer participation in the selection
11 and evaluation of equipment and the eligibility of applicants; and

12
13 SECTION 2307. Arkansas Code § 20-79-402(b)(1), concerning eligibility
14 for the equipment distribution program of the Arkansas Rehabilitation
15 Services, is amended to read as follows:

16 (b)(1) The Arkansas Rehabilitation Services shall also consider
17 financial need and, in so doing, shall take into account financial need
18 standards or other means tests applicable to other programs administered by
19 the Arkansas Rehabilitation Services when promulgating procedures,
20 ~~regulations~~, rules, and criteria necessary to implement and administer the
21 program.

22
23 SECTION 2308. Arkansas Code § 20-80-311 is amended to read as follows:
24 20-80-311. Funding – Antipoverty programs.

25 State funds appropriated by the General Assembly to the appropriate
26 division of the Department of Human Services for payments to be made to
27 recognize community action agencies in accordance with this subchapter shall
28 be used by the agencies for funding antipoverty programs designated by state
29 ~~regulations~~ rules.

30
31 SECTION 2309. Arkansas Code § 20-80-411(c), concerning restrictions
32 and taxes under the Commissioner of State Lands Urban Homestead Act, is
33 amended to read as follows:

34 (c) Upon transferring the land to the eligible person, the homestead
35 will be treated as any other private residence and subject to all laws,
36 rules, and regulations of the government, including the payment of real

1 property taxes.

2
3 SECTION 2310. Arkansas Code § 20-81-102(c), concerning the creation,
4 powers, and duties of the Department of Veterans Affairs, is amended to read
5 as follows:

6 (c) The department is authorized to develop and promulgate all rules
7 ~~and regulations~~ necessary for the enforcement and implementation of the
8 provisions of this act and all applicable federal rules and regulations.

9
10 SECTION 2311. Arkansas Code § 20-83-107 is amended to read as follows:

11 20-83-107. Rules ~~and regulations~~.

12 To the extent that funds are available, the Department of Health is
13 authorized to enforce this subchapter and to promulgate necessary rules ~~and~~
14 ~~regulations~~ to implement this subchapter.

15
16 SECTION 2312. Arkansas Code § 20-86-109(f), concerning matching funds
17 under the Family Savings Initiative Act, is amended to read as follows:

18 (f) The Department of Finance and Administration shall promulgate any
19 ~~regulations~~ rules necessary to carry out the provisions of this section.

20
21 SECTION 2313. Arkansas Code § 21-1-103(d), concerning the state
22 employee service recognition program, is amended to read as follows:

23 (d) The Chief Fiscal Officer of the State shall promulgate reasonable
24 rules ~~and regulations~~ as he or she deems necessary in carrying out the
25 provisions of this service recognition program.

26
27 SECTION 2314. Arkansas Code § 21-1-404(a), concerning authorization of
28 the Director of the Department of Finance and Administration to promulgate
29 rules, is amended to read as follows:

30 (a) The Director of the Department of Finance and Administration is
31 authorized to promulgate and implement any necessary rules, ~~regulations~~, or
32 policies to ensure compliance with this subchapter subject to the prior
33 review and approval of the Joint Budget Committee during legislative sessions
34 and the Legislative Council between legislative sessions.

35
36 SECTION 2315. Arkansas Code § 21-1-405(b), concerning violations of

1 disclosure rules by constitutional officers and their spouses, is amended to
2 read as follows:

3 (b) The violation of any rule, ~~regulation~~, or policy promulgated by
4 the Department of Finance and Administration under this subchapter or the
5 failure of a constitutional officer or spouse of a constitutional officer to
6 disclose his or her interest in any contract, grant, or lease agreement or in
7 any subcontract, subgrant, or assignment of lease as required by this
8 subchapter or as required by any rule, ~~regulation~~, or policy of the
9 department shall be grounds for voiding the contract, grant, lease agreement,
10 subcontract, subgrant, or lease assignment, and the constitutional officer or
11 spouse may be required to refund any moneys received thereunder.

12

13 SECTION 2316. Arkansas Code § 21-1-602(6), concerning the definition
14 of "violation" under the Arkansas Whistle-Blower Act, is amended to read as
15 follows:

16 (6) "Violation" means an infraction or a breach which is not of
17 a merely technical or minimal nature of a state statute or ~~regulation~~ rule,
18 of a political subdivision ordinance or regulation, or of a code of conduct
19 or code of ethics designed to protect the interest of the public or a public
20 employer;

21

22 SECTION 2317. Arkansas Code § 21-3-301 is amended to read as follows:

23 21-3-301. Uniform Classification and Compensation Act ~~regulations~~
24 rules.

25 Any requirement, or rule, ~~or regulation~~ set up for the purpose of
26 selecting employees paid in whole or in part with state funds for positions
27 subject to the Uniform Classification and Compensation Act, § 21-5-201 et
28 seq., shall include ~~regulations~~ rules under this subchapter.

29

30 SECTION 2318. Arkansas Code § 21-3-802(a), concerning the recruitment
31 of retired employees, is amended to read as follows:

32 (a) The Department of Finance and Administration shall promulgate
33 ~~regulations~~ rules providing for the recruitment of retired members of the
34 Arkansas Public Employees' Retirement System to return to employment for the
35 state.

36

1 SECTION 2319. Arkansas Code § 21-4-403(b), concerning the
2 determination of amount of leave and rate of pay under the Uniform Attendance
3 and Leave Policy Act, is amended to read as follows:

4 (b)(1) The number of days of accumulated leave of any deceased
5 employee shall be determined on the basis of the written rules, ~~regulations,~~
6 resolutions, or policies promulgated by the agency or department head or by
7 the board or commission.

8 (2) Each agency, department head, board, or commission shall
9 keep complete records of the vacations taken and accrued vacation time as
10 provided by its rules, ~~regulations,~~ resolutions, or policies.

11
12 SECTION 2320. Arkansas Code § 21-4-501(c), concerning compensation for
13 unused sick leave at retirement, is amended to read as follows:

14 (c) The Office of Personnel Management shall promulgate ~~regulations~~
15 rules necessary to implement this subchapter.

16
17 SECTION 2321. Arkansas Code § 21-5-102(c), concerning automobile
18 insurance expenses for employees of the Department of Health, is amended to
19 read as follows:

20 (c) All other costs to an employee for operating a personal vehicle on
21 state business will be considered to be covered by the approved reimbursement
22 rate per mile as prescribed in state travel ~~regulations~~ rules promulgated by
23 the Department of Finance and Administration.

24
25 SECTION 2322. Arkansas Code § 21-5-405(b)(4)(B)(ii), concerning
26 additional duties of the State and Public School Life and Health Insurance
27 Board, is amended to read as follows:

28 (ii) Agree to rules of program participation as
29 stated in the policies adopted by the board and as defined in the ~~regulations~~
30 rules and procedures issued by the Executive Director of the Employee
31 Benefits Division of the Department of Finance and Administration, including
32 without limitation timely eligibility reporting, prepayment of insurance
33 premiums, actuarial adjustment for new enrollees, and any other requirements
34 deemed necessary by the board;

35
36 SECTION 2323. Arkansas Code § 21-5-502 is amended to read as follows:

1 21-5-502. Applicability.

2 This subchapter shall apply to all deferred compensation plans adopted
3 by agencies subsequent to March 28, 1970, which shall all be subject to the
4 rules ~~and regulations~~ issued by the Department of Finance and Administration
5 under the authority granted in this subchapter.

6
7 SECTION 2324. Arkansas Code § 21-5-506(b), concerning the
8 administration of the state government employees' deferred compensation
9 program, is amended to read as follows:

10 (b) The administrator of the deferred compensation program is
11 authorized and empowered to promulgate any and all ~~regulations~~ rules deemed
12 necessary to carry out the intent and purposes of this subchapter.

13
14 SECTION 2325. Arkansas Code § 21-5-607 is amended to read as follows:

15 21-5-607. Claim, review, and appeal procedures.

16 To the extent not in conflict with this subchapter, the method and
17 procedure of filing claims on behalf of the public employee and the review
18 and appeal of compensation orders or awards of the Workers' Compensation
19 Commission shall be the same as those provided by law and the rules ~~and~~
20 ~~regulations~~ of the commission, with respect to claims filed by private
21 employers and employees.

22
23 SECTION 2326. Arkansas Code § 21-5-703(a), concerning the procedure
24 for filing claims before the Arkansas State Claims Commission, is amended to
25 read as follows:

26 (a) All claimants shall be subject to the same rules ~~and regulations~~
27 as are provided by the law governing procedure before the Arkansas State
28 Claims Commission.

29
30 SECTION 2327. Arkansas Code § 21-5-904(a), concerning administration
31 of cafeteria plans on behalf of state employees, is amended to read as
32 follows:

33 (a) The Executive Director of the Employee Benefits Division of the
34 Department of Finance and Administration shall have administrative
35 responsibility for developing, implementing, and maintaining cafeteria plans
36 on behalf of state employees and may promulgate necessary rules ~~and~~

1 ~~regulations~~ as he or she deems necessary to carry out the provision of this
2 section.

3
4 SECTION 2328. Arkansas Code § 21-7-402(c)(2), concerning publication
5 of annual and biennial reports, is amended to read as follows:

6 (2) Copies of the reports shall be made available to the maximum
7 extent practicable, upon request therefor, but the Arkansas State Library may
8 provide, by rules ~~and regulations~~, for recovery of the costs of reproduction.

9
10 SECTION 2329. Arkansas Code § 21-8-304(b), concerning prohibited
11 activities of public servants, is amended to read as follows:

12 (b) No public servant shall accept employment or engage in any public
13 or professional activity while serving as a public official which he or she
14 might reasonably expect would require or induce him or her to disclose any
15 information acquired by him or her by reason of his or her official position
16 that is declared by law or ~~regulation~~ rule to be confidential.

17
18 SECTION 2330. Arkansas Code § 21-8-402(1)(A), resulting from Initiated
19 Act 1 of 1988 and concerning the definition of "administrative action" under
20 the laws governing ethics and conflicts of interest, is amended to read as
21 follows:

22 (1)(A) "Administrative action" means any decision on, or
23 proposal, consideration, or making of any rule, ~~regulation~~, ratemaking
24 proceeding, or policy action by a governmental body.

25
26 SECTION 2331. Arkansas Code § 21-8-407 is amended to read as follows:

27 21-8-407. Gifts of art.

28 Any work of art contracted for prior to January 1, 1998, for public
29 service recognition for members of the General Assembly shall not be a gift
30 under § 21-8-402 nor shall it be deemed an unlawful gift under any other
31 statute or ~~regulation~~ rule.

32
33 SECTION 2332. Arkansas Code § 21-8-601(a)(3)(F), resulting from
34 Initiated Act 1 of 1988 and concerning registration as a lobbyist, is amended
35 to read as follows:

36 (F) Assisting an executive agency, at the written request

1 of the agency, in drafting administrative ~~regulations~~ rules or in publicizing
2 or assisting in the implementation of final administrative actions;

3
4 SECTION 2333. Arkansas Code § 21-11-101(6), concerning the definition
5 of "employee" under the laws addressing the Employee Suggestion System, is
6 amended to read as follows:

7 (6) Those other employees designated as excluded from the
8 provisions of this chapter by the rules ~~and regulations~~ established by the
9 Personnel Director.

10
11 SECTION 2334. Arkansas Code § 21-11-104 is amended to read as follows:
12 21-11-104. Rules ~~and regulations~~ – Procedure for submission of
13 suggestions.

14 (a) The Director of the Department of Finance and Administration, or
15 his or her designee, is directed to develop and adopt rules ~~and regulations~~
16 in accordance with this chapter for the administration of the Employee
17 Suggestion System.

18 (b)(1) The rules shall provide for the direct submission of all
19 suggestions to the Office of Personnel Management's Employee Suggestion
20 System for determination of eligibility under the rules ~~and regulations~~ as
21 authorized in this section.

22 (2) Eligible suggestions will be forwarded to the director, or
23 to the director's designated representative, for evaluation of proper merit.

24 (3) The names of individuals who make suggestions shall be kept
25 confidential unless such person is granted an award under this chapter.

26
27 SECTION 2335. Arkansas Code § 21-13-107(b)(3)(A)(ii), concerning
28 meals, lodging, and transportation reimbursement for state or local
29 volunteers, is amended to read as follows:

30 (ii) Rates or amounts of such reimbursement shall
31 not exceed the allowances provided under applicable state travel ~~regulation~~
32 rules for state departments or under applicable travel ~~regulations~~ rules with
33 respect to volunteer services rendered departments of political subdivisions
34 and school districts.

35
36 SECTION 2336. Arkansas Code § 21-13-107(b)(3)(B), concerning meals,

1 lodging, and transportation reimbursement for state or local volunteers, is
2 amended to read as follows:

3 (B) Volunteers may utilize department vehicles in the
4 performance of their duties, subject to the rules ~~and regulations~~ governing
5 use of state vehicles by paid staff.

6
7 SECTION 2337. Arkansas Code § 21-13-109(a), concerning recognition of
8 employment experience, is amended to read as follows:

9 (a) Each department which utilizes the services of volunteers may
10 recognize prior volunteer service as partial fulfillment of state employment
11 requirements for training and experience established under applicable
12 personnel rules ~~and regulations~~.

13
14 SECTION 2338. Arkansas Code § 21-13-111(a)(1)(A), concerning state
15 income tax deductions, is amended to read as follows:

16 (1)(A) A deduction for mileage for necessary travel in
17 connection with voluntary service to a department, at the rate provided by
18 law or appropriate travel ~~regulation~~ rule applicable to travel made by paid
19 employees of a department for a volunteer who uses his or her personal motor
20 vehicles for official travel, for which the volunteer has not received
21 reimbursement from public funds; and

22
23 SECTION 2339. Arkansas Code § 21-14-114 is amended to read as follows:
24 21-14-114. Rules ~~and regulations~~.

25 The Secretary of State may promulgate rules ~~and regulations~~ necessary
26 to administer this chapter.

27
28 SECTION 2340. Arkansas Code § 21-15-106(a), concerning rules adopted
29 requiring criminal background checks, is amended to read as follows:

30 (a) All state agencies with a designated position or a designated
31 financial or information technology position shall adopt the necessary rules
32 ~~and regulations~~ to fully implement the provisions of this subchapter.

33
34 SECTION 2341. Arkansas Code § 22-2-105(b), concerning the duties of
35 the Director of the Department of Finance and Administration, is amended to
36 read as follows:

1 (b) The director shall be responsible for administering the rules,
2 ~~regulations~~, and policies adopted by the Department of Finance and
3 Administration pursuant to the provisions of this chapter.
4

5 SECTION 2342. Arkansas Code § 22-2-107(a)(3)(B), concerning the
6 creation of sections within the Building Authority Division of the Department
7 of Finance and Administration, is amended to read as follows:

8 (B) Encourage, within the rules ~~and regulations~~ of the
9 state, the timely and expedient commitment and expenditure of appropriations
10 for capital improvements;
11

12 SECTION 2343. Arkansas Code § 22-2-107(a)(4)(F), concerning the
13 creation of sections within the Building Authority Division of the Department
14 of Finance and Administration, is amended to read as follows:

15 (F) Carry out and administer those duties and
16 responsibilities involving the purchase or sale of property by state agencies
17 that are under the jurisdiction of the division so as to ensure that the
18 property is sold or purchased in a manner consistent with Arkansas laws and
19 ~~regulations~~ rules.
20

21 SECTION 2344. Arkansas Code § 22-2-108(16), concerning the powers and
22 duties of the Building Authority Division of the Department of Finance and
23 Administration, is amended to read as follows:

24 (16) To promulgate reasonable rules, ~~regulations~~, and procedures
25 as may be required to carry out its duties, responsibilities, powers, and
26 authorities under this chapter which are consistent with the purposes and
27 intent of this chapter.
28

29 SECTION 2345. Arkansas Code § 22-2-113(a)(10), concerning the Building
30 Authority Division of the Department of Finance and Administration schedule
31 of supervision, is amended to read as follows:

32 (10) Otherwise take such action as may be necessary to carry out
33 the policies, standards, criteria, and other rules ~~and regulations~~ as may be
34 adopted or promulgated by the director to implement the provisions of this
35 chapter.
36

1 SECTION 2346. Arkansas Code § 22-3-217(a)(1), concerning rules about
2 the Capitol Hill Building, is amended to read as follows:

3 (a)(1) Any rules, ~~regulations~~, or modifications concerning the use,
4 management, or authorities of the Capitol Hill Building shall be reviewed and
5 approved by the Joint Interim Committee on Legislative Facilities.

6
7 SECTION 2347. Arkansas Code § 22-3-305(c), concerning the Capitol
8 Zoning District Commission master plan, is amended to read as follows:

9 (c) The master plan should include, among other things, ~~regulations~~
10 rules relative to the location and character of roads and other
11 transportation routes, utility services, parks, buildings, and other
12 construction within the district.

13
14 SECTION 2348. Arkansas Code § 22-3-306(d), concerning Capitol Zoning
15 District Commission authority over property within the Capitol Zoning
16 District, is amended to read as follows:

17 (d) Within the district, a legally existing use, building, or
18 structure that exists at the time of the adoption of the plans and
19 ~~regulations~~ rules authorized by this subchapter, but not in conformity with
20 such plans and ~~regulations~~ rules, may be continued but shall not be extended
21 or structurally altered without the approval of the commission.

22
23 SECTION 2349. Arkansas Code § 22-3-307 is amended to read as follows:
24 22-3-307. Adoption of rules ~~and regulations~~ by Capitol Zoning District
25 Commission.

26 (a) The Capitol Zoning District Commission shall have the power and
27 authority to prescribe such rules ~~and regulations~~ concerning procedure before
28 it and concerning the exercise of its functions and duties as it shall deem
29 proper.

30 (b) Prior to the adoption of any zoning ~~regulations~~ rules or
31 amendments thereto, the commission shall hold a public hearing thereon
32 pursuant to the ~~regulations~~ rules of the Arkansas Administrative Procedure
33 Act, § 25-15-201 et seq.

34
35 SECTION 2350. Arkansas Code § 22-3-308(b)(3)(A), concerning
36 coordination by the Capitol Zoning District Commission with other agencies,

1 is amended to read as follows:

2 (3)(A) A violation of the commission's ~~regulations~~ rules is
3 enforceable in Little Rock District Court in the same manner as the
4 enforcement of a violation of a municipal ordinance.

5
6 SECTION 2351. Arkansas Code § 22-3-309(a), concerning the Capitol
7 Zoning District Commission's power to institute and defend legal actions, is
8 amended to read as follows:

9 (a) The Capitol Zoning District Commission shall constitute a body
10 corporate for purposes of instituting and defending litigation to enforce its
11 rules, ~~regulations~~, decisions, and orders; and it may, in its name, institute
12 or defend actions in its own behalf, or in behalf of the owner or owners of
13 any property within the district, to enjoin any breach or violation thereof.

14
15 SECTION 2352. Arkansas Code § 22-3-310(a)(1)(A), concerning appeals of
16 Capitol Zoning District Commission actions, is amended to read as follows:

17 (a)(1)(A) Any person aggrieved by any rule, ~~regulation~~, decision, or
18 order of the Capitol Zoning District Commission may appeal the action to the
19 Director of the Department of Arkansas Heritage.

20
21 SECTION 2353. Arkansas Code § 22-3-310(b) and (c), concerning appeals
22 of Capitol Zoning District Commission actions, are amended to read as
23 follows:

24 (b) The filing of an appeal shall in no respect suspend the operation
25 of any rule, ~~regulation~~, decision, or order, nor shall the director or the
26 Pulaski County Circuit Court order any suspension without a full hearing.

27 (c) This section does not preclude enforcement of the commission's
28 ~~regulations~~ rules by the City of Little Rock in Little Rock District Court
29 under an agreement with the commission under § 22-3-308.

30
31 SECTION 2354. Arkansas Code § 22-3-401(a), concerning establishing
32 traffic control and parking rules on State Capitol grounds, is amended to
33 read as follows:

34 (a) The purpose of this subchapter is to establish a system of traffic
35 control and parking ~~regulations~~ rules governing the drives and parking areas
36 on the State Capitol grounds and other drives and parking areas in the

1 custody of or leased by the Secretary of State or the Building Authority
2 Division of the Department of Finance and Administration.

3
4 SECTION 2355. Arkansas Code § 22-3-403(a), concerning penalties for
5 violating traffic control and parking rules on State Capitol grounds,
6 is amended to read as follows:

7 (a) Any person, including an employee of the State of Arkansas, found
8 guilty of violating the provisions of this subchapter or the traffic and
9 parking rules ~~and regulations~~ of the Capitol Parking Control Committee shall
10 be guilty of a misdemeanor and upon conviction shall be fined in an amount of
11 not less than five dollars (\$5.00) nor more than twenty-five dollars
12 (\$25.00).

13
14 SECTION 2356. Arkansas Code § 22-3-406 is amended to read as follows:

15 22-3-406. Capitol Parking Control Committee – Powers and duties.

16 Upon the passage of this subchapter, the Capitol Parking Control
17 Committee shall proceed to study the traffic conditions on the drives of the
18 State Capitol grounds and shall make a study of the existing and anticipated
19 needs for parking space on the State Capitol grounds and other parking lots
20 and drives leased by or in the custody of the Secretary of State or the
21 Building Authority Division of the Department of Finance and Administration.
22 Upon completion of the study, the committee shall establish rules ~~and~~
23 ~~regulations~~ and shall amend or change them from time to time as deemed
24 necessary in the following manner:

25 (1) Establish maximum speed limits for motor vehicles traveling
26 upon the regulated streets and drives;

27 (2) Direct the flow of traffic on the regulated streets and
28 drives;

29 (3) Prohibit the parking, during normal business hours, of motor
30 vehicles on the regulated streets and drives;

31 (4) Establish or assign parking spaces that shall be available
32 for use as designated by the various offices or persons working in the State
33 Capitol Building or in any of the other buildings on the State Capitol
34 grounds and regulate parking by elected officials in the spaces set aside for
35 that purpose; and

36 (5) Do all other things reasonable and necessary to properly

1 regulate and control the flow of traffic on the State Capitol grounds and to
2 provide parking facilities for use by the public on the grounds.

3
4 SECTION 2357. Arkansas Code § 22-3-502(b), concerning the creation of
5 the Capitol Arts and Grounds Commission, is amended to read as follows:

6 (b) Members of the commission shall serve without pay, but they shall
7 be reimbursed by funds of the Secretary of State for reasonable and necessary
8 expenses in attending commission meetings and in the performance of duties of
9 the commission if funds are provided for the reimbursement in accordance with
10 the rate prescribed for state employees in state travel ~~regulations~~ rules.

11
12 SECTION 2358. Arkansas Code § 22-3-504(b)(3), concerning requests for
13 approval for capital improvement projects on State Capitol grounds, is
14 amended to read as follows:

15 (3) Sufficient information to demonstrate consistency of the
16 project with zoning ~~regulations~~ rules of the Capitol Zoning District
17 Commission.

18
19 SECTION 2359. Arkansas Code § 22-3-906(a), concerning the custodian of
20 property held in the name of the Building Authority Division of the
21 Department of Finance and Administration, is amended to read as follows:

22 (a) The Director of the Department of Finance and Administration shall
23 be the custodian of all property held in the name of the Building Authority
24 Division of the Department of Finance and Administration, shall be its
25 disbursing agent and executive officer, and shall administer the provisions
26 of this subchapter and the rules, ~~regulations~~, and orders established
27 thereunder.

28
29 SECTION 2360. Arkansas Code § 22-3-1303(c), concerning the preference
30 to blind persons to operate vending facilities on state property, is amended
31 to read as follows:

32 (c) It shall be the duty of state agency administrators to negotiate
33 and cooperate in good faith to accomplish the purpose of this subchapter to
34 ensure that vending facilities operated on state property provide employment
35 opportunities for the blind. Upon request of the licensing agency, state
36 agency administrators shall prescribe ~~regulations~~ rules designed both to

1 assure that these facilities benefit the blind and to assure preference for
2 licensed blind operators.

3
4 SECTION 2361. Arkansas Code § 22-3-1503 is amended to read as follows:

5 22-3-1503. Parking ~~regulation~~ rules.

6 The Building Authority Division of the Department of Finance and
7 Administration shall develop parking ~~regulations~~ rules which will maintain
8 equitable parking among the state agency tenants in the area described in §
9 22-3-1501 and for the public and may establish reasonable rental or other
10 charges for parking therein. The State Capitol Police shall provide the
11 necessary traffic patrols and policing of the parking facility.

12
13 SECTION 2362. Arkansas Code § 22-3-1704(c), concerning the obligation
14 to fund the Arkansas Fallen Firefighters' Memorial, is amended to read as
15 follows:

16 (c) The board shall comply with the rules ~~and regulations~~ of the
17 Capitol Arts and Grounds Commission regarding creation of a maintenance fund.

18
19 SECTION 2363. Arkansas Code § 22-3-2009(a), concerning rules adopted
20 for the operation and maintenance of energy conservation measures in public
21 buildings, is amended to read as follows:

22 (a) The Arkansas Pollution Control and Ecology Commission shall
23 promulgate ~~regulations~~ rules for the implementation of operation and
24 maintenance energy conservation measures in public buildings.

25
26 SECTION 2364. Arkansas Code § 22-3-2009(c), concerning rules adopted
27 for the operation and maintenance of energy conservation measures in public
28 buildings, is amended to read as follows:

29 (c) The Arkansas Pollution Control and Ecology Commission may
30 promulgate ~~regulations~~ rules to implement this subchapter.

31
32 SECTION 2365. Arkansas Code § 22-5-306(e), concerning qualifications
33 and appointment of appraisers by the Commissioner of State Lands, is amended
34 to read as follows:

35 (e) Each appraiser shall enter into bond to the state in the sum of
36 one thousand dollars (\$1,000), to be furnished by a surety company authorized

1 to do business in the State of Arkansas, conditioned that he or she will
2 faithfully discharge all of his or her duties according to law and the rules
3 ~~and regulations~~ of the State Land Use Committee.

4
5 SECTION 2366. Arkansas Code § 22-5-508(a), concerning management of
6 forests by the State Forester, is amended to read as follows:

7 (a) It shall be the duty of the State Forester, in accordance with the
8 provisions of this subchapter, the rules ~~and regulations~~ promulgated by the
9 Arkansas Forestry Commission, and approved methods of forestry, to manage,
10 control, protect, develop, utilize, and handle the lands in the state forests
11 in such a manner as to best serve the greatest permanent advantage to the
12 people of this state.

13
14 SECTION 2367. Arkansas Code § 22-5-509 is amended to read as follows:

15 22-5-509. Rules ~~and regulations~~.

16 The Arkansas Forestry Commission is authorized and directed to approve,
17 promulgate, and publish rules ~~and regulations~~, and amendments or
18 modifications thereof, reasonably required in directing and controlling the
19 proper execution of the duties and attaining the objectives of this
20 subchapter. These rules ~~and regulations~~ shall have the force and effect of
21 law.

22
23 SECTION 2368. Arkansas Code § 22-5-812 is amended to read as follows:

24 22-5-812. Leases and permits – Rules ~~and regulations~~.

25 (a) The Commissioner of State Lands shall promulgate any rules ~~and~~
26 ~~regulations~~ which may be deemed necessary to carry out the provisions of this
27 section and §§ 22-5-801 – 22-5-811 and 22-5-813.

28 (b) The Commissioner of State Lands shall include in the rules ~~and~~
29 ~~regulations~~ all grounds and conditions for the revocation or termination of
30 any lease or permit issued under this section and §§ 22-5-801 – 22-5-811 and
31 22-5-813 and shall provide for reasonable notice to the lessee or permittee
32 of an opportunity to be heard prior to terminating or revoking any lease or
33 permit.

34 (c) The Arkansas State Game and Fish Commission shall promulgate rules
35 and regulations necessary to lease mineral rights and to issue permits to
36 produce and sever minerals on commission lands in conformity with the

1 requirements, procedures, standards, and methods as provided in this section
2 and §§ 22-5-801 – 22-5-811 and 22-5-813.

3
4 SECTION 2369. Arkansas Code § 22-6-501(f)(1), concerning the transfer
5 of lands to state institutions, is amended to read as follows:

6 (1) Whether the prospective purchaser has a pattern or practice
7 of not paying fines resulting from a citation for violation of state laws or
8 ~~regulations~~ rules or local codes and ordinances;

9
10 SECTION 2370. Arkansas Code § 22-8-209 is amended to read as follows:
11 22-8-209. Rules ~~and regulations~~.

12 The Director of the Department of Finance and Administration, through
13 his or her disbursing officer, is authorized to promulgate such rules ~~and~~
14 ~~regulations~~ as deemed necessary to implement the provisions and intent of
15 this subchapter.

16
17 SECTION 2371. Arkansas Code § 23-1-103(a), concerning compliance with
18 the rules of the Arkansas Public Service Commission, is amended to read as
19 follows:

20 (a) Every public utility and every person or corporation shall obey
21 and comply with every requirement of this act and of every order, decision,
22 direction, or rule, ~~or regulation~~ made or prescribed by the commission in the
23 matters specified or any other matter in any way relating to or affecting the
24 business of any public utility. The commission shall do everything necessary
25 or proper in order to secure compliance with, and observance of, every order,
26 decision, direction, or rule, ~~or regulation~~ by all officers, agents, and
27 employees of every public utility.

28
29 SECTION 2372. Arkansas Code § 23-2-304(a)(2) and (3), concerning the
30 powers and duties of the Arkansas Public Service Commission, are amended to
31 read as follows:

32 (2) Determine the reasonable, safe, adequate, and sufficient
33 service to be observed, furnished, enforced, or employed by any public
34 utility and to fix this service by its order, or rule, ~~or regulation~~;

35 (3) Ascertain and fix adequate and reasonable standards,
36 classifications, ~~regulations~~ rules, practices, and services to be furnished,

1 imposed, observed, and followed by any or all public utilities;

2
3 SECTION 2373. Arkansas Code § 23-2-304(a)(5), concerning the powers
4 and duties of the Arkansas Public Service Commission, is amended to read as
5 follows:

6 (5) Prescribe reasonable ~~regulations~~ rules for the examination
7 and testing of the production, commodity, or service, and, for the
8 measurement thereof, establish or approve reasonable rules, ~~regulations,~~
9 specifications, and standards to secure the accuracy of all meters or
10 appliances for measurement;

11
12 SECTION 2374. Arkansas Code § 23-2-304(a)(8)(A), concerning the powers
13 and duties of the Arkansas Public Service Commission, is amended to read as
14 follows:

15 (8)(A) Require any or all public utilities to carry a proper and
16 adequate depreciation account in accordance with such rules, ~~regulations,~~ and
17 forms of account as the commission may prescribe.

18
19 SECTION 2375. Arkansas Code § 23-2-304(a)(10)(B), concerning the
20 powers and duties of the Arkansas Public Service Commission, is amended to
21 read as follows:

22 (B) Notwithstanding subdivision (a)(10)(A) of this
23 section, release of such information may be made pursuant to subpoena, court
24 order, or other applicable statute, or rule, ~~or regulation;~~ and
25

26 SECTION 2376. Arkansas Code § 23-2-405(a), concerning service of
27 process, notices, and complaints by the Arkansas Public Service Commission,
28 is amended to read as follows:

29 (a) All process issued by the commission shall extend to all parts of
30 the state, and any such process, together with the service of all notices
31 issued by the commission, as well as copies of complaints, rules, and orders,
32 ~~and regulations~~ of the commission, may be served by any person authorized to
33 serve process issued out of courts of law, or by mail, as the commission may
34 direct.

35
36 SECTION 2377. Arkansas Code § 23-2-420 is amended to read as follows:

1 23-2-420. Orders, findings, rules, certificates, etc., under Acts
2 1935, No. 324, to be in writing – Copies as evidence.

3 (a) Every order, finding, authorization, rule, ~~regulation~~, or
4 certificate issued or approved by the commission under any provisions of this
5 act shall be in writing and entered on the records of the commission, all of
6 which shall be public records.

7 (b) A certificate under the seal of the commission that any such
8 order, finding, authorization, rule, ~~regulation~~, or certificate has not been
9 modified, stayed, suspended, or revoked shall be received as evidence in all
10 courts as to the facts therein stated.

11
12 SECTION 2378. Arkansas Code § 23-3-103(a)(2), concerning regulation of
13 stocks, bonds, notes, and the creation of liens by the Arkansas Public
14 Service Commission, is amended to read as follows:

15 (2) The power of public utilities described in subdivision
16 (a)(1) of this section shall be exercised as provided by law and under such
17 rules ~~and regulations~~ as the Arkansas Public Service Commission may
18 prescribe.

19
20 SECTION 2379. Arkansas Code § 23-3-106 is amended to read as follows:

21 23-3-106. Stocks, bonds, notes, etc. – Disposition of proceeds.

22 The commission shall have the power to require every public utility,
23 other than municipalities, to account for the disposition of the proceeds of
24 all sales of stocks, bonds, notes, or other evidence of indebtedness, in such
25 form and detail as it may deem advisable. Also, the commission shall have the
26 power to establish such rules ~~and regulations~~ as it may deem necessary to
27 insure the disposition of the proceeds for the purpose specified in its
28 order.

29
30 SECTION 2380. Arkansas Code § 23-3-204(b), concerning preliminary
31 orders by the Arkansas Public Service Commission, is amended to read as
32 follows:

33 (b) The commission may thereupon make an order declaring that it will
34 thereafter, upon application under such rules ~~and regulations~~ as it may
35 prescribe, issue the desired certificate upon the terms and conditions as it
36 may designate after the applicant has obtained the contemplated franchise,

1 permit, ordinance, vote, or other authority.

2
3 SECTION 2381. Arkansas Code § 23-3-303(a), concerning the
4 applicability laws to public utility acquisitions, is amended to read as
5 follows:

6 (a) If a domestic public utility seeks to acquire control of another
7 domestic public utility which is subject to the Arkansas Public Service
8 Commission's jurisdiction in a transaction described in § 23-3-306 for which
9 the filing of a statement would be required, then an application for approval
10 containing any information which the commission may prescribe by rule ~~or~~
11 ~~regulation~~ adopted pursuant to this subchapter shall be filed with and heard
12 by the commission after such notice as the commission may prescribe, and the
13 transaction shall be approved or disapproved based upon the factors
14 enumerated in § 23-3-310, subject to judicial review as provided in § 23-3-
15 313, but the other provisions of this subchapter shall not apply to the
16 transaction.

17
18 SECTION 2382. Arkansas Code § 23-3-304(b), concerning penalties for
19 violations of the rules imposed by the Arkansas Public Service Commission, is
20 amended to read as follows:

21 (b) Any person who knowingly violates any rule, ~~regulation,~~
22 restriction, condition, or order made or imposed by the Arkansas Public
23 Service Commission under authority of this subchapter shall be guilty of a
24 violation and, in addition to any other penalties provided by law, shall be
25 punished upon conviction by a fine not exceeding five hundred dollars (\$500)
26 for each day during which such an offense occurs.

27
28 SECTION 2383. Arkansas Code § 23-3-305 is amended to read as follows:
29 23-3-305. Powers of commission.

30 The Arkansas Public Service Commission shall have power to perform any
31 and all acts, and to prescribe, issue, make, amend, and rescind any orders,
32 ~~or rules, and regulations~~ which it may find necessary or appropriate to carry
33 out the provisions of this subchapter.

34
35 SECTION 2384. Arkansas Code § 23-3-307(a)(10), concerning contents and
36 amendments of statements to be filed with the Arkansas Public Service

1 Commission, is amended to read as follows:

2 (10) Any additional information which the commission may by rule
3 ~~or regulation~~ prescribe as necessary or appropriate for the protection of
4 ratepayers of the domestic public utility or in the public interest.

5
6 SECTION 2385. Arkansas Code § 23-3-316(a), concerning injunctions and
7 criminal proceedings referred by the Arkansas Public Service Commission, is
8 amended to read as follows:

9 (a) Whenever it shall appear to the Arkansas Public Service
10 Commission, the Attorney General, or a domestic public utility which
11 reasonably believes itself to be the object of a tender offer or attempt to
12 obtain control as described in § 23-3-306, that any person is engaged or
13 about to engage in any acts or practices which constitute or will constitute
14 a violation of the provisions of this subchapter, or of any rule, ~~regulation,~~
15 or order thereunder, the commission, the Attorney General, or the domestic
16 public utility may bring an action in Pulaski County Circuit Court to enjoin
17 those acts or practices and to enforce compliance with this subchapter or any
18 rule, ~~regulation,~~ or order thereunder. Upon a proper showing being made, a
19 temporary restraining order, preliminary injunction, or permanent injunction
20 enjoining any such person and all others acting on behalf of or at the
21 discretion of that person shall be granted without bond.

22
23 SECTION 2386. Arkansas Code § 23-4-101(a), concerning the exceptions
24 to the authority of the Arkansas Public Service Commission or the Arkansas
25 Department of Transportation to establish rates, is amended to read as
26 follows:

27 (a) With respect to the particular public utilities and matters over
28 which each agency has jurisdiction, the Arkansas Public Service Commission or
29 the Arkansas Department of Transportation shall have the power, after
30 reasonable notice and after full and complete hearing, to enforce, originate,
31 establish, modify, change, adjust, and promulgate tariffs, rates, joint
32 rates, tolls, and schedules for all public service corporations, companies,
33 and utilities and all rules ~~and regulations~~ with reference thereto and orders
34 directing the performance of any duties devolving on the company, utility,
35 common carrier, or public service corporation under the terms of this act.

36

1 SECTION 2387. Arkansas Code § 23-4-101(c)(1), concerning the
2 exceptions to the authority of the Arkansas Public Service Commission or the
3 Arkansas Department of Transportation to establish rates, is amended to read
4 as follows:

5 (c)(1) Nothing in this act shall authorize either the commission or
6 the department to make any rule, ~~regulation~~, or order whatever to be
7 effective within the limits of any municipality of this state with reference
8 to any tariff, rate, toll, schedule, duty, or action of any public service
9 corporation, company, or public utility operating within the municipality as
10 a street railroad; telephone company; gas company; pipeline company for
11 transportation of oil, gas, or water; electrical company, for the generation
12 or distribution, sale, or supply of electricity for heat, light, or power;
13 water company; or hydroelectric company.

14
15 SECTION 2388. Arkansas Code § 23-4-103 is amended to read as follows:
16 23-4-103. Rates, and rules, ~~and regulations~~ to be reasonable.

17 All rates made, demanded, or received by any public utility, for any
18 product or commodity furnished, or to be furnished, or any service rendered
19 or to be rendered, and all rules ~~and regulations~~ made by any public utility
20 pertaining thereto shall be just and reasonable, and to the extent that the
21 rates, or rules, ~~or regulations~~ may be unjust or unreasonable, are prohibited
22 and declared unlawful.

23
24 SECTION 2389. Arkansas Code § 23-4-106 is amended to read as follows:
25 23-4-106. Rate schedules – Public inspection.

26 Every public utility shall keep copies of its rate schedules open to
27 public inspection under such rules ~~and regulations~~ and at such places as the
28 commission may prescribe.

29
30 SECTION 2390. Arkansas Code § 23-4-110(c)(1), concerning changes to
31 utility rates and procedures for changes to utility rates, is amended to read
32 as follows:

33 (c)(1) Whenever there is filed with the regulatory body any schedule
34 proposing a change in any rates, charges, or ~~regulations~~ rules, the
35 regulatory body shall have authority, either upon complaint or upon its own
36 initiative, and upon reasonable notice, to enter upon a hearing concerning

1 the propriety of the rate, charge, or ~~regulation~~ rule.

2
3 SECTION 2391. Arkansas Code § 23-4-110(c)(3), concerning changes to
4 utility rates and procedures for changes to utility rates, is amended to read
5 as follows:

6 (3) After a full hearing, whether completed before or after the
7 rate, charge, or ~~regulation~~ rule goes into effect, the regulatory body may
8 make such orders in reference to the rate, fare, charge, or ~~regulation~~ rule
9 as shall be deemed proper and just.

10
11 SECTION 2392. Arkansas Code § 23-4-209(a)(1), concerning the
12 transition costs incurred by an electric utility, is amended to read as
13 follows:

14 (a)(1) As used in this section, "transition costs" means those costs,
15 investments, or unfunded mandates, either recurring or nonrecurring, incurred
16 by an electric utility after July 30, 1999, that are found to have been
17 necessary to carry out the electric utility's responsibilities associated
18 with efforts to implement retail open access or were mandated by statute or
19 ~~regulation~~ rule and are not otherwise recoverable.

20
21 SECTION 2393. Arkansas Code § 23-4-501(a)(1)(D), concerning the
22 authority to recover costs through interim rate schedule by the Arkansas
23 Public Service Commission, is amended to read as follows:

24 (D) Are incurred by the public utility to comply with
25 legislative or administrative rules, ~~regulations~~, or requirements;

26
27 SECTION 2394. Arkansas Code § 23-4-501(b)(1), concerning the authority
28 to recover costs through an interim rate schedule by the Arkansas Public
29 Service Commission, is amended to read as follows:

30 (b)(1) A public utility shall be permitted to recover, through an
31 interim surcharge, the allowance for funds used during construction that
32 would otherwise be accrued and capitalized that is incurred during the
33 construction of facilities and equipment required for compliance with such
34 legislative or administrative rules, ~~regulations~~, or requirements, provided
35 that any such allowance for funds used during construction has not been
36 capitalized or otherwise included in the utility's currently effective rates.

1
2 SECTION 2395. Arkansas Code § 23-4-507(a)(1), concerning the
3 modification or disapproval of surcharge by the Arkansas Public Service
4 Commission, is amended to read as follows:

5 (1) The investments or expenses were not reasonably incurred to
6 comply with legislative or administrative rules, ~~regulations~~, or
7 requirements;

8
9 SECTION 2396. Arkansas Code § 23-4-709(b)(2) and (3), concerning the
10 rate-making procedure of the Arkansas Department of Transportation, are
11 amended to read as follows:

12 (2) Shall make rules ~~and regulations~~ as to charges at any and
13 all points for the necessary hauling and delivering of express and freight;
14 and

15 (3) Will regulate rates and charges for such services on all
16 railroads as, in their judgment, justice to the public and the person or
17 corporation requires and by ~~regulation~~ rule make the rates and charges
18 conform to the requirements of this act.

19
20 SECTION 2397. Arkansas Code § 23-4-902 is amended to read as follows:

21 23-4-902. Exemption from rate case procedures, etc.

22 A co-op, as defined in § 23-4-901, shall not be subject to rate case
23 procedures and hearings and other requirements of §§ 23-4-402 – 23-4-405, 23-
24 4-407 – 23-4-418, and 23-4-620 – 23-4-634 and Arkansas Public Service
25 Commission ~~regulations~~ rules implementary thereof, hereafter referred to as
26 “rate case procedures”, by the commission unless:

27 (1) By action of its board of directors, the co-op elects to be
28 subject to rate case procedures by the commission;

29 (2) A proposed change in the co-op’s rates and charges exceeds
30 ten percent (10%) of total gross revenues;

31 (3) Ten percent (10%) of the co-op’s member-consumers petition
32 the commission to apply rate case procedures; or

33 (4) As otherwise provided in this subchapter.

34
35 SECTION 2398. Arkansas Code § 23-10-301 is amended to read as follows:

36 23-10-301. Express and freight rules prescribed by department.

1 The Arkansas Department of Transportation shall make rules ~~and~~
2 ~~regulations~~ to be observed by all persons or corporations operating any
3 railroad or engaged in transporting property as express or freight in this
4 state, in respect to the receiving, hauling, transporting, storing, and
5 delivering of freight and express as, in its judgment, the public convenience
6 may require.

7
8 SECTION 2399. Arkansas Code § 23-10-406(a), concerning penalties for
9 violations of the rules of the Arkansas Department of Transportation, is
10 amended to read as follows:

11 (a) If any person or corporation operating a railroad in this state
12 for the transportation of freight, or any receiver, trustee, or lessee of any
13 such person or corporation, or any other person or corporation as defined in
14 § 23-10-402 or its employees or agents violate any of the provisions of §§
15 23-10-402, 23-10-403, 23-10-405, and 23-10-409 – 23-10-431, or aid or abet
16 therein, or violate the tariff of charges or the rules of the Arkansas
17 Department of Transportation as fixed by the department regarding railroad
18 companies upon furnishing cars upon application of shippers, and regarding
19 transportation, delivery, and storage of freight, forbidden pooling,
20 discrimination, rebate, drawback, or other similar device, either directly or
21 indirectly, or regarding any of the rules made by the department based upon
22 §§ 23-10-402, 23-10-403, 23-10-405, and 23-10-409 – 23-10-431, and for which
23 there is no other penalty prescribed in §§ 23-10-402, 23-10-403, 23-10-405,
24 and 23-10-409 – 23-10-431, then the person, corporation, receiver, trustee,
25 lessee, or any other person or corporation as defined in § 23-10-402 shall be
26 liable to a penalty of not less than five hundred dollars (\$500) nor more
27 than three thousand dollars (\$3,000) for each violation of §§ 23-10-402, 23-
28 10-403, 23-10-405, and 23-10-409 – 23-10-431, or of such rules ~~and~~
29 ~~regulations~~ of the department based upon §§ 23-10-402, 23-10-403, 23-10-405,
30 and 23-10-409 – 23-10-431.

31
32 SECTION 2400. Arkansas Code § 23-10-407 is amended to read as follows:

33 23-10-407. Reasonable rules for transportation of freight permitted.

34 (a) It shall be lawful for railroads to prescribe rules ~~and~~
35 ~~regulations~~ for the transportation of merchandise, livestock, and other
36 freight that are reasonable and not inconsistent with the common law or

1 statutory duties and liabilities of railroads as common carriers.

2 (b) The reasonableness or unreasonableness of the rules ~~and~~
3 ~~regulations~~ shall be determined by a jury in all cases where the rules ~~or~~
4 ~~regulations~~ become an issue before any court.

5
6 SECTION 2401. Arkansas Code § 23-10-408(b), concerning contracts or
7 rules abridging liability of railroad void, is amended to read as follows:

8 (b) All rules ~~and regulations~~ prescribed by any railroad for the
9 transportation of any merchandise, livestock, or other freight which are
10 inconsistent with the common law and statutory duties and liabilities of
11 railroads as common carriers or that in anywise limit or abridge the
12 statutory and common laws and rights of any shipper are declared to be void
13 and shall not be enforced by any of the courts of this state.

14
15 SECTION 2402. Arkansas Code § 23-10-415(b), concerning the duty to
16 exchange and return railroad freight cars, is amended to read as follows:

17 (b) Upon demand of the owner thereof, it shall be the duty of every
18 railroad company receiving the cars of another railroad company to return the
19 cars within a reasonable time after demand therefor and within the time and
20 according to the rules ~~and regulations~~ prescribed by the Arkansas Department
21 of Transportation.

22
23 SECTION 2403. Arkansas Code § 23-10-432 is amended to read as follows:

24 23-10-432. Duty to furnish cars – Reasonable time for requesting cars.

25 It shall be deemed, prima facie, a reasonable time within which to
26 order cars that any shipper shall give notice thereof to the station agent at
27 the place of shipment, or in his or her absence to the nearest station agent
28 of the railroad company to which the application is made, three (3) days
29 before a shipment of five (5) cars or fewer, and five (5) days for fewer than
30 ten (10) but more than five (5) cars, and eight (8) days for ten (10) cars or
31 more. It shall be the duty of the railroad companies to furnish their station
32 agents with printed blanks upon which shippers may make application for their
33 cars. However, nothing in this section and §§ 23-10-401, 23-10-433 – 23-10-
34 437, and 23-12-605 shall be construed to exempt any railroad company from the
35 obligation to furnish cars for shipment without the written notice, but it
36 shall only be subject to the penalties of §§ 23-10-434 – 23-10-437 for

1 failure to furnish cars to shippers where notice thereof shall be given in
2 writing or, in case of shipment of freight wholly between points in this
3 state, then in accordance with the rules ~~and regulations~~ of the Arkansas
4 Department of Transportation.

5
6 SECTION 2404. Arkansas Code § 23-10-434(a), concerning the liability
7 for failure to furnish or exchange cars by a railroad company, is amended to
8 read as follows:

9 (a) Every railroad company that, in violation of any of the provisions
10 of this section and §§ 23-10-401, 23-10-432, 23-10-433, 23-10-435 – 23-10-
11 437, and 23-12-605, fails to furnish any cars for the shipment of any freight
12 within a reasonable time or, in case of the shipment of freight between
13 points within this state, within the time prescribed by the Arkansas
14 Department of Transportation if the department shall prescribe the time by
15 rules ~~and regulations~~ as provided in this section and §§ 23-10-401, 23-10-
16 432, 23-10-433, 23-10-435 – 23-10-437, and 23-12-605, and the company fails
17 to do so within a reasonable time, or fails to receive and forward any loaded
18 cars or to exchange cars as provided for in this section and §§ 23-10-401,
19 23-10-432, 23-10-433, 23-10-435 – 23-10-437, and 23-12-605, that company
20 shall be liable to the shipper or other person injured or damaged thereby for
21 all such injury and damages as may result to the shipper. The railroad
22 company is also liable for all special damages of which it had notice at the
23 time of the shipment or which occurs after written notice thereof, and shall
24 be liable, in addition thereto, for an amount equal to a reasonable
25 attorney's fee, in case suit is brought for recovery of such damages.

26
27 SECTION 2405. Arkansas Code § 23-10-434(c), concerning the liability
28 for failure to furnish or exchange cars by a railroad company, is amended to
29 read as follows:

30 (c) Every railroad company that fails to furnish cars or to exchange
31 cars as required by the provisions of this section and §§ 23-10-401, 23-10-
32 432, 23-10-433, 23-10-435 – 23-10-437, and 23-12-605 or by the rules ~~and~~
33 ~~regulations~~ of the department as provided in this section and §§ 23-10-401,
34 23-10-432, 23-10-433, 23-10-435 – 23-10-437, and 23-12-605 shall be liable
35 to the railroad company injured thereby for all such damages as may result to
36 it and, in addition thereto, an amount equal to a reasonable attorney's fee

1 in case of suit brought for the recovery of any damages.

2
3 SECTION 2406. Arkansas Code § 23-10-437 is amended to read as follows:
4 23-10-437. Intrastate freight – Rules ~~and regulations~~.

5 (a) The Arkansas Department of Transportation is authorized and
6 empowered, as to all freight carried wholly within this state and the cars
7 used therefor:

8 (1) To make and establish all needful rules ~~and regulations~~,
9 general and special, which may be different according to the circumstances
10 and conditions of different railroads and localities and for different kinds
11 and classes of freight and cars, providing for the time, place, and manner of
12 demanding cars for or giving notice of shipment of such freight and the time,
13 place, and manner and the order in which the cars shall be furnished to
14 shippers for the purpose of shipping freight between points in this state;
15 and

16 (2) To prescribe rules ~~and regulations~~ for:

17 (A) The furnishing, exchanging, and interchanging of cars,
18 loaded and empty, by railroad companies as between each other;

19 (B) The time, place, terms, and conditions upon which cars
20 shall be furnished and interchange shall be made, and, in the absence of an
21 agreement of such railroad companies, the reasonable compensation to be paid
22 by each railroad company for the use, loss, injury, or destruction of the
23 cars of another railroad company in the transportation of freight;

24 (C) The time within which and the manner by which railroad
25 companies shall give notice or make demand upon each other for cars to be
26 furnished by one railroad company in exchange for loaded cars or to have its
27 cars returned, the reasonable free time to be allowed the shipper for the
28 loading of cars without incurring liability for demurrage, and the free time
29 which shall be allowed to the shipper or consignee in which to unload freight
30 without incurring any liability for demurrage; and

31 (D) A schedule of reasonable demurrage charges, reciprocal
32 or otherwise, for the use of cars, irrespective of damages or penalties
33 provided in this subchapter, which may be different for different railroads
34 and different traffic and localities to be paid by shippers for the detention
35 or use of cars, either in loading or unloading or paid by the railroads for
36 failing in a reasonable time to furnish cars or to make delivery of loaded

1 cars, subject to the penalties and damages provided in §§ 23-10-432 – 23-10-
2 436 and the rules ~~and regulations~~ with respect thereto.

3 (b) The department, whenever it may deem it necessary in order to
4 secure the prompt transportation of freight and preservation of property,
5 shall be authorized to prescribe the minimum speed at which freight shall be
6 moved when being transported between points within this state, including the
7 time for transfer and delivery between connecting railroads.

8 (c) It shall be the duty of every such railroad to conform to all the
9 rules ~~and regulations~~ and orders of the department made in accordance with
10 this section. The failure of any such railroad company to observe the rules
11 ~~and regulations~~ of the department, or to comply with the provisions of this
12 section and §§ 23-10-401, 23-10-432 – 23-10-436, and 23-12-605 as to freight
13 carried wholly within this state, shall be deemed an abuse subject to
14 correction by the department and shall subject the railroad company to the
15 penalties provided in §§ 23-10-432 – 23-10-436.

16
17 SECTION 2407. Arkansas Code § 23-11-209(10), concerning the specific
18 powers and liabilities of a proposed railroad, is amended to read as follows:

19 (10) To, at any time by means of subscription to the capital
20 stock of any other railroad company or otherwise, aid the other company in
21 the construction of its railroad, within or without the state, for the
22 purpose of forming a connection to the other road, with the road owned by the
23 company furnishing the aid. Any such railway company which may have built its
24 road to the boundary line of the state may extend into the adjoining state
25 and, for that purpose, may build or buy or lease a railroad in the adjoining
26 state and operate the railroad and may own such real estate and other
27 property in any adjoining state as may be convenient in operating the road,
28 subject to approval by two-thirds (2/3) of its stockholders and the
29 department under rules ~~and regulations~~ established by the department; and

30
31 SECTION 2408. Arkansas Code § 23-11-220(c)(2), concerning the
32 amendment of articles of incorporation of any railroad corporation, is
33 amended to read as follows:

34 (2) The department shall establish rules ~~and regulations~~
35 governing the procedure for conducting hearings and making such
36 determinations as it shall deem advisable for the purpose of approving

1 amendments to the articles of incorporation and charter of railroad
2 corporations incorporated in this state.

3
4 SECTION 2409. Arkansas Code § 23-11-302(a), concerning the authority
5 to sell or lease a road or property to a connecting foreign railroad, is
6 amended to read as follows:

7 (a) Subject to the approval thereof by the Arkansas Department of
8 Transportation under such rules ~~and regulations~~ for procedure as it may
9 establish and a determination that such action will be in the public
10 interest, any railroad corporation in this state may sell or lease its road,
11 property, and franchise to any other railroad corporation duly organized and
12 existing under the laws of any other state or territory whose line of
13 railroad shall so connect with the leased or purchased road by bridge, ferry,
14 or otherwise as to practically form a continuous line of railroad.

15
16 SECTION 2410. Arkansas Code § 23-11-402 is amended to read as follows:

17 23-11-402. Purchase or lease of state roads – Exception.

18 Subject to approval thereof by the Arkansas Department of
19 Transportation under such rules ~~and regulations~~ for procedure as it may
20 establish and a determination that action will be in the public interest, any
21 railroad corporation existing under the laws of any other state or territory
22 may buy, lease, or otherwise acquire any railroad, the whole or part of which
23 is in this state, with all the rights, privileges, and franchises thereto
24 pertaining, or buy the stock and bonds, or guarantee the bonds of any
25 railroad corporation incorporated or organized under the laws of this state
26 whenever the roads of such companies shall form in the operation thereof a
27 continuous line or lines. However, the road so purchased shall not be
28 parallel or competing with the purchasing road.

29
30 SECTION 2411. Arkansas Code § 23-12-503(2), concerning the liability
31 for the injury or death of an employee by a common carrier by railroad, is
32 amended to read as follows:

33 (2) By reason of any insufficiency of clearance of obstructions;
34 of strength of roadbed and tracks or structures, or machinery and equipment;
35 of lights and signals in switching and terminal yards, or rules ~~and~~
36 ~~regulations~~; and of number of employees to perform the particular duties with

1 safety to themselves and their coemployees, or of any other insufficiency; or

2
3 SECTION 2412. Arkansas Code § 23-12-1004(b), concerning the powers and
4 duties of the State Highway Commission, is amended to read as follows:

5 (b) Pursuant to ~~regulation~~ rules providing for an opportunity of
6 notice and hearing, the commission shall promulgate appropriate ~~regulations~~
7 rules pertaining to the maintenance of railroad crossings of state, county,
8 city, or municipal streets and highways.

9
10 SECTION 2413. Arkansas Code § 23-12-1005(a)(1)(A), concerning
11 inadequate action or unreasonable refusal of a railroad to respond to a
12 complaint, is amended to read as follows:

13 (a)(1)(A) Prior to any request by a state, municipal, or county
14 official for sanctions against any railroad company for violation of any
15 ~~regulation~~ rule promulgated pursuant to this subchapter, the state,
16 municipal, or county official shall state the claim or complaint in writing
17 by certified mail to the registered agent of the railroad company in
18 question.

19
20 SECTION 2414. Arkansas Code § 23-12-1007 is amended to read as
21 follows:

22 23-12-1007. Investigations – ~~Regulations~~ Rules.

23 (a)(1) The State Highway Commission shall make such investigations as
24 it deems necessary, or as requested by state, municipal, or county officials,
25 to properly exercise the exclusive jurisdiction hereby conferred and pursuant
26 to required notice and hearing shall promulgate all necessary orders or
27 ~~regulations~~ rules concerning train operation, train movement, permissible
28 standing time for trains, and all other related matters.

29 (2) The investigation of crossings shall include, but is not
30 limited to, the reasonable availability or use of other crossings by
31 vehicular or pedestrian traffic, the frequency and necessity of use of the
32 railroad crossing by railroad trains and vehicular and pedestrian traffic,
33 the restriction of emergency and law enforcement vehicles using the crossing,
34 and the hours of frequent use of the crossing.

35 (3) In the investigation, the commission shall seek the advice
36 of Arkansas counties, municipalities, railroads operating within this state,

1 and unions representing railroad employees.

2 (b) Provided, unless and until the commission by order or ~~regulation~~
3 rule provides otherwise, it is unlawful for any corporation, company, or
4 person owning or operating any railroad trains in the state to permit a
5 standing train to obstruct any public highway, road, street, or other
6 railroad crossing for more than ten (10) minutes.

7
8 SECTION 2415. Arkansas Code § 23-12-1008(b), concerning delayed
9 responses to complaints against railroad companies, is amended to read as
10 follows:

11 (b) After the initial ten-minute period or such other period as may be
12 prescribed by ~~regulation~~ rule of the commission, each ten-minute period or
13 other period as may be prescribed by ~~regulation~~ rule of the commission that
14 the crossing is obstructed by a standing train shall constitute a separate
15 offense, and penalties may be imposed accordingly.

16
17 SECTION 2416. Arkansas Code § 23-13-102(c), concerning the Arkansas
18 Department of Transportation's authority to inspect licenses, is amended to
19 read as follows:

20 (c) Nothing contained in this act shall be construed to relieve any
21 motor vehicle carrier from any ~~regulation~~ rule imposed by law or lawful
22 authority.

23
24 SECTION 2417. Arkansas Code § 23-13-203(a)(8)(B)(i), concerning the
25 definition of "household goods carrier", is amended to read as follows:

26 (B)(i) The household goods carriers shall continue to be
27 regulated by the department in accordance with this subchapter and all rules
28 ~~and regulations~~ made and promulgated by the department.

29
30 SECTION 2418. Arkansas Code § 23-13-203(a)(9), concerning the
31 definition of "interested parties", is amended to read as follows:

32 (9) "Interested parties" includes, in all cases, all carriers
33 operating over the routes or any part thereof or in the territory involved in
34 any application for a certificate of convenience and necessity or a permit,
35 or any application to file or change any schedule or rates, charges, fares,
36 or any rule, ~~regulation~~, or practice, and such other parties as the

1 department may deem interested in the particular matter;

2
3 SECTION 2419. Arkansas Code § 23-13-206(a)(3), concerning the
4 exemption of certain private carriers from the Arkansas Motor Carrier Act of
5 1995, is amended to read as follows:

6 (3) Any private carrier of property and motor vehicles employed
7 in the hauling of gravel, rock, dirt, bituminous mix materials, riprap,
8 quarried stone, crushed stone, and similar materials, and any movements and
9 services performed by wreckers and wrecker services. Provided, all of the
10 above private carriers, motor vehicles, and wrecker and wrecker services
11 shall be subject to the provisions prescribed, including all ~~regulations~~
12 rules made and promulgated pursuant to this subchapter, with respect to
13 safety of operation and equipment standards;

14
15 SECTION 2420. Arkansas Code § 23-13-206(a)(7)(B), concerning the
16 exemption of transportation of passengers under contract with the state of
17 Arkansas from the Arkansas Motor Carrier Act of 1995, is amended to read as
18 follows:

19 (B) Provided, the motor carriers shall be subject to the
20 provisions prescribed, including all ~~regulations~~ rules made and promulgated
21 pursuant to this subchapter, with respect to safety of operation and
22 equipment standards; and

23
24 SECTION 2421. Arkansas Code § 23-13-208(6), concerning the powers and
25 duties of the Arkansas Department of Transportation, is amended to read as
26 follows:

27 (6) To administer, execute, and enforce all other provisions of
28 this subchapter, to make all necessary orders in connection therewith, and to
29 prescribe rules, ~~regulations,~~ and procedures for such administration; and

30
31 SECTION 2422. Arkansas Code § 23-13-219(a), concerning applications
32 for a certificates of public convenience and necessity, is amended to read as
33 follows:

34 (a) Applications for certificates of public convenience and necessity
35 shall be made in writing to the Arkansas Department of Transportation, be
36 verified under oath, shall be in such form, contain such information, and be

1 accompanied by proof of service upon such interested parties as the
2 department by ~~regulation~~ rule shall require.

3
4 SECTION 2423. Arkansas Code § 23-13-220(a)(1), concerning notice and
5 hearing requirements for issuance of a certificate of public convenience and
6 necessity, is amended to read as follows:

7 (a)(1) Subject to the provisions of this subchapter, a certificate of
8 public convenience and necessity shall be issued to any qualified applicant
9 therefor, authorizing the whole or any part of the operations covered by the
10 application if it is found that the applicant is fit, willing, and able
11 properly to perform the service proposed and to conform to the provisions of
12 this subchapter and the requirements, and rules, ~~and regulations~~ of the
13 Arkansas Department of Transportation thereunder, and that the proposed
14 service, to the extent to be authorized by the certificate, is or will be
15 required by the present or future public convenience and necessity; otherwise
16 the application shall be denied. The burden of proof shall be upon the
17 applicant.

18
19 SECTION 2424. Arkansas Code § 23-13-221(b) and (c), concerning terms
20 and conditions of certificates of public convenience and necessity, are
21 amended to read as follows:

22 (b) A common carrier by motor vehicle operating under any such
23 certificate may occasionally deviate from the route over which, or the fixed
24 termini between which, it is authorized to operate under the certificate
25 under such general or special rules ~~and regulations~~ as the department may
26 prescribe.

27 (c) Any common carrier by motor vehicle transporting passengers under
28 a certificate issued under this subchapter may transport to any place within
29 the state special or chartered parties under such rules ~~and regulations~~ as
30 the department may prescribe.

31
32 SECTION 2425. Arkansas Code § 23-13-223(a), concerning applications
33 for permits for contract carriers, is amended to read as follows:

34 (a) Applications for permits for contract carriers by motor vehicles
35 shall be made to the Arkansas Department of Transportation in writing, be
36 verified under oath, and shall be in such form, contain such information, and

1 be accompanied by proof of service upon such interested parties as the
2 department by ~~regulation~~ rule may require.

3
4 SECTION 2426. Arkansas Code § 23-13-224(a), concerning issuance of
5 permits for contract carriers, is amended to read as follows:

6 (a) Subject to this subchapter, a permit for a contract carrier by
7 motor vehicle shall be issued to any qualified applicant therefor authorizing
8 in whole or in part the operations covered by the applications, if it is
9 found that the applicant is fit, willing, and able to properly perform the
10 service of a contract carrier by motor vehicle and to conform to the
11 provisions of this subchapter and the lawful requirements, and rules, ~~and~~
12 ~~regulations~~ of the Arkansas Department of Transportation, and the proposed
13 operation, to the extent authorized by the permit, will promote the public
14 interest and the policy declared in § 23-13-202; otherwise the application
15 shall be denied.

16
17 SECTION 2427. Arkansas Code § 23-13-227(b)-(d), concerning
18 certificates or permits issued to motor carriers by the Arkansas Department
19 of Transportation, are amended to read as follows:

20 (b)(1) In its discretion and under such rules ~~and regulations~~ as it
21 shall prescribe the department may require any such common carrier to file a
22 surety bond, policies of insurance, qualifications as a self-insurer, or
23 other securities or agreements, in a sum to be determined by the department,
24 to be conditioned upon the carrier making compensation to shippers or
25 consignees for all property belonging to shippers or consignees and coming
26 into the possession of such carriers in connection with its transportation
27 service.

28 (2) Any carrier which may be required by law to compensate a
29 shipper or consignee for any loss, damage, or default for which a connecting
30 motor common carrier is legally responsible shall be subrogated to the rights
31 of the shipper or consignee under any such bond, policies, or insurance or
32 other securities or agreements, to the extent of the sum so paid, plus any
33 court costs and reasonable attorney's fees paid by the carrier in defending
34 any action brought thereon by the shipper or consignee.

35 (c) The reasonable rules ~~and regulations~~ of the department authorized
36 by this section shall conform as nearly as may be consistent with the public

1 interest to those rules made by the Interstate Commerce Commission
2 [abolished] from time to time with respect to surety for the protection of
3 the public by motor carriers engaged in interstate or foreign commerce.

4 (d) Any motor carrier who has qualified as a self-insurer in
5 accordance with the rules ~~and regulations~~ of the Interstate Commerce
6 Commission [abolished] governing motor carriers engaged in interstate or
7 foreign commerce shall be prima facie deemed qualified as a self-insurer in
8 the State of Arkansas.

9
10 SECTION 2428. Arkansas Code § 23-13-230(b) and (c), concerning brokers
11 licenses issued by the Arkansas Department of Transportation, are amended to
12 read as follows:

13 (b) A brokerage license shall be issued to any qualified applicant
14 therefor, authorizing the whole or any part of the operations covered by the
15 application, if it is found that the applicant is fit, willing, and able
16 properly to perform the service proposed and to conform to the provisions of
17 this subchapter and the requirements, and rules, ~~and regulations~~ of the
18 department thereunder and that the proposed service, to the extent authorized
19 by the license, will promote the public interest and policy declared in this
20 subchapter; otherwise the application shall be denied.

21 (c) The department shall prescribe reasonable rules ~~and regulations~~
22 for the protection of travelers or shippers by motor vehicle, to be observed
23 by any person holding a brokerage license. No such license shall be issued or
24 remain in force unless the person shall have furnished a bond or other
25 security approved by the department, in such form and amount as will insure
26 financial responsibility and the supplying of authorized transportation in
27 accordance with contracts, agreements, or arrangements therefor.

28
29 SECTION 2429. Arkansas Code § 23-13-233(a)(1), concerning certain
30 certificates, permits, and licenses issued by the Arkansas Department of
31 Transportation, is amended to read as follows:

32 (1) Willful failure to comply with any provision of this
33 subchapter, with any lawful order, or rule, ~~or regulation~~ of the department
34 promulgated thereunder, or with any term, condition, or limitation of the
35 certificate, permit, or license;

36

1 SECTION 2430. Arkansas Code § 23-13-233(c), concerning certain
2 certificates, permits, and licenses issued by the Arkansas Department of
3 Transportation, is amended to read as follows:

4 (c) No certificate, permit, or license shall be revoked, except under
5 application of the holder or violation of § 23-13-227, unless the holder
6 thereof willfully fails to comply within a reasonable time, not less than
7 thirty (30) days, to be fixed by the department, with a lawful order of the
8 department commanding obedience to the provisions of this subchapter, or to
9 the rules ~~or regulations~~ of the department, or to the terms, conditions, or
10 limitation of such certificate, permit, or license found by the department to
11 have been violated by the holder.

12
13 SECTION 2431. Arkansas Code § 23-13-235(a)(3), concerning annual fees
14 charged to carriers by the Arkansas Department of Transportation, is amended
15 to read as follows:

16 (3) The Arkansas Department of Transportation shall also collect
17 fees under the base state registration program on behalf of and for all other
18 participating states of travel from all carriers based in the State of
19 Arkansas. All fees collected on behalf of other participating states shall be
20 collected in the amount required by that state and remitted to that state
21 under the rules ~~and regulations~~ adopted by the Interstate Commerce Commission
22 [abolished].

23
24 SECTION 2432. Arkansas Code § 23-13-235(c) and (d), concerning annual
25 fees charged to carriers by the Arkansas Department of Transportation, are
26 amended to read as follows:

27 (c) Nothing in this section shall be construed as requiring the
28 payment of more than the fees for each bus, truck, or truck-tractor so used
29 as set out in subsection (a) of this section, but the fee shall be paid
30 annually for each motor vehicle, as the term "motor vehicle" is defined in
31 rules ~~and regulations~~ of the Interstate Commerce Commission [abolished].

32 (d) Failure on the part of any person or carrier to pay the annual
33 registration fees as provided in this section shall be a violation of this
34 subchapter, and upon conviction the person or carrier shall be punished as
35 provided in § 23-13-257.

36

1 SECTION 2433. Arkansas Code § 23-13-236(a)(2), concerning certain
2 duties of common carriers, is amended to read as follows:

3 (2) To establish, observe, and enforce just and reasonable
4 individual and joint rates, fares, and charges, and just and reasonable
5 ~~regulations~~ rules and practices relating thereto and relating to the
6 issuance, form, and substance of tickets; the carrying of personal, sample,
7 and excess baggage; the facilities for transportation; and all other matters
8 relating to or connected with the transportation of passengers; and
9

10 SECTION 2434. Arkansas Code § 23-13-236(b)(2), concerning certain
11 duties of common carriers, is amended to read as follows:

12 (2) To establish, observe, and enforce just and reasonable
13 rates, charges, and classifications and just and reasonable ~~regulations~~ rules
14 and practices relating thereto, and relating to the manner and method of
15 presenting, marking, packing, and delivering property for transportation, the
16 facilities for transportation, and all other matters relating to or connected
17 with the transportation of property.
18

19 SECTION 2435. Arkansas Code § 23-13-238 is amended to read as follows:

20 23-13-238. Common carriers – Rates, fares, rules, ~~regulations~~, etc. –
21 Complaints.

22 Any person, state board, organization, or body politic may make
23 complaint in writing to the Arkansas Department of Transportation that any
24 rate, fare, charge, classification, rule, ~~regulation~~, or practice in effect
25 or proposed to be put into effect is or will be in violation of this
26 subchapter.
27

28 SECTION 2436. Arkansas Code § 23-13-239 is amended to read as follows:

29 23-13-239. Common carriers – Rates, fares, rules, ~~regulations~~, etc. –
30 Determination by department.

31 (a)(1) Whenever, after hearing, upon complaint, or in an investigation
32 on its own initiative, the Arkansas Department of Transportation shall be of
33 the opinion that any individual or joint rate, fare, or charge, demanded,
34 charged, or collected by any common carriers by railroad, express, or water
35 for transportation, or that any classification, rule, ~~regulation~~, or practice
36 whatsoever of the carriers affecting the rate, fare, or charge or the value

1 of the service thereunder, is or will be unjust or unreasonable, unjustly
2 discriminatory, or unduly preferential, or unduly prejudicial, it shall
3 determine and prescribe the lawful rate, fare, or charge or the maximum or
4 minimum rate, fare, or charge thereafter to be observed, or the lawful
5 classification, rule, ~~regulation~~, or practice thereafter to be made
6 effective.

7 (2) Whenever deemed by it to be necessary or desirable in the
8 public interest, after hearing, upon complaint, the department shall
9 establish through routes and joint rates, fares, charges, ~~regulations~~ rules,
10 or practices applicable to the transportation of passengers by common
11 carriers by motor vehicle or establish the maximum or minimum rates, fares,
12 or charges to be charged and the terms and conditions under which the through
13 routes shall be operated.

14 (b) Nothing in this subchapter shall empower the department to
15 prescribe or in any manner regulate the rate, fare, or charge for interstate
16 transportation or for any service connected therewith.

17
18 SECTION 2437. Arkansas Code § 23-13-240 is amended to read as follows:
19 23-13-240. Common carriers – Rates, charges, rules, ~~regulations~~, etc.
20 – Establishment and division of joint rates, charges, etc.

21 (a)(1) Common carriers of property by motor vehicle may establish
22 reasonable through routes and joint rates, charges, and classifications with
23 other such carriers or with common carriers by railroad or express or water.

24 (2) Common carriers of passengers by motor vehicle may establish
25 reasonable through routes and joint rates, fares, or charges with common
26 carriers by railroad or water.

27 (b) In case of joint rates, fares, or charges, it shall be the duty of
28 the carriers parties thereto to establish just and reasonable ~~regulations~~
29 rules and practices in connection therewith and to establish just,
30 reasonable, and equitable divisions thereof as between the carriers
31 participating therein which shall not unduly prefer or prejudice any
32 participating carriers.

33 (c)(1) Whenever, after hearing, upon complaint or upon its own
34 initiative the Arkansas Department of Transportation is of the opinion that
35 the divisions of joint rates, fares, or charges, applicable to the
36 transportation of passengers or property by common carriers by motor vehicle,

1 or by such carriers in conjunction with common carriers by railroad, express,
2 or water, are or will be unjust, unreasonable, inequitable, or unduly
3 preferential or prejudicial as between the carriers parties thereto, whether
4 agreed upon by such carriers, or any of them, or otherwise established, the
5 department shall by order prescribe the just, reasonable, and equitable
6 divisions thereof to be received by the several carriers.

7 (2) In cases where the joint rate, fare, or charge was
8 established pursuant to a finding or order of the department, the department
9 may also by order determine what would have been the just, reasonable, and
10 equitable divisions thereof to be received by the several carriers and
11 require adjustment to be made in accordance therewith.

12 (3) The order of the department may require the adjustment of
13 divisions between the carriers, in accordance with the order, from the date
14 of filing the complaint or entry of order of investigation or such other date
15 subsequent as the department finds justified. In the case of joint rates
16 described by the department, the order as to divisions may be made effective
17 as a part of the original order.

18
19 SECTION 2438. Arkansas Code § 23-13-241 is amended to read as follows:

20 23-13-241. Common carriers – Schedules, rules, etc., affecting rates,
21 fares, etc. – Hearings – Suspension proceedings.

22 (a) Whenever any schedule stating a new individual or joint rate,
23 fare, charge, or classification for the transportation of passengers, or by
24 any such carrier in conjunction with a common carrier or carriers by
25 railroad, express, or water, or any rule, ~~regulation~~, or practice affecting
26 the rate, fare, or charge, or the value of the service thereunder is filed
27 with the Arkansas Department of Transportation, the department is authorized
28 and empowered to enter upon a hearing concerning the lawfulness of the rate,
29 fare, or charge, or the lawfulness of a rule, ~~regulation~~, or practice, upon
30 the complaint of any interested party or upon its own initiative, at once, if
31 the department so orders, without answer or other formal pleading by the
32 interested carrier or carriers, but upon reasonable notice.

33 (b)(1) Pending the hearing and the decision thereon, the department
34 from time to time may suspend the operations of the schedule and defer the
35 use of the rate, fare, or charge or such rule, ~~regulation~~, or practice for a
36 period of thirty (30) days by filing with the schedule and delivering to the

1 carriers affected thereby a statement in writing of its reasons for the
2 suspension.

3 (2) If the proceeding has not been concluded and a final order
4 made within the thirty-day period, the department from time to time, by
5 order, may extend the period of suspension, but not for a longer period in
6 the aggregate than ninety (90) days beyond the time when it would otherwise
7 go into effect. The department may make the order with reference thereto as
8 would be proper in a proceeding instituted after it had become effective.

9 (c) If the proceeding has not been concluded and an order made within
10 the period of suspension, the proposed change, or rate, fare, or charge or
11 classification, rule, ~~regulation~~, or practice shall go into effect at the end
12 of the period.

13
14 SECTION 2439. Arkansas Code § 23-13-244(a)(3) and (4), concerning
15 tariffs of common carriers by motor vehicle, are amended to read as follows:

16 (3) The tariffs required by this section shall be published,
17 filed, and posted in such form and manner and shall contain such information
18 as the department by ~~regulation~~ rule shall prescribe.

19 (4) The department is authorized to reject any tariff filed with
20 it which is not in consonance with this subchapter and with its ~~regulations~~
21 rules. Any tariff so rejected by the department shall be void, and its use
22 shall be unlawful.

23
24 SECTION 2440. Arkansas Code § 23-13-245 is amended to read as follows:

25 23-13-245. Contract carriers – Schedule of minimum rates and charges,
26 rules, ~~regulations~~, and practices – Requirement – Filing, posting, and
27 publishing required.

28 (a) It shall be the duty of every contract carrier by motor vehicle to
29 establish and observe reasonable minimum rates and charges for any service
30 rendered or to be rendered in the transportation of passengers or property or
31 in connection therewith and to establish and observe reasonable minimum
32 rates, fares, and charges.

33 (b) It shall be the duty of every contract carrier by motor vehicle to
34 file with the Arkansas Department of Transportation and to publish and keep
35 open for public inspection, in the form and manner prescribed by the
36 department, schedules containing the minimum rates or charges of the carrier

1 actually maintained and charged for the transportation of passengers or
2 property and any rule, ~~regulation~~, or practice affecting such rates or
3 charges and the value of the service thereunder.

4 (c) No contract carrier, unless otherwise provided by this subchapter,
5 shall engage in the transportation of passengers or property unless the
6 minimum charges for the transportation by the carrier have been published,
7 filed, and posted in accordance with the provisions of this subchapter.

8
9 SECTION 2441. Arkansas Code § 23-13-246 is amended to read as follows:
10 23-13-246. Contract carriers – Schedule of minimum rates and charges,
11 rules, ~~regulations~~, and practices – Adherence to schedule required –
12 Exceptions.

13 (a) No contract carrier by motor vehicle shall demand, charge, or
14 collect a less compensation for the transportation than the charges filed in
15 accordance with § 23-13-245, as affected by any rule, ~~regulation~~, or practice
16 so filed, or may be prescribed by the Arkansas Department of Transportation
17 from time to time.

18 (b) It shall be unlawful for any contract carrier, by the furnishing
19 of special services, facilities, or privileges, or by any other device
20 whatsoever, to charge, accept, or receive less than the minimum charges so
21 filed or prescribed.

22 (c) However, any contract carrier, or any class or group thereof, may
23 apply to the department for the relief from the provisions of § 23-13-245,
24 and the department after hearing may grant such relief to such extent and for
25 such time, and in such manner as in its judgment is consistent with the
26 public interest and the transportation policy declared in this subchapter.

27
28 SECTION 2442. Arkansas Code § 23-13-247 is amended to read as follows:
29 23-13-247. Contract carriers – Schedule of minimum rates and charges,
30 rules, ~~regulations~~, and practices – Notice of proposed changes.

31 (a) No reduction shall be made in any charge of a contract carrier by
32 motor vehicle either directly or by means of any change in any rate,
33 ~~regulation~~ rule, or practice affecting the charge or the value of services
34 thereunder except after thirty (30) days' notice of the proposed change filed
35 in the manner and form set forth in § 23-13-245. However, in its discretion
36 and for good cause shown, the Arkansas Department of Transportation may allow

1 such a change upon less notice or modify the requirements of § 23-13-245 with
2 respect to posting and filing of the schedules, either in particular
3 instances or by general order applicable to special or peculiar circumstances
4 or conditions.

5 (b) The notice shall plainly state the change proposed to be made and
6 the time when the change will take effect.

7
8 SECTION 2443. Arkansas Code § 23-13-249 is amended to read as follows:

9 23-13-249. Contract carriers – Schedule of rules, etc., affecting
10 rates, fares, etc. – Hearings – Suspension proceedings.

11 (a) Whenever a contract carrier by motor vehicle files with the
12 Arkansas Department of Transportation any schedule stating a charge for a new
13 service or a reduced charge directly, or by means of any rule, ~~regulation~~, or
14 practice, for transportation of passengers or property, the department may
15 enter upon a hearing concerning the lawfulness of such charge or such rule,
16 ~~regulation~~, or practice upon complaint of interested parties or upon its own
17 initiative at once, and if it so orders, without answer or other formal
18 pleading by the interested party, but upon reasonable notice.

19 (b) Pending the hearing and the decision thereon, the department from
20 time to time may suspend the operations of the schedule and defer the use of
21 the charge, or the rule, ~~regulation~~, or practice for a period of thirty (30)
22 days, by filing such schedules and delivering to the carrier affected thereby
23 a statement in writing of its reasons for the suspension.

24 (c) If the proceeding has not been concluded and a final order made
25 within the thirty-day period, the department from time to time may extend the
26 period of suspension by order, but not for a longer period in the aggregate
27 than ninety (90) days beyond the time when it would otherwise go into effect.

28 (d)(1) After the hearing, whether completed before or after the
29 charge, rule, ~~regulation~~, or practice goes into effect, the department may
30 make such order with reference thereto as would be proper in a proceeding
31 instituted after it had become effective.

32 (2) If the proceeding has not been concluded and an order made
33 therein within the period of suspension, the proposed change in any rule,
34 ~~regulation~~, or practice shall go into effect at the end of such a period.

35
36 SECTION 2444. Arkansas Code § 23-13-250 is amended to read as follows:

1 23-13-250. Contract carriers – Schedule of minimum rates and charges,
2 rules, ~~regulations~~, and practices – Establishment by department.

3 (a) Whenever, after hearing, upon complaint or upon its own
4 initiative, the Arkansas Department of Transportation finds that any minimum
5 rate or charge of any contract carrier by motor vehicle, that any rule,
6 ~~regulation~~, or practice of any such carrier affecting the minimum rate or
7 charge, or that the value of the service thereunder for the transportation of
8 passengers or property or in connection therewith contravenes the
9 transportation policy declared in this subchapter, or is in contravention of
10 any provision of this subchapter, the department may prescribe such just and
11 reasonable minimum rates, charges, rules, ~~regulations~~, or practices as in its
12 judgment may be necessary or desirable in the public interest and desirable
13 to promote the policy and will not be in contravention of any provision of
14 this subchapter.

15 (b) The minimum rate or charge, or such rule, ~~regulation~~, or practice
16 so prescribed by the department, shall give no advantage or preference to any
17 carrier in competition with any common carrier by motor vehicle subject to
18 this subchapter, which the department may find to be undue or inconsistent
19 with the public interest and the transportation policy declared in this
20 subchapter.

21 (c) The department shall give due consideration to the cost of
22 services rendered by contract carriers and to the effect of the minimum rate
23 or charge, or such rule, ~~regulation~~, or practice, upon the movement of
24 traffic by such carriers.

25
26 SECTION 2445. Arkansas Code § 23-13-251(a), concerning collection of
27 rates and charges by the Arkansas Department of Transportation, is amended to
28 read as follows:

29 (a) A common carrier by motor vehicle shall not deliver or relinquish
30 possession at destination of any freight transported by it until all tariff
31 rates and charges thereon have been paid except under such rules ~~and~~
32 ~~regulations~~ as the Arkansas Department of Transportation from time to time
33 may prescribe to govern the settlement of all such rates and charges,
34 including rules ~~and regulations~~ for weekly or monthly settlement and those to
35 prevent unjust discrimination or undue preference or prejudice.

36

1 SECTION 2446. Arkansas Code § 23-13-257 is amended to read as follows:
2 23-13-257. Violations by carriers, shippers, brokers, etc., or
3 employees, agents, etc. – Penalties.

4 Any person, whether a carrier, shipper, consignee, or broker, or any
5 officer, employee, agent, or representative thereof who shall knowingly
6 offer, grant, or give or solicit, accept, or receive any rebate, concession,
7 or discrimination in violation of any provision of this subchapter; who by
8 means of any false statement or representation, or by the use of any false or
9 fictitious bill, bill of lading, receipt, voucher, roll, account, claim,
10 certificate, affidavit, deposition, lease, or bill of sale, or by any other
11 means or device shall knowingly assist, suffer, or permit any persons,
12 natural or artificial, to obtain transportation of passengers or property
13 subject to this subchapter for less than the applicable fare, rate, or
14 charge; who shall knowingly by any such means or otherwise fraudulently seek
15 to evade or defeat ~~regulations~~ rules as in this subchapter is provided for
16 motor carriers or brokers; or who shall violate any of the ~~regulations~~ rules,
17 including safety ~~regulations~~ rules, prescribed or hereafter prescribed by the
18 State Highway Commission pursuant to the provisions of Title 23 of this Code,
19 shall be guilty of a violation. Upon conviction, that person, unless
20 otherwise provided in this chapter, shall be fined not more than five hundred
21 dollars (\$500) for the first offense and not less than five hundred dollars
22 (\$500) nor more than one thousand dollars (\$1,000) for any subsequent
23 offense.

24
25 SECTION 2447. Arkansas Code § 23-13-258 is amended to read as follows:
26 23-13-258. Operation of motor vehicle while in possession of,
27 consuming, or under influence of any controlled substance or intoxicating
28 liquor prohibited – Definition.

29 (a)(1) Any person operating or being in physical control of a motor
30 vehicle, which motor vehicle is susceptible at the time of such operation or
31 physical control to any ~~regulations~~ rules of the State Highway Commission
32 regarding the safety of operation and equipment of that motor vehicle, who
33 commits any of the following acts shall be guilty of a violation and upon
34 conviction for the first offense shall be subject to a fine of not less than
35 two hundred dollars (\$200) nor more than one thousand dollars (\$1,000):

36 (A) Operating or being in physical control of such a motor

1 vehicle if he or she possesses, is under the influence of, or is using any
2 controlled substance;

3 (B) Operating or being in physical control of such a motor
4 vehicle if he or she possesses, is under the influence of, or is using any
5 other substance that renders him or her incapable of safely operating a motor
6 vehicle; or

7 (C)(i) Consumption of or possession of an intoxicating
8 liquor, regardless of its alcoholic content, or being under the influence of
9 an intoxicating liquor while in physical control of such a motor vehicle.

10 (ii) However, no person shall be considered in
11 possession of an intoxicating liquor solely on the basis that an intoxicating
12 liquor or beverage is manifested and being transported as part of a shipment.

13 (2) Upon the second and subsequent convictions, that person
14 shall be subject to a fine of not less than five hundred dollars (\$500) nor
15 more than one thousand dollars (\$1,000).

16 (b) As used in this section, "controlled substance" shall have the
17 same meaning ascribed to that term in the Uniform Controlled Substances Act,
18 § 5-64-101 et seq., and the ~~regulations~~ rules issued pursuant to the Uniform
19 Controlled Substances Act, § 5-64-101 et seq.

20 (c) This section does not abrogate any of the provisions of the
21 Omnibus DWI or BWI Act, § 5-65-101 et seq., and any person violating
22 subsection (a) of this section who may be charged with a violation of the
23 Omnibus DWI or BWI Act, § 5-65-101 et seq., shall be charged with a violation
24 of the Omnibus DWI or BWI Act, § 5-65-101 et seq., rather than with a
25 violation of this section.

26
27 SECTION 2448. Arkansas Code § 23-13-261 is amended to read as follows:

28 23-13-261. Injunction against violation of subchapter, rules,
29 ~~regulations~~, etc., or terms and conditions of certificate, permit, or
30 license.

31 If any motor carrier or broker operates in violation of any provision
32 of this subchapter, except as to the reasonableness of rates, fares, or
33 charges, and the discriminatory character thereof, or any rule, ~~regulation~~,
34 requirement, or order thereunder, or of any term or condition of any
35 certificate, permit, or license, the Arkansas State Highway and
36 Transportation Department or its duly authorized agent may apply to the

1 Pulaski County Circuit Court or to any circuit court of the State of Arkansas
2 where the motor carrier operates for the enforcement of the provision of this
3 subchapter, or of the rule, ~~regulation~~, requirement, order, term, or
4 condition, and enjoining upon it or them obedience thereto.

5
6 SECTION 2449. Arkansas Code § 23-13-265(a)(3)(B)(iv), concerning
7 requirements of certain requirements of exempt motor carriers, is amended to
8 read as follows:

9 (iv) Proof of public liability insurance in the
10 amounts set out in all rules ~~and regulations~~ made and promulgated by the
11 commission;

12
13 SECTION 2450. Arkansas Code § 23-13-265(f), concerning requirements of
14 certain requirements of exempt motor carriers, is amended to read as follows:

15 (f) The commission shall have the authority to make and promulgate
16 rules ~~and regulations~~ for the implementation of this section.

17
18 SECTION 2451. Arkansas Code § 23-13-304(b), concerning service of
19 process and notices by the Arkansas Department of Transportation, is amended
20 to read as follows:

21 (b) Any process, together with the services of all notices issued by
22 the department, as well as copies of complaints, rules, and orders, ~~and~~
23 ~~regulations~~ of the department, may be served by a member of the Department of
24 Arkansas State Police or any person authorized to serve process issued out of
25 courts of law or by registered mail as the department may direct.

26
27 SECTION 2452. Arkansas Code § 23-13-307(a), concerning revocation of
28 license, permit, or certificate by the Arkansas Department of Transportation,
29 is amended to read as follows:

30 (a) In the event the Arkansas Department of Transportation finds that
31 the defendant is guilty upon any complaint filed and proceeding had, and that
32 the provisions of § 23-13-102 or the rules, ~~regulations~~, or orders of the
33 Arkansas Department of Transportation have been willfully and knowingly
34 violated and that a motor vehicle was used in the violation, the Arkansas
35 Department of Transportation shall forthwith deliver a certified copy of its
36 findings and order to the Director of the Department of Finance and

1 Administration.

2

3 SECTION 2453. Arkansas Code § 23-13-718(c)(1), concerning inspection
4 of records maintained by the Arkansas Department of Transportation, is
5 amended to read as follows:

6 (c)(1) No more than annually as determined by ~~regulation~~ rule of the
7 commission, the commission or its employees or duly authorized agents may in
8 a mutually agreed-upon setting inspect or, if inspection is not feasible, be
9 provided copies of records required to be maintained by a transportation
10 network company under this subchapter that are necessary to ensure public
11 safety.

12

13 SECTION 2454. Arkansas Code § 23-14-104 is amended to read as follows:
14 23-14-104. Penalties.

15 (a) A person, including any officer, agent, or employee of a
16 corporation, who violates any provision of this chapter or fails to comply
17 with any order, decision, or ~~regulation~~ rule issued by the Arkansas
18 Department of Transportation is guilty of a Class A misdemeanor.

19 (b) Each day's violation of this chapter or any of the terms or
20 conditions of any such order, decision, or ~~regulation~~ rule shall constitute a
21 separate offense.

22

23 SECTION 2455. Arkansas Code § 23-14-110 is amended to read as follows:
24 23-14-110. Certificates – Application – Notice and hearings.

25 (a) Applications for certificates shall be made in writing to the
26 Arkansas Department of Transportation, shall be verified under oath, and
27 shall be in such form and contain such information and be accompanied by
28 proof of service upon such interested parties as the department shall by
29 ~~regulation~~ rule require.

30 (b)(1) Upon the filing of an application for a certificate, the
31 department shall give due notice thereof to such persons and by such means as
32 the department may by ~~regulation~~ rule determine.

33 (2) Any interested person may file with the department a protest
34 or memorandum of opposition to or in support of the issuance of a
35 certificate.

36 (c) A public hearing shall be held on the application if the applicant

1 or any person having a substantial interest in the proceeding shall so
2 request within such time as the department shall by ~~regulation~~ rule provide.

3
4 SECTION 2456. Arkansas Code § 23-14-112 is amended to read as follows:

5 23-14-112. Certificates – Security for protection of public required.

6 No certificate shall be issued to a common carrier by aircraft or
7 remain in force unless the carrier complies with such reasonable rules ~~and~~
8 ~~regulations~~ as the Arkansas Department of Transportation shall prescribe
9 governing the filing and approval of surety bonds, policies of insurance,
10 qualifications as a self-insurer, or other securities or agreements, in such
11 reasonable amount and conditioned as the department may require.

12
13 SECTION 2457. Arkansas Code § 23-14-114 is amended to read as follows:

14 23-14-114. Issuance of certificates.

15 The Arkansas Department of Transportation, subject to §§ 23-14-109 and
16 23-14-111 – 23-14-113, shall issue a certificate authorizing the whole or any
17 part of the operation covered by an application for a certificate if it finds
18 that the applicant is fit, willing, and able to perform the operation
19 properly and to conform to the provisions of this chapter and the rules,
20 ~~regulations~~, and requirements of the department hereunder and that the
21 operation and the performance thereof by the applicant is required by the
22 public convenience and necessity.

23
24 SECTION 2458. Arkansas Code § 23-14-116 is amended to read as follows:

25 23-14-116. Certificates – Transfer or lease.

26 Any certificate may be transferred or leased subject to the approval of
27 the Arkansas Department of Transportation and under such reasonable rules ~~and~~
28 ~~regulations~~ as may be prescribed by the department.

29
30 SECTION 2459. Arkansas Code § 23-15-105(c), concerning issuance of
31 rules by the Arkansas Department of Transportation authorizing pipeline
32 companies to transport ammonia and other components of fertilizer, is amended
33 to read as follows:

34 (c) The department shall make such reasonable rules ~~and regulations~~ as
35 may be necessary to administer this section.

36

1 SECTION 2460. Arkansas Code § 23-15-208(a) and (b), concerning
2 inspection of and maintenance by persons who engage in the transportation of
3 gas or who own or operate certain pipeline facilities, are amended to read as
4 follows:

5 (a) Each person who engages in the transportation of gas or who owns
6 or operates pipeline facilities not subject to the jurisdiction of the
7 Federal Energy Regulatory Commission under the Natural Gas Act shall file
8 with the Arkansas Public Service Commission a plan for inspection and
9 maintenance of each pipeline facility owned or operated by the person and any
10 changes in the plan in accordance with ~~regulations~~ rules prescribed by the
11 Arkansas Public Service Commission.

12 (b) The Arkansas Public Service Commission by ~~regulation~~ rule may also
13 require persons who engage in the transportation of gas or who own or operate
14 pipeline facilities subject to the provisions of this subchapter to file such
15 plans for approval.

16
17 SECTION 2461. Arkansas Code § 23-15-211(a), concerning civil penalties
18 for failure to comply with certain rules for persons who engage in the
19 transportation of gas or who own and operate pipeline facilities, is amended
20 to read as follows:

21 (a) A person who violates a provision of § 23-15-209 or a ~~regulation~~
22 rule issued under this subchapter is subject to a civil penalty not to
23 exceed:

24 (1) Two hundred thousand dollars (\$200,000) for each day that
25 the violation persists; and

26 (2) Two million dollars (\$2,000,000) for any related series of
27 violations.

28
29 SECTION 2462. Arkansas Code § 23-16-407(b)(1), concerning the powers
30 and duties of the Arkansas Lifeline Individual Verification Effort
31 Corporation, is amended to read as follows:

32 (1) Have perpetual succession as a body politic and corporate, adopt
33 bylaws for the regulation of the affairs and the conduct of its business, and
34 prescribe rules, ~~regulations,~~ and policies in connection with the performance
35 of its functions and duties;

36

1 SECTION 2463. Arkansas Code § 23-17-113(a)(1), concerning
2 nondiscrimination by telephone companies, is amended to read as follows:

3 (a)(1) Every telephone company doing business in this state and
4 engaged in a general telephone business shall supply all applicants for
5 telephone connection and facilities without discrimination or partiality,
6 within ten (10) days after written demand therefor, if the applicants comply
7 or offer to comply with the reasonable ~~regulations~~ rules of the company.

8
9 SECTION 2464. Arkansas Code § 23-17-120(a)(1), concerning rules
10 adopted by the Arkansas Public Service Commission establishing calling plans
11 in telephone exchange, is amended to read as follows:

12 (a)(1) The Arkansas Public Service Commission by ~~regulation~~ rule shall
13 establish calling plans in telephone exchanges in the state.

14
15 SECTION 2465. Arkansas Code § 23-17-304(c), concerning the creation of
16 the Universal Telephone Service Fund, is amended to read as follows:

17 (c) The amounts shall be remitted to the Arkansas Public Service
18 Commission under such reasonable rules ~~and regulations~~ as the Arkansas Public
19 Service Commission may prescribe and shall be deposited by the Arkansas
20 Public Service Commission into an account, separate from all other funds,
21 designated as the Universal Telephone Service Fund.

22
23 SECTION 2466. Arkansas Code § 23-17-306(c), concerning allocation of
24 the Universal Telephone Service Fund, is amended to read as follows:

25 (c) The commission by rule ~~or regulation~~ may establish standard
26 guidelines for allocation methodology.

27
28 SECTION 2467. Arkansas Code § 23-17-404(e)(5), concerning adoption of
29 rules concerning preservation and promotion of universal service, is amended
30 to read as follows:

31 (5)(A)(i) The commission shall establish by ~~regulation~~ rule a
32 grant program to make grants available to eligible telecommunications
33 carriers for the extension of facilities to citizens who are not served by
34 wire line services of an eligible telecommunications carrier. Grants may be
35 requested by an eligible telecommunications carrier or citizens who are not
36 served, or both.

1 (ii) The commission shall delegate to a trustee the
2 administration, collection, and distribution of the Extension of
3 Telecommunications Facilities Fund in accordance with the rules and
4 procedures established by the commission. The trustee shall enforce and
5 implement all rules and directives governing the funding, collection, and
6 eligibility for the Extension of Telecommunications Facilities Fund.

7 (B)(i) In establishing ~~regulations~~ rules for the grant
8 program, the commission shall consider demonstrated need, the length of time
9 the citizens have not been served, the households affected, the best use of
10 the funds, and the overall need for extensions throughout the state.

11 (ii) The commission may require each potential
12 customer to be served by the extension of facilities to pay up to two hundred
13 fifty dollars (\$250) of the cost of extending facilities.

14 (C) The plan shall be funded by customer contributions and
15 by the Extension of Telecommunications Facilities Fund established by
16 subdivision (e)(4)(A)(i)(a) of this section;

17
18 SECTION 2468. Arkansas Code § 23-17-411(c)-(e), concerning
19 telecommunication rates, earnings, rates of return, or rate based
20 calculation, are amended to read as follows:

21 (c) Consistent with the policy of telecommunications competition that
22 is implemented with this subchapter, other than the commission's promulgation
23 of rules ~~and regulations~~ required by this subchapter, the commission shall
24 promulgate no new rule ~~or regulation~~ that increases regulatory burdens on
25 telecommunications service providers, except upon a showing that the benefits
26 of such rule ~~or regulation~~ are clear and demonstrable and substantially
27 exceed the cost of compliance by the affected telecommunications service
28 providers.

29 (d) Not later than one hundred eighty (180) days after February 4,
30 1997, the commission shall conduct a rule-making proceeding to identify and
31 repeal all rules ~~and regulations~~ relating to the provision of
32 telecommunications service which are inconsistent with, have been rendered
33 unnecessary by, or have been superseded by either this subchapter or the
34 federal act.

35 (e) Not later than one hundred eighty (180) days after February 4,
36 1997, the commission shall revise its rules so that they apply, except as

1 expressly provided in this subchapter, equally to all providers of basic
 2 local exchange service. All future rule changes promulgated by the commission
 3 shall apply equally to all providers of basic local exchange service.

4
 5 SECTION 2469. Arkansas Code § 23-17-411(f)(1), concerning
 6 telecommunication rates, earnings, rates of return, or rate based
 7 calculation, is amended to read as follows:

8 (f)(1) In order to eliminate outdated, unnecessary, and burdensome
 9 laws and ~~regulations~~ rules, electing companies, incumbent local exchange
 10 carriers filing notice under § 23-17-412, and competing local exchange
 11 carriers shall not be subject to the requirements of §§ 23-2-304(a)(1), (7),
 12 and (8), 23-2-306, 23-2-307, 23-3-101 – 23-3-107, 23-3-112, 23-3-114, 23-3-
 13 118, 23-3-119(a)(2), 23-3-201, 23-3-206, 23-3-301 – 23-3-316, 23-4-101 – 23-
 14 4-104, 23-4-107, 23-4-109, 23-4-110, 23-4-201(d), 23-4-401 – 23-4-405, 23-4-
 15 407 – 23-4-419, and 23-17-113, or the commission's rules ~~and regulations~~
 16 implementing the statutes.

17
 18 SECTION 2470. Arkansas Code § 23-18-101(b), concerning electric
 19 cooperative corporation areas of service, is amended to read as follows:

20 (b) No later than ninety (90) days after February 21, 2003, the
 21 commission shall commence a rulemaking proceeding to identify and to repeal
 22 or amend all rules ~~and regulations~~ adopted by the commission to facilitate,
 23 or in anticipation of, retail electric competition that are inconsistent
 24 with, have been rendered unnecessary by, or have been superseded by this act.

25
 26 SECTION 2471. Arkansas Code § 23-18-103(d), concerning rules
 27 established by the Arkansas Public Service Commission, is amended to read as
 28 follows:

29 (d) The commission shall promulgate such ~~regulations~~ rules as are
 30 necessary to implement this section.

31
 32 SECTION 2472. Arkansas Code § 23-18-106(a), concerning regulation of
 33 resource planning, asset acquisition, and alternative retail services by the
 34 Arkansas Public Service Commission, is amended to read as follows:

35 (a) The Arkansas Public Service Commission shall have the authority to
 36 adopt rules ~~and regulations~~ under which electric utilities shall seek

1 commission review and approval of the processes, actions, and plans by which
2 the utilities:

- 3 (1) Engage in comprehensive resource planning;
- 4 (2) Acquire electric energy, capacity, and generation assets; or
- 5 (3) Utilize alternative methods to meet their obligations to
6 serve Arkansas retail electric customers.

7
8 SECTION 2473. Arkansas Code § 23-18-106(c), concerning regulation of
9 resource planning, asset acquisition, and alternative retail services by the
10 Arkansas Public Service Commission, is amended to read as follows:

11 (c) Subsection (a) of this section does not apply to any transaction
12 involving the acquisition of generation assets, which is closed and finalized
13 prior to the adoption of the rules ~~and regulations~~ authorized in subsection
14 (a) of this section, or within one (1) year after February 21, 2003,
15 whichever comes later, and which is the subject of an order or ruling of any
16 federal or state regulatory agency issued on or before January 1, 2003.

17
18 SECTION 2474. Arkansas Code § 23-18-203 is amended to read as follows:
19 23-18-203. Commission ~~regulations~~ rules shall not conflict with
20 United States Government regulations.

21 The Arkansas Public Service Commission shall make no ~~regulations~~ rules
22 affecting electric cooperative corporations in matters of accounting,
23 recordkeeping, or fiscal management in conflict with regulations which have
24 been, or shall be, promulgated by the Administrator of the Rural
25 Electrification Administration of the United States Department of Agriculture
26 [superseded] or such other agency or instrumentality described in § 23-18-
27 202.

28
29 SECTION 2475. Arkansas Code § 23-18-503(5), concerning the definition
30 of "energy resource declaration-of-need proceeding", is amended to read as
31 follows:

32 (5) "Energy resource declaration-of-need proceeding" means a
33 utility-specific proceeding conducted by the Arkansas Public Service
34 Commission under §§ 23-18-106 and 23-18-107 and the rules ~~and regulations~~
35 adopted thereunder to determine the need for additional energy supply and
36 transmission resources by a public utility;

1
2 SECTION 2476. Arkansas Code § 23-18-507(f)(1), concerning the
3 authority of the Arkansas Public Service Commission, is amended to read as
4 follows:

5 (f)(1) Under §§ 23-18-106 and 23-18-107 and the rules ~~and regulations~~
6 adopted thereunder, the Arkansas Public Service Commission may determine the
7 need for additional energy supply and transmission resources by public
8 utilities in an energy resource declaration-of-need proceeding.

9
10 SECTION 2477. Arkansas Code § 23-18-508 is amended to read as follows:
11 23-18-508. Rules ~~and regulations~~.

12 The Arkansas Public Service Commission shall have and is granted the
13 power and authority to make and amend from time to time after reasonable
14 notice and hearing reasonable rules ~~and regulations~~ establishing exemptions
15 from some or all of the requirements of this subchapter for the construction,
16 reconstruction, or expansion of any major utility facility which is unlikely
17 to have major adverse environmental or economic impact by reason of length,
18 size, location, available space, or right-of-way on or adjacent to existing
19 utility facilities and similar reasons.

20
21 SECTION 2478. Arkansas Code § 23-18-511(10), concerning application
22 for a certificate from the Arkansas Public Service Commission, is amended to
23 read as follows:

24 (10) Such other information of an environmental or economic
25 nature as the applicant may consider relevant or as the commission may by
26 ~~regulation~~ rule or order require.

27
28 SECTION 2479. Arkansas Code § 23-18-513(a)(4), concerning service or
29 notice of an application for a certificate from the Arkansas Public Service
30 Commission, is amended to read as follows:

31 (4) Any head of a governmental agency charged with the duty of
32 protecting the environment or of planning land use, upon which the Arkansas
33 Public Service Commission has by ~~regulation~~ rule or order directed that
34 service be made, in the area in which any portion of such facility is to be
35 located, both as primarily and as alternatively proposed;

36

1 SECTION 2480. Arkansas Code § 23-18-513(a)(7)(L), concerning service
2 or notice of an application for a certificate from the Arkansas Public
3 Service Commission, is amended to read as follows:

4 (L) Any other state agency or department designated by
5 Arkansas Public Service Commission ~~regulation~~ rule or order; and
6

7 SECTION 2481. Arkansas Code § 23-18-515(a), concerning amendment of
8 certificates issued by the Arkansas Public Service Commission, is amended to
9 read as follows:

10 (a) Upon application by an applicant, a certificate issued under this
11 subchapter may be amended as provided in this section or in accordance with
12 such simplified procedures as the Arkansas Public Service Commission may
13 establish by reasonable rules ~~and regulations~~.
14

15 SECTION 2482. Arkansas Code § 23-18-519(d)(2), concerning decisions of
16 the Arkansas Public Service Commission concerning an application for
17 submission, is amended to read as follows:

18 (2) If at the time of filing the application or within sixty
19 (60) days thereafter, the federal income tax laws and the state laws would
20 permit the issuance of tax-exempt bonds to finance the construction of the
21 proposed major utility facility for the applicant and if the commission
22 determines that financing the major utility facility with such tax-exempt
23 bonds would be in the best interests of the people of the state, the
24 commission, after giving appropriate notice and an opportunity to be heard to
25 the parties, shall have the power and authority to require by order or
26 ~~regulation~~ rule that the major utility facility be financed in such manner as
27 may be provided elsewhere by law.
28

29 SECTION 2483. Arkansas Code § 23-18-529(a)(2), concerning annual
30 reports by public utilities detailing a forecast of loads and resources, is
31 amended to read as follows:

32 (2) The forecast shall cover a period of at least two (2)
33 calendar years next succeeding the date of the report, and such additional
34 longer-range forecast reports as the commission may find necessary and may
35 require by rule ~~or regulation~~ from time to time.
36

1 SECTION 2484. Arkansas Code § 23-18-529(a)(4), concerning decisions of
2 the Arkansas Public Service Commission concerning an application for
3 submission, is amended to read as follows:

4 (4) The report shall be in such form and shall contain such
5 information as may be reasonably prescribed by the commission by rule ~~or~~
6 ~~regulation~~.

7
8 SECTION 2485. Arkansas Code § 23-18-903(b)(1)(A), concerning submittal
9 of petitions for a financing order from the Arkansas Public Service
10 Commission, is amended to read as follows:

11 (b)(1)(A) Proceedings on a petition submitted pursuant to
12 subsection (a) of this section shall begin with a petition by an electric
13 utility and shall be disposed of in accordance with the commission's rules
14 ~~and regulations~~ promulgated pursuant to the Arkansas Administrative Procedure
15 Act, § 25-15-201 et seq., except that the provisions of this section, to the
16 extent applicable, shall control.

17
18 SECTION 2486. Arkansas Code § 23-35-202(a), concerning the authority
19 of a State Credit Union Supervisor, is amended to read as follows:

20 (a) All state-chartered credit unions shall be supervised and
21 regulated by the State Credit Union Supervisor acting pursuant to the
22 authority delegated by this chapter. The supervisor shall be responsible for
23 the enforcement of this chapter and the credit union bylaws, and he or she
24 shall have the authority to adopt rules ~~and regulations~~ governing credit
25 unions in a manner consistent with this chapter and other statutes of
26 Arkansas.

27
28 SECTION 2487. Arkansas Code § 23-35-301 is amended to read as follows:
29 23-35-301. Procedure for obtaining charter.

30 (a) Any seven (7) or more residents of the State of Arkansas, of legal
31 age, who have a common bond referred to in § 23-35-401 may organize a credit
32 union and become charter members thereof by:

33 (1) Executing duplicate copies of the articles of incorporation,
34 which shall state:

35 (A) The name, which shall include the words "credit union"
36 and which shall be different from the name of any other existing credit

1 union, and the town or city wherein the proposed credit union is to have its
2 principal place of business;

3 (B) The term of existence of the credit union, which shall
4 be perpetual;

5 (C) The par value of the shares of the credit union, which
6 shall be in one (1) class of five-dollar multiples of not less than five
7 dollars (\$5.00) nor more than twenty-five dollars (\$25.00);

8 (D) The names and addresses of the subscribers to the
9 articles of incorporation, and the number of shares subscribed by each; and

10 (E) That the credit union shall have the power to exercise
11 such incidental powers as shall be necessary or requisite to enable it to
12 carry on effectively the business for which it is incorporated;

13 (2) Preparing and adopting duplicate copies of bylaws for the
14 general government of the credit union, consistent with the provisions of
15 this chapter; and

16 (3) Forwarding the required charter fee, the articles of
17 incorporation, and the bylaws to the State Credit Union Supervisor.

18 (b)(1) The supervisor shall have the authority to investigate the
19 application for charter to determine whether the proposed credit union meets
20 the objectives of this chapter.

21 (2) The determination for the approval of the application for
22 charter shall be under such rules ~~and regulations~~ as shall be adopted by the
23 supervisor. These rules ~~and regulations~~ shall give account to the number of
24 potential members, their stability of employment or membership in the
25 association comprising the common bond of membership, and the economic
26 characteristics of the proposed common bond.

27 (3) If the supervisor determines that the proposed credit union
28 does not meet these objectives, the charter application shall be denied. If
29 the fee, articles of incorporation, and bylaws conform to the statute, he or
30 she shall issue a certificate of approval of the articles and return a copy
31 of the bylaws and the articles to the applicant, which shall be preserved in
32 the permanent files of the credit union.

33 (c) The determination for the approval of the application for charter
34 of a central credit union shall be made by the supervisor after an
35 investigation as to the need for the credit union and upon satisfying himself
36 or herself that the objectives of this chapter are met.

1 (d) The subscribers for a credit union charter shall not transact any
2 business until formal approval of the charter has been received.

3 (e) In order to simplify the organization of credit unions, the
4 supervisor shall cause to be prepared a form of articles of incorporation and
5 a form of bylaws, consistent with this chapter, which may be used by credit
6 union incorporators for their guidance.

7 (f) The minimum paid-in capital with which a credit union may begin
8 business shall not be less than five thousand dollars (\$5,000).

9 (g) The supervisor shall determine that a firm commitment to insure
10 share and deposit accounts has been issued under the provisions of Title II
11 of the Federal Credit Union Act before a charter application can be issued.
12

13 SECTION 2488. Arkansas Code § 23-35-602 is amended to read as follows:

14 23-35-602. Christmas and other thrift clubs.

15 Christmas clubs, vacation clubs, and other thrift clubs, if provided
16 for the use of members, shall be operated in accordance with such rules ~~and~~
17 ~~regulations~~ as the board of directors of the credit union may prescribe.
18

19 SECTION 2489. Arkansas Code § 23-35-605 is amended to read as follows:

20 23-35-605. Reserves.

21 (a) At the end of each accounting period, the gross income shall be
22 determined. From this amount, there shall be set aside, as a regular reserve
23 against losses on loans and against such other losses as may be specified in
24 ~~regulations~~ rules prescribed under this chapter, sums in accordance with the
25 following schedule:

26 (1) A credit union in operation for more than four (4) years and
27 having assets of five hundred thousand dollars (\$500,000) or more shall set
28 aside:

29 (A) Ten percent (10%) of gross income until the regular
30 reserve shall equal four percent (4%) of the total of outstanding loans and
31 risk assets; then

32 (B) Five percent (5%) of gross income until the regular
33 reserve shall equal six percent (6%) of the total of outstanding loans and
34 risk assets;

35 (2) A credit union in operation less than four (4) years or
36 having assets of less than five hundred thousand dollars (\$500,000) shall set

1 aside ten percent (10%) of gross income until the regular reserve shall equal
2 seven and one-half percent (7½%) of the total of outstanding loans and risk
3 assets; and

4 (3) Whenever the regular reserve falls below the stated percent
5 of the total of outstanding loans and risk assets, it shall be replenished by
6 regular contributions in such amounts as may be needed to maintain the stated
7 reserve goals.

8 (b) The State Credit Union Supervisor may decrease the reserve
9 requirement set forth in subsection (a) of this section when, in his or her
10 opinion, a decrease is necessary or desirable. The supervisor may also
11 require special reserves to protect the interests of members either by
12 ~~regulation~~ rule or for an individual credit union in any special case.

13 (c) The reserve fund shall belong to the credit union and shall be
14 used to meet all losses from uncollectable loans and shall not be distributed
15 except on liquidation of the credit union or in accordance with a plan
16 approved or ordered by the supervisor.

17
18 SECTION 2490. Arkansas Code § 23-35-607(a), concerning payment of
19 dividends by the board of directors of a credit union, is amended to read as
20 follows:

21 (a) At such intervals as the board of directors of the credit union
22 may authorize and after provision for required reserves, the board may
23 declare, pursuant to such ~~regulations~~ rules as may be issued by the State
24 Credit Union Supervisor, a dividend to be paid at different rates on
25 different types of shares and at different rates and maturity dates in the
26 case of share certificates.

27
28 SECTION 2491. Arkansas Code § 23-35-702 is amended to read as follows:

29 23-35-702. Conversion to or from federal credit union.

30 The State Credit Union Supervisor shall issue ~~regulations~~ rules to
31 permit the conversion of a credit union operating under this chapter to a
32 federal credit union and the conversion of a federal credit union to a credit
33 union operating under this chapter.

34
35 SECTION 2492. Arkansas Code § 23-36-105 is amended to read as follows:

36 23-36-105. Supervision by Bank Commissioner.

1 (a) Every institution transacting the business of an industrial loan
2 institution as defined by this chapter, whether as a separate business or in
3 connection with any other business, under the laws of and within this state,
4 shall be subject to the provisions of this chapter and shall be under the
5 supervision of the Bank Commissioner.

6 (b) The commissioner may make, at any time and from time to time, any
7 examinations of the affairs of securities affiliates or other affiliates of
8 industrial loan institutions which are necessary to disclose fully the
9 relations between the industrial loan institutions and their affiliates and
10 the effect of the ~~regulations~~ rules promulgated by the commissioner on the
11 affairs of the industrial loan institutions.

12 (c) The commissioner shall exercise control of and supervision over
13 industrial loan institutions doing business under this chapter. It shall be
14 his or her duty to execute and enforce, through the state bank examiners and
15 any other agents appointed for that purpose, all laws relating to industrial
16 loan institutions as defined by this chapter.

17 (d) For the more complete and thorough enforcement of the provisions
18 of this chapter, the commissioner is empowered to promulgate any ~~rules,~~
19 ~~regulations,~~ and instructions, not inconsistent with this chapter, which may,
20 in his or her opinion, be necessary to carry out the provisions of the laws
21 relating to industrial loan institutions as defined in § 23-36-101 and which
22 may be further necessary to ensure safe and conservative management of
23 industrial loan institutions under his or her supervision to provide adequate
24 protection for the interest of creditors, depositors, and stockholders in
25 their relations with the institutions.

26 (e) All industrial loan institutions doing business under the
27 provisions of this chapter shall conduct their business in a manner
28 consistent with all laws relating to industrial loan institutions and all
29 ~~rules, regulations,~~ and instructions that may be promulgated or issued by the
30 commissioner.

31
32 SECTION 2493. Arkansas Code § 23-36-110(a), concerning rules adopted
33 by the Bank Commissioner concerning loans insured by the federal government,
34 is amended to read as follows:

35 (a) Subject to any ~~regulations~~ rules which the Bank Commissioner finds
36 to be necessary and proper, industrial loan institutions are authorized:

1 (1) To make loans and advances of credit and purchases of
2 obligations representing loans and advancement of credit which are insured by
3 the Federal Housing Administrator and to obtain such insurance;

4 (2) To make any loans secured by mortgages on real property
5 which the administrator insures or makes a commitment to insure and to obtain
6 such insurance; and

7 (3) To purchase, invest in, and dispose of notes or bonds
8 secured by mortgage or deed of trust which the administrator has insured or
9 made a commitment to insure in debentures issued by the administrator or in
10 securities issued by the national mortgage associations.

11
12 SECTION 2494. Arkansas Code § 23-37-207(c), concerning powers and
13 duties of the Supervisor of Savings and Loan Associations, is amended to read
14 as follows:

15 (c)(1) The supervisor, after public hearing, notice of which has been
16 given to every association in the state, shall have power and authority to
17 issue rules ~~and regulations~~ governing the operation of associations in a
18 manner consistent with this chapter and other applicable Arkansas laws. In
19 addition, he or she shall have the power to make and promulgate any forms
20 which are necessary for the administration of this chapter.

21 (2) These rules ~~and regulations~~ may from time to time be
22 amended, modified, or repealed by the Savings and Loan Association Board
23 [abolished] and shall have uniform application to all associations subject to
24 the provisions of this chapter.

25
26 SECTION 2495. Arkansas Code § 23-37-302 is amended to read as follows:

27 23-37-302. Capitalization requirements generally.

28 The capitalization of a proposed stock or mutual association shall be
29 in accordance with rules ~~and regulations~~ established by the Savings and Loan
30 Association Board [abolished]. In establishing its requirements, the board
31 may consider those requirements established by the Federal Savings and Loan
32 Insurance Corporation [abolished], but its requirements may not be greater
33 than those prescribed by that corporation.

34
35 SECTION 2496. Arkansas Code § 23-37-401 is amended to read as follows:

36 23-37-401. Powers commensurate with federal associations.

1 Irrespective of any limitations contained in this chapter, the
2 Supervisor of Savings and Loan Associations may adopt rules ~~and regulations~~
3 authorizing or empowering any association chartered or operating under the
4 provisions of this chapter to:

5 (1) Pay or give any premium or other concession for the opening
6 or increasing of a savings account to the same extent that the payment of
7 premiums or the granting of other concessions may be authorized for a federal
8 association doing business in this state;

9 (2) Designate the legal relationship between the association and
10 the holder of a savings account with the association and the name to be given
11 the savings account in any advertising or public description of the savings
12 account to the same extent that those designations and legal relationships
13 are authorized for a federal association doing business in this state;

14 (3) Adopt any dividend or interest paying date or other
15 procedure or practice with respect to the paying of interest or dividends
16 authorized for a federal association doing business in this state;

17 (4) Adopt any business practice, procedure, method, or system
18 authorized by a federal association doing business in this state, except
19 nothing herein will permit an extension of a state savings and loan
20 association's branching authority beyond the limitations of state law; and

21 (5) Make any loan or investment that a federal association doing
22 business in this state is authorized to make.

23
24 SECTION 2497. Arkansas Code § 23-37-505(c)(5), concerning withdrawals
25 from accounts, is amended to read as follows:

26 (5) The board may make and promulgate any rules ~~and regulations~~
27 which shall be required for the conduct of the business of an association for
28 which withdrawals have been restricted pursuant to this subsection, with a
29 view to the protection of the rights of the savings account holders,
30 creditors, and members of the association, both with respect to savings
31 account holders, creditors, and members who were such at the date of the
32 restriction on withdrawals and those becoming savings account holders,
33 creditors, or members after the restrictions have been imposed.

34
35 SECTION 2498. Arkansas Code § 23-37-703(b)(7), concerning rules
36 governing the conversion of mutual association into a stock association, is

1 amended to read as follows:

2 (7) Any other information applicable to the conversion which the
3 supervisor may by rule ~~or regulation~~ prescribe.

4

5 SECTION 2499. Arkansas Code § 23-37-811(d), concerning registration
6 and reporting by certain regional financial institutions, is amended to read
7 as follows:

8 (d) The board may establish ~~regulations~~ rules to carry out the
9 purposes of this subchapter.

10

11 SECTION 2500. Arkansas Code § 23-39-512(b)(4)(C)(i), concerning public
12 inspection of records filed with the Securities Commissioner, is amended to
13 read as follows:

14 (i) All documents, records, transcripts,
15 correspondence, and related memoranda and work products concerning
16 examinations and other investigations and related litigation as authorized by
17 law that pertain to or may disclose the possible violations by any person of
18 any provision of any of the statutes, or rules, ~~or regulations~~ administered
19 by the commissioner; and

20

21 SECTION 2501. Arkansas Code § 23-39-514(m)(1), concerning disciplinary
22 authority of the Securities Commissioner, is amended to read as follows:

23 (m)(1) If it appears upon sufficient grounds or evidence satisfactory
24 to the commissioner that any person or licensee has engaged in or is about to
25 engage in any act or practice that violates this subchapter or any rule ~~or~~
26 ~~regulation~~ adopted or order issued under this subchapter or that the assets
27 or capital of any licensee are impaired or the licensee's affairs are in an
28 unsafe condition, the commissioner may:

29 (A) Refer the evidence which is available concerning
30 violations of this subchapter or any rule, ~~regulation~~, or order issued under
31 this subchapter to the appropriate prosecuting attorney or regulatory agency,
32 that with or without the reference may institute the appropriate criminal or
33 regulatory proceedings under this subchapter; and (B)(i) Summarily order the
34 licensee or person to cease and desist from the act or practice under
35 subdivisions (c)(1) and (e)(1) of this section and apply to the Pulaski
36 County Circuit Court to enjoin the act or practice and to enforce compliance

1 with this subchapter or any rule, ~~regulation~~, or order issued under this
2 subchapter, or both.

3 (ii) However, without issuing a cease and desist
4 order, the commissioner may apply directly to the Pulaski County Circuit
5 Court for injunctive or other relief.

6
7 SECTION 2502. Arkansas Code § 23-39-518(e)(9), concerning rules
8 governing Arkansas's membership in a multistate automated licensing system
9 for mortgage industry participants that are adopted by the Securities
10 Commissioner, is amended to read as follows:

11 (9) The commissioner may adopt rules ~~and regulations~~ to fully
12 implement the provisions of this section.

13
14 SECTION 2503. Arkansas Code § 23-40-108 is amended to read as follows:
15 23-40-108. Administration.

16 (a) This chapter shall be administered by the Insurance Commissioner.

17 (b) The commissioner is authorized to prescribe reasonable rules ~~and~~
18 ~~regulations~~ concerning keeping and inspection of records, the filing of
19 contracts and reports, and all other matters incidental to the orderly
20 administration of this chapter.

21 (c) The commissioner is authorized to employ the personnel necessary
22 to carry out the provisions of this chapter and to fix their compensation
23 within the amounts made available by appropriation.

24 (d) The commissioner may make and promulgate reasonable rules ~~and~~
25 ~~regulations~~ for the administration of this chapter and for the purpose of
26 carrying out the intent hereof.

27
28 SECTION 2504. Arkansas Code § 23-40-110(a), concerning applications
29 for initial or renewed permit, is amended to read as follows:

30 (a) Each organization desiring to sell prepaid funeral benefits or any
31 organization desiring to purchase an interest in or assume the liability of
32 any contract for prepaid funeral benefits shall file an application for a
33 permit with the Insurance Commissioner. Each initial and renewal application
34 for a permit shall contain such information which the commissioner by rule ~~or~~
35 ~~regulation~~ shall reasonably prescribe.

36

1 SECTION 2505. Arkansas Code § 23-40-111(b), concerning issuance of a
2 permit by the Insurance Commissioner to an organization desiring to sell
3 prepaid funeral benefits, is amended to read as follows:

4 (b)(1) The commissioner may deny an initial application for failure to
5 meet the requirements of subsection (a) of this section or for the
6 applicant's failure to comply with any material provision of this chapter or
7 any valid rule ~~and regulation~~ that the commissioner has prescribed, after:

8 (A) Thirty (30) days' notice to the applicant or permittee
9 setting forth the grounds for the cancellation, the denial of application for
10 initial permit, or refusal to renew; and

11 (B) A hearing if the applicant or permittee requests a
12 hearing.

13 (2) After notice to the licensee and after a hearing, the
14 commissioner may suspend any permit under this chapter for up to thirty-six
15 (36) months or may revoke or refuse to continue any permit under this chapter
16 if the commissioner finds that:

17 (A) The licensee has failed to comply with any material
18 provision of this chapter or any valid rule ~~and regulation~~ or order that the
19 commissioner has prescribed;

20 (B) The licensee has obtained its permit through
21 misrepresentation or fraud;

22 (C) An officer, director, or owner of the licensee has
23 improperly withheld, misappropriated, or converted any moneys or properties
24 received in the course of prepaid funeral contracts business to the
25 licensee's own use;

26 (D) An officer, director, or owner of the licensee has
27 been found to have committed any unfair trade practice or fraud during the
28 course of prepaid funeral contracts business;

29 (E) The licensee has failed to provide a written response
30 after receipt of a written inquiry from the commissioner or his or her
31 representative as to transactions under the license within thirty (30) days
32 after receipt thereof unless the commissioner or his or her representative
33 knowingly waives the timely response requirement in writing;

34 (F) The licensee has refused to be examined or produce any
35 of his or her accounts, records, and files for examination or has failed to
36 cooperate with the commissioner in an investigation when requested by the

1 commissioner or his or her representative; or

2 (G) The licensee is in violation of any grounds under §
3 23-40-114(a) sufficient to subject the organization to delinquency
4 proceedings.

5 (3)(A) If the commissioner finds that one (1) or more grounds
6 exist for the suspension or revocation of any license, the commissioner may
7 impose upon the licensee an administrative penalty in the amount of up to one
8 thousand dollars (\$1,000) per violation.

9 (B) If the commissioner finds willful misconduct or
10 willful violation on the part of the licensee, the commissioner may impose
11 upon the licensee an administrative penalty of up to five thousand dollars
12 (\$5,000) per violation.

13 (C) In addition to either penalty imposed under
14 subdivision (b)(3)(A) or subdivision (b)(3)(B) of this section, the
15 commissioner may also order restitution of actual losses to affected persons.

16 (4) If the commissioner finds in his or her order that the
17 public health, safety, or welfare imperatively requires emergency action, the
18 commissioner may summarily suspend any license issued by him or her but shall
19 promptly hold an administrative hearing regarding the suspension.

20 (5)(A) Upon notice and hearing, if the commissioner finds that
21 the licensee has violated a provision of the prepaid funeral benefits laws of
22 this state or any rule, ~~regulation~~, or order of the commissioner and that the
23 licensee has previously violated provisions of the prepaid funeral benefits
24 laws of this state or any rule, ~~regulation~~, or order of the commissioner, the
25 commissioner may:

26 (i) Take judicial notice of previous orders against
27 the licensee; and

28 (ii) Enhance or increase the penalties ordered in
29 the current proceeding against the licensee.

30 (B) The commissioner may enter an order under subdivision
31 (b)(5)(A) of this section by:

32 (i) The commissioner's own order; or

33 (ii) An order entered with the consent of the
34 parties.

35 (C) The commissioner shall incorporate a finding under
36 subdivision (b)(5)(A) of this section in any order issued under this

1 subdivision (b)(5).

2
3 SECTION 2506. Arkansas Code § 23-40-114(e) and (f), concerning
4 requirements for contracts for prepaid funeral benefits pursuant to a trust
5 fund, are amended to read as follows:

6 (e) The commissioner shall first approve and authorize in writing any
7 transfer of funds from an existing trustee to a proposed new trustee if the
8 proposed new trustee meets the requirements of this chapter and the rules ~~and~~
9 ~~regulations~~ promulgated thereunder.

10 (f) The licensee shall file a request for a transfer of funds,
11 together with a filing fee of two hundred fifty dollars (\$250), and any other
12 information required by rule ~~or regulation~~.

13
14 SECTION 2507. Arkansas Code § 23-40-116 is amended to read as follows:

15 23-40-116. Trust funds – Disbursements.

16 The trustee shall disburse money or other property from the trust fund
17 only as follows:

18 (1) Upon the death of the contract beneficiary and upon proper
19 proof and documentation being submitted to and approved by the Insurance
20 Commissioner, or pursuant to such other method as may be permitted under
21 valid rules ~~and regulations~~ adopted by the commissioner, in which event the
22 contract proceeds shall be paid to the seller;

23 (2) Upon cancellation of the prepaid contract pursuant to § 23-
24 40-122 and upon proper proof and documentation being submitted to and
25 approved by the commissioner, or pursuant to such other method as may be
26 permitted under valid rules ~~and regulations~~ adopted by the commissioner;

27 (3) Upon the breach of contract by either party, in which event
28 the contract proceeds shall be paid according to a judgment of a court of
29 competent jurisdiction; or

30 (4) Upon the withdrawal of net investment income or surplus by
31 the seller, which may be made at any time and from time to time.

32
33 SECTION 2508. Arkansas Code § 23-40-119(d), concerning annual
34 reporting to the Insurance Commissioner, is amended to read as follows:

35 (d)(1)(A)(i)(a) Effective for all prepaid funeral benefits contracts
36 executed on and after April 1, 1997, each licensee selling a prepaid funeral

1 benefits contract shall remit to the State Insurance Department a one-time,
2 per-contract fee of not less than five dollars (\$5.00) for each prepaid
3 funeral benefits contract, including any amendments thereto, entered into by
4 the licensee, whether cash or trust funded or funded by an insurance policy
5 or annuity contract, unless the per-contract fees are otherwise eliminated or
6 suspended by the commissioner pursuant to a rule ~~or regulation~~.

7 (b) However, the per-contract fees once
8 eliminated or suspended by rule of the commissioner may be reinstated by
9 subsequent rule ~~and regulation~~ of the commissioner adopted upon a public
10 hearing at a later date upon the commissioner's determination that these fees
11 are essential and necessary to the operation of the Division of Prepaid
12 Funeral Benefits of the State Insurance Department.

13 (ii) On and after July 1, 2001, the commissioner
14 shall then transfer from each per-contract fee remitted to the department,
15 into the Prepaid Funeral Contracts Recovery Program Fund pursuant to this act
16 a portion of the fee in an amount to be determined by rules ~~and regulations~~
17 of the commissioner and thereafter to be administered by the commissioner
18 with advice from the Prepaid Funeral Contracts Recovery Program Board,
19 pursuant to the provisions of this subchapter.

20 (B) The per-contract fees shall be remitted quarterly to
21 the department for each quarter of the calendar year with a quarterly fee
22 form as prescribed by the commissioner.

23 (C) The fees shall be remitted to the department no later
24 than forty-five (45) days after each quarter.

25 (2)(A)(i) On and after July 1, 2001, the commissioner may by
26 rule ~~or regulation~~ eliminate, reduce, suspend, or increase the per-contract
27 fee or the portion of the per-contract fee allotted to the Prepaid Funeral
28 Contracts Recovery Program Fund.

29 (ii) The per-contract fee may be charged to the
30 purchaser of the contract.

31 (B) Any fee so charged and collected shall not be included
32 in the term "contract proceeds" as defined in § 23-40-103(4) and shall not be
33 subject to the deposit requirements of § 23-40-114(a).

34
35 SECTION 2509. Arkansas Code § 23-40-119(f)(2) and (3), concerning
36 annual reporting to the Insurance Commissioner, are amended to read as

1 follows:

2 (2) Purchasers of prepaid funeral contracts requesting any
3 discretionary relief from the Prepaid Funeral Contracts Recovery Program Fund
4 after July 1, 2001, may include the contract holder or his or her surviving
5 family representative or such other person as described in rules ~~and~~
6 ~~regulations~~ of the department.

7 (3) The commissioner may by rule ~~and regulation~~ describe the
8 procedures, claim forms, qualifications, and process of filing a claim for
9 aggrieved purchasers desiring to make a claim for reparations from any excess
10 funds.

11

12 SECTION 2510. Arkansas Code § 23-40-125(g)(2), concerning enforcement
13 powers of the Insurance Commissioner under the Prepaid Funeral Contracts
14 Recovery Program Fund, is amended to read as follows:

15 (2) The commissioner may suspend fees or unused funds transfers
16 or deposits into the fund at any time and for any period for which the
17 commissioner determines that a sufficient amount is available to meet likely
18 disbursements and to maintain an adequate reserve in compliance with a rule
19 ~~and regulation~~ of the commissioner.

20

21 SECTION 2511. Arkansas Code § 23-42-105(b), concerning criminal
22 offenses for violation of the Arkansas Securities Act, is amended to read as
23 follows:

24 (b) For the purposes of venue for any civil or criminal action under
25 this chapter, any violation of this chapter or of any rule, ~~regulation~~, or
26 order promulgated hereunder shall be considered to have been committed in:

27 (1) Any county in which any act was performed in furtherance of
28 the transaction which violated this chapter;

29 (2) Any county in which the principal or an aider or abettor
30 initiated or acted in furtherance of a course of conduct;

31 (3) Any county from which any violator gained control or
32 possession of any proceeds of the violation or of any books, records,
33 documents, or other material or objects which were used in furtherance of the
34 violation; or

35 (4) Any county from which or into which the violator directed
36 any postal, telephonic, electronic, or other communication in furtherance of

1 the violation.

2

3 SECTION 2512. Arkansas Code § 23-42-207(b)(4)(C), concerning
4 exemptions to the public inspection requirements of the Arkansas Securities
5 Act, is amended to read as follows:

6 (C) Investigatory records include all documents, records,
7 transcripts, correspondence, and related memoranda and work product
8 concerning examinations and other investigations and related litigation as
9 authorized by law, which pertain to or may disclose the possible violations
10 by any person of any provision of any of the statutes, or rules, ~~or~~
11 ~~regulations~~ administered by the commissioner, and all written communications
12 from or to any person confidentially complaining or otherwise furnishing
13 information respecting the possible violations, as well as all correspondence
14 and memoranda in connection with the confidential complaints or information;

15

16 SECTION 2513. Arkansas Code § 23-42-211(b), concerning the Securities
17 Department Fund, is amended to read as follows:

18 (b) The department is authorized to promulgate such rules ~~and~~
19 ~~regulations~~ necessary to administer the fees, rates, tolls, or charges for
20 services established by this section and is directed to prescribe and collect
21 such fees, rates, tolls, or charges for the services by the department in
22 such manner as may be necessary to support the programs of the department as
23 directed by the Governor and the General Assembly.

24

25 SECTION 2514. Arkansas Code § 23-42-304 is amended to read as follows:

26 23-42-304. Filing fees – Rules ~~and regulations~~.

27 (a) Every applicant for initial or renewal registration and every
28 person making a notice filing as required by § 23-42-301(c) shall pay a
29 filing fee of:

30 (1) Three hundred dollars (\$300) in the case of a broker-dealer;

31 (2) Seventy-five dollars (\$75.00) in the case of an agent, of
32 which twenty-five dollars (\$25.00) shall be designated as special revenues
33 and shall be deposited into the Securities Department Fund;

34 (3) Three hundred dollars (\$300) in the case of an investment
35 adviser;

36 (4) Seventy-five dollars (\$75.00) in the case of a

1 representative, of which twenty-five dollars (\$25.00) shall be designated as
2 special revenues and shall be deposited into the Securities Department Fund;

3 (5) Fifty dollars (\$50.00) in the case of a branch office, of
4 which the entire amount shall be designated as special revenues and deposited
5 into the Securities Department Fund; and

6 (6) Three hundred dollars (\$300) in the case of an exempt
7 reporting adviser or investment adviser to a private fund that complies with
8 exemption requirements.

9 (b) After an application for registration has been processed, in whole
10 or in part, any filing fee shall be nonrefundable.

11 (c) The State Securities Department is hereby authorized to promulgate
12 such rules ~~and regulations~~ necessary to administer the fees, rates, tolls, or
13 charges for services established by this section and § 23-42-404 and is
14 directed to prescribe and collect such fees, rates, tolls, or charges for the
15 services by the department in such manner as may be necessary to support the
16 programs of the department as directed by the Governor and the General
17 Assembly.

18
19 SECTION 2515. Arkansas Code § 23-42-404(o), concerning rule-making
20 authority of the State Securities Department, is amended to read as follows:

21 (o) The State Securities Department is hereby authorized to promulgate
22 such rules ~~and regulations~~ necessary to administer the fees, rates, tolls, or
23 charges for services established by this section and § 23-42-304 and is
24 directed to prescribe and collect the fees, rates, tolls, or charges for the
25 services by the department in the manner that may be necessary to support the
26 programs of the department as directed by the Governor and the General
27 Assembly.

28
29 SECTION 2516. Arkansas Code § 23-44-107(b), concerning record
30 requirements for exchanges and boards of trade, is amended to read as
31 follows:

32 (b) The associations shall be composed of not fewer than twenty-five
33 (25) active members and shall adopt a uniform set of rules ~~and regulations~~
34 not inconsistent with the laws of Arkansas and of the United States.

35
36 SECTION 2517. Arkansas Code § 23-45-102(a)(10), concerning the

1 definition of "capital base", is amended to read as follows:

2 (10) "Capital base" means the sum of capital, surplus, and
3 undivided profits, plus any additions and less any subtractions which the
4 Bank Commissioner may by ~~regulation~~ rule prescribe;

5
6 SECTION 2518. Arkansas Code § 23-45-102(a)(16) and (17), concerning
7 the definitions of "department regulations" and "deposit", are amended to
8 read as follows:

9 (16) "Department ~~regulations~~ rules" or "department ~~regulation~~
10 rule" means ~~regulations~~ rules promulgated by the commissioner with the
11 approval of the State Banking Board;

12 (17) "Deposit" and "deposit account" mean the unpaid balance of
13 money or its equivalent received or held by a bank in the usual course of its
14 banking business and which represents a liability of the bank, for which it
15 has given or is obligated to give credit, either conditionally or
16 unconditionally, to a checking, savings, time or similar account, or that is
17 evidenced by its certificate of deposit or similar certificate or a check or
18 draft drawn against a deposit account and certified by the bank or a draft or
19 cashier's, officer's, or traveler's check or money order or similar
20 instrument on which the bank is primarily liable, and that has not been paid
21 and other obligations or instruments of a bank that may be included in the
22 definition of "deposit" or "deposit account" in department ~~regulations~~ rules;

23
24 SECTION 2519. Arkansas Code § 23-45-102(a)(30), concerning the
25 definition of "capital base", is amended to read as follows:

26 (30) "Order" means all or any part of the final disposition,
27 whether affirmative, negative, injunctive, or declaratory in form, by the
28 commissioner or the State Banking Board, of any matter other than the making
29 of ~~regulations~~ rules of general application;

30
31 SECTION 2520. Arkansas Code § 23-46-101(a), concerning confidentiality
32 of certain records of the State Bank Department, is amended to read as
33 follows:

34 (a) Notwithstanding the Freedom of Information Act of 1967, § 25-19-
35 101 et seq., the following records of the State Bank Department shall be
36 confidential and shall not be exhibited or revealed to the public except as

1 stated in this section or in accordance with department ~~regulations~~ rules:

2 (1) All examination reports filed with the department;

3 (2) All records disclosing information obtained from
4 examinations;

5 (3) Investigations and reports revealing facts concerning a
6 financial institution or the customers of a financial institution; and

7 (4) All personal financial statements submitted to the
8 department for any purpose.

9
10 SECTION 2521. Arkansas Code § 23-46-101(c), concerning disclosure of
11 certain records of the State Bank Department, is amended to read as follows:

12 (c) The commissioner shall have the power to promulgate ~~regulations~~
13 rules with regard to disclosure of confidential information.

14
15 SECTION 2522. Arkansas Code § 23-46-203(c), concerning the official
16 seal of the State Bank Department, is amended to read as follows:

17 (c)(1) Whenever it is necessary for the commissioner to approve any
18 instrument and to affix the official seal thereto, the commissioner shall
19 charge a fee as provided by ~~regulation~~ rule for affixing his or her approval
20 and the official seal to the instrument.

21 (2) Copies of all records and papers in the office of the
22 department certified by the commissioner and authenticated by the seal shall
23 be received in evidence in all cases equally and of like effect as the
24 originals thereof.

25 (3) Whenever it is proper to furnish a copy of any paper filed
26 in the department and to certify that paper, the commissioner may charge a
27 fee as provided by department ~~regulation~~ rule.

28
29 SECTION 2523. Arkansas Code § 23-46-205(b) and (c), concerning the
30 powers and duties of the Bank Commissioner, are amended to read as follows:

31 (b)(1) The commissioner shall have the power to issue such rules ~~and~~
32 ~~regulations~~ as may be necessary or appropriate to carry out the intent and
33 purposes of all those laws and to issue cease and desist orders against any
34 financial institution, or an officer, director, or employee of any financial
35 institution, found to be violating federal banking laws or regulations,
36 violating the banking laws of this state or State Bank Department ~~regulations~~

1 rules, violating any regulatory agreement, or jeopardizing the safety and
2 soundness of any financial institution.

3 (2)(A) The commissioner may issue rules ~~or regulations~~ only with
4 the approval and consent of the State Banking Board, but he or she shall have
5 the power to issue cease and desist orders upon his or her own motion.

6 (B) Nothing in this section shall be construed to curtail
7 the commissioner's power to issue emergency rules ~~and regulations~~ with the
8 approval and consent of the board.

9 (3)(A) Any person subject to a cease and desist order issued by
10 the commissioner who refuses or fails to comply with the terms of the order
11 may be assessed a monetary penalty for the failure to comply with the
12 provisions of the cease and desist order after a ten-day notice given by the
13 commissioner to the institution or person subject to the order.

14 (B) The amount of the monetary penalty shall not exceed
15 one thousand dollars (\$1,000) per day of violation against each institution
16 and each officer, director, or employee contributing to the institution's or
17 the individual's failure to comply with the provisions of the cease and
18 desist order.

19 (C) Subject to such a limitation, the amount of the
20 monetary penalty shall be determined by the commissioner.

21 (4) The commissioner has grounds for and may issue a cease and
22 desist order for the permanent or temporary removal of an officer, director,
23 employee, agent, or any other person participating in the affairs of or
24 otherwise connected with a financial institution, or any affiliate thereof,
25 subject to the supervision of the commissioner from service to any
26 institution or affiliate subject to the supervision of the commissioner if he
27 or she is found by the commissioner to be or to have been:

28 (A) Violating state or federal law, rules and regulations
29 of a federal financial institution's regulatory agency, or State Bank
30 Department ~~regulations~~ rules;

31 (B) Acting incompetently, recklessly, or dishonestly;

32 (C) Indicted of a crime involving moral turpitude; or

33 (D) Otherwise impairing the safety and soundness of the
34 financial institution.

35 (5)(A) Any person aggrieved and directly affected by an order of
36 the commissioner issued pursuant to this section is entitled to judicial

1 review.

2 (B) A person so aggrieved may seek judicial review by
3 petition to a circuit court having jurisdiction in the matter.

4 (C) The petition must be filed within thirty (30) days
5 from the date of issuance of the order.

6 (D) If no petition for review is filed within thirty (30)
7 days from the date of issuance of the order, the order may not be appealed
8 and is permanently binding upon the person until terminated by the
9 commissioner.

10 (c) State Bank Department ~~regulations~~ rules shall be distributed, in
11 form and method selected by the commissioner, to all state banks chartered in
12 the State of Arkansas.

13

14 SECTION 2524. Arkansas Code § 23-46-205(e)(1), concerning the powers
15 and duties of the Bank Commissioner, is amended to read as follows:

16 (e)(1) As soon as practicable after acceptance of any application
17 referred to either in the Arkansas Banking Code of 1997 or in State Bank
18 Department ~~regulations~~ rules for filing, regardless of whether the
19 application is of a type referred to in § 23-46-403, and receipt of the
20 filing fee therefor, the commissioner shall cause the merits of the
21 application to be investigated.

22

23 SECTION 2525. Arkansas Code § 23-46-207(b)(1), concerning prohibiting
24 employees or officers of the State Bank Department from holding certain
25 personal financial interests, is amended to read as follows:

26 (1) Be a depositor in any financial institution that the
27 department regulates and participate in such overdraft programs associated
28 with such deposit relationships as the commissioner may, by ~~regulation~~ rule,
29 allow; and

30

31 SECTION 2526. Arkansas Code § 23-46-304(c), concerning powers of the
32 State Banking Board, is amended to read as follows:

33 (c)(1) Filing with the commissioner of any application or document
34 required by the Arkansas Banking Code of 1997 or by department ~~regulations~~
35 rules shall be public notice of the matters contained in that application or
36 document.

1 (2) The commissioner shall maintain the applications or
2 documents in his or her custody.

3 (3) Upon request, the commissioner shall provide verification of
4 the filing and reasonable access to inspection by the public.

5 (4) Nothing in this section shall be construed to modify the
6 prohibitions upon the disclosure of confidential information contained in §
7 23-46-101 or the commissioner's authority to issue ~~regulations~~ rules
8 concerning the disclosure of confidential information.

9
10 SECTION 2527. Arkansas Code § 23-46-402(e), concerning meetings of the
11 State Banking Board, is amended to read as follows:

12 (e) The board may also hold regular meetings on dates fixed in its
13 procedures, policies, and ~~regulations~~ rules.

14
15 SECTION 2528. Arkansas Code § 23-46-403 is amended to read as follows:
16 23-46-403. Applications.

17 When any of the following applications are filed with the Bank
18 Commissioner, the sponsors of the applications shall give notice of filing in
19 accordance with State Bank Department ~~regulations~~ rules:

20 (1) An application for the issuance of a new state bank charter;

21 (2) An application for the merger or consolidation of one (1) or
22 more banks into a state bank;

23 (3) An application for the merger or consolidation of one (1) or
24 more savings and loan associations into a state bank;

25 (4) An application for the purchase by one (1) state bank of
26 greater than fifty percent (50%) of the assets of another depository
27 institution or an application for the assumption by one (1) state bank of
28 greater than fifty percent (50%) of the liabilities of another depository
29 institution; or

30 (5) An application for the change of a state bank's place of
31 business from one municipality to another.

32
33 SECTION 2529. Arkansas Code § 23-46-404 is amended to read as follows:
34 23-46-404. Applications fees – Bank Commissioner's ~~regulations~~ rules.

35 (a) The State Banking Board shall have the power to set and impose
36 fees for any and all applications, regardless of whether the applications are

1 of a type described in § 23-46-403, which are reasonably calculated to defray
2 the costs associated with the consideration, investigation, and processing of
3 those applications.

4 (b)(1) The Bank Commissioner may issue rules ~~and regulations~~
5 specifying the circumstances under which any application must be filed and
6 the procedural and substantive requirements governing the filing of any and
7 all applications of whatever type.

8 (2) The commissioner may also issue rules ~~and regulations~~
9 requiring the submission of applications that are not described in the
10 Arkansas Banking Code of 1997.

11
12 SECTION 2530. Arkansas Code § 23-46-406(a)(2), concerning persons
13 protesting applications for a hearing by the State Banking Board, is amended
14 to read as follows:

15 (2) The protest must be accompanied by a filing fee of not less
16 than two thousand dollars (\$2,000) nor more than five thousand dollars
17 (\$5,000) for each protestant, such amount to be set by State Bank Department
18 ~~regulation~~ rule.

19
20 SECTION 2531. Arkansas Code § 23-46-503(c)(4)(B)(i), concerning
21 examinations of state banks or subsidiary trust companies by the Bank
22 Commissioner, is amended to read as follows:

23 (i) Violating state or federal law, rules and
24 regulations of a federal regulatory agency, or department ~~regulations~~ rules;

25
26 SECTION 2532. Arkansas Code § 23-46-505 is amended to read as follows:

27 23-46-505. Noncompliance with banking law – Special examinations.

28 Whenever it shall come to the knowledge of the Bank Commissioner that
29 any state bank or subsidiary trust company has failed or refused to comply
30 with any of the provisions of the Arkansas Banking Code of 1997, with any
31 provision of federal law or federal regulations applicable to financial
32 institutions, with any ~~department~~ State Bank Department ~~regulations~~ rules, or
33 with any direction of the commissioner made specifically to that state bank
34 or subsidiary trust company as a result of an examination into its affairs,
35 he or she is authorized, as a penalty for that failure or refusal, to make a
36 special examination of the state bank or subsidiary trust company, to charge

1 and collect the same fees therefor as for a regular examination, and to
2 continue such examinations and charges at intervals of thirty (30) days or
3 less until such provisions, regulations, rules, and directions are complied
4 with.

5
6 SECTION 2533. Arkansas Code § 23-47-508(c), concerning authority of
7 the Bank Commissioner concerning disposition of real estate that was acquired
8 through debt collection, is amended to read as follows:

9 (c) Real estate held pursuant to this section shall be considered an
10 asset of the bank. The value of the asset shall be based upon fair market
11 value supported by an appraisal or appropriate evaluation when the bank
12 acquires ownership of the property or as established by ~~regulation~~ rule of
13 the commissioner.

14
15 SECTION 2534. Arkansas Code § 23-46-511(d), concerning retention of
16 certain records by state banks and subsidiary trust companies, is amended to
17 read as follows:

18 (d) The commissioner shall issue ~~regulations~~ rules, with the approval
19 of the board, prescribing the period for which records must be maintained.
20 The periods may be permanent or for a term of years.

21
22 SECTION 2535. The introductory language of Arkansas Code § 23-47-
23 101(a), concerning general powers of state banks, is amended to read as
24 follows:

25 (a) Subject to any State Bank Department ~~regulations~~ rule and
26 consistent with any restrictions imposed by the Arkansas Banking Code of
27 1997, each state bank shall, unless it shall be determined to be unsafe and
28 unsound by the Bank Commissioner, and without specific mention thereof in its
29 articles of incorporation, have the following powers and be permitted, in
30 addition to other powers conferred upon it by other provisions of law:

31
32 SECTION 2536. Arkansas Code § 23-47-208(c), concerning rulemaking
33 authority of the Bank Commissioner over deferred income investment accounts,
34 is amended to read as follows:

35 (c) The Bank Commissioner shall promulgate such rules ~~and regulations~~
36 as may be necessary and proper to carry out the intent and purpose of this

1 section and to issue cease and desist orders to any state bank found to be
2 violating this section or State Bank Department ~~regulations~~ rules. These
3 department ~~regulations~~ rules shall incorporate §§ 23-81-121 – 23-81-128,
4 where applicable.

5
6 SECTION 2537. Arkansas Code § 23-47-401(d), concerning rulemaking
7 authority of the State Bank Department over a state bank's investment powers,
8 is amended to read as follows:

9 (d) A state bank may invest in any investment not described in
10 subsections (a) and (b) of this section as may be authorized by State Bank
11 Department ~~regulations~~ rules.

12
13 SECTION 2538. Arkansas Code § 23-47-601(a), concerning Bank
14 Commissioner approval and conditions on a state bank's operation of
15 subsidiaries, is amended to read as follows:

16 (a)(1) With the prior approval of the Bank Commissioner, and subject
17 to such conditions as may be prescribed by him or her, a state bank may
18 engage in any activities which are a part of the business of banking or
19 incidental thereto by means of an operating subsidiary and other activities
20 permissible for state banks or their subsidiaries under statutory authority
21 or as authorized by ~~regulations~~ rules of the State Banking Board.

22 (2) For purposes of this section, an operating subsidiary in
23 which a state bank may invest includes a corporation, limited liability
24 company, or similar entity if the parent bank owns more than fifty percent
25 (50%) of the voting, or similar type of controlling, interest of the
26 subsidiary; or the parent bank otherwise controls the subsidiary and no other
27 party controls more than fifty percent (50%) of the voting, or similar type
28 of controlling interest, of the subsidiary.

29 (3) Subsidiaries which are not subject to this section are:

30 (A) A subsidiary in which the state bank's investment is
31 made and limited pursuant to specific authorization in a statute or by
32 ~~regulation~~ rule; and

33 (B) A subsidiary, in which the state bank has acquired, in
34 good faith, shares through foreclosure on collateral, by way of compromise of
35 a doubtful claim, or to avoid loss in connection with a debt previously
36 contracted.

1
2 SECTION 2539. Arkansas Code § 23-47-708(b)(1), concerning restrictions
3 on authority of state banks to operate a trust department, is amended to read
4 as follows:

5 (1) Shall no longer operate a trust department or be subject to
6 the provisions of this subchapter or State Bank Department ~~regulations~~ rules
7 made pursuant thereto;

8
9 SECTION 2540. Arkansas Code § 23-48-105(d)(1), concerning rulemaking
10 authority of the State Bank Department over agency agreements of state banks,
11 is amended to read as follows:

12 (d)(1) If any proposed service is not specifically designated in
13 subsection (b) of this section, and has not previously been approved in a
14 State Bank Department ~~regulation~~ rule, the commissioner shall decide whether
15 to approve the offering of the service after receipt of the notice required
16 in subsection (c) of this section.

17
18 SECTION 2541. Arkansas Code § 23-48-202 is amended to read as follows:
19 23-48-202. Reserve requirements.

20 A state bank not a member of the Federal Reserve System shall maintain
21 at all times a reserve fund as required by the Federal Reserve Board, unless
22 otherwise provided by State Bank Department ~~regulations~~ rules.

23
24 SECTION 2542. Arkansas Code § 23-48-203 is amended to read as follows:
25 23-48-203. Payment of dividends.

26 Any state bank may, from time to time, declare and pay dividends in
27 accordance with State Bank Department ~~regulations~~ rules.

28
29 SECTION 2543. Arkansas Code § 23-48-301(b), concerning applications to
30 incorporate as a state bank, is amended to read as follows:

31 (b) An application for authority to organize a state bank shall be
32 submitted to the commissioner in the form that the commissioner may prescribe
33 and shall include the information set forth in this subsection and subsection
34 (c) of this section, and contain additional information which the
35 commissioner may require. Five (5) copies of the proposed articles of
36 incorporation and proposed bylaws shall be filed with the application. The

1 application and articles of incorporation shall be signed by each of the
2 incorporators, and shall be accompanied by a filing fee of not more than
3 fifteen thousand dollars (\$15,000) as set by State Bank Department
4 ~~regulations~~ rules, which shall not be refundable.

5 (1) The name, citizenship, residence, and occupation of each
6 incorporator, and of each of the initial directors, and the name and address
7 of each stock subscriber, and the amount of stock paid for by each;

8 (2) The name and address of an individual within the state to
9 whom notice to all incorporators may be sent;

10 (3) The total initial capital and the number of shares of each
11 class of the capital stock to be authorized;

12 (4) The corporate name;

13 (5) The proposed location of the main banking office;

14 (6) If known, the name and residence of the proposed president
15 or chief executive officer, operations officer, and, if applicable, the name
16 and address of the proposed trust officer;

17 (7) The names of the natural persons who propose to own or
18 control more than five percent (5%) of the capital stock;

19 (8) The past and present connection with any depository
20 institution, financial institution, or national trust company, other than as
21 a customer on terms generally available to the public, of each proposed
22 director and each subscriber to more than five percent (5%) of the capital
23 stock;

24 (9) Evidence of the character, financial responsibility, and
25 ability of the incorporators and proposed directors;

26 (10) A brief statement of the purposes for which the state bank
27 is incorporated, and whether it shall operate a trust department;

28 (11) The term for which the state bank is to exist, which shall
29 be perpetual unless otherwise limited;

30 (12) A statement signed and verified by the incorporators that
31 the capital stock has been fully subscribed and the purchase price therefor
32 has been paid into an escrow account approved by the commissioner and that
33 the requirements of § 23-48-310 have been met;

34 (13) Proof that application for federal deposit insurance has
35 been made; and

36 (14) Recitation of the need for and advisability of the approval

1 to organize.

2
3 SECTION 2544. Arkansas Code § 23-48-306(c), concerning relocation of a
4 state bank, is amended to read as follows:

5 (c) Each application for authority to change a state bank's place of
6 business shall be accompanied by a fee as shall be set by State Bank
7 Department ~~regulation~~ rule, which fee shall be paid to the department.

8
9 SECTION 2545. Arkansas Code § 23-48-308(e)(2), concerning the
10 application fee for a state bank requesting an amendment to its articles of
11 incorporation, is amended to read as follows:

12 (2) The fee shall be set by State Bank Department ~~regulation~~
13 rule and shall be paid to the department.

14
15 SECTION 2546. Arkansas Code § 23-48-317(c)(1), concerning the fee for
16 an application to change ownership of a state bank, is amended to read as
17 follows:

18 (c)(1) Any transferee seeking to acquire twenty-five percent (25%) or
19 more of the capital stock of a state bank or Arkansas bank holding company
20 shall file with the commissioner an application for approval submitted to the
21 commissioner in the form that the commissioner may prescribe, the application
22 to be accompanied by a filing fee of not less than five hundred dollars
23 (\$500) nor more than five thousand dollars (\$5000) as set by State Bank
24 Department ~~regulation~~ rule.

25
26 SECTION 2547. Arkansas Code § 23-48-403 is amended to read as follows:
27 23-48-403. Penalties.

28 (a) Any person who willfully violates any provision of this subchapter
29 or order issued by the Bank Commissioner pursuant to this subchapter or any
30 State Bank Department ~~regulation~~ rule is guilty of a Class A misdemeanor.

31 (b) Any person who willfully participates in a violation of any
32 provision of this subchapter is guilty of a Class A misdemeanor.

33
34 SECTION 2548. Arkansas Code § 23-48-404 is amended to read as follows:
35 23-48-404. Administration.

36 The Bank Commissioner is authorized to and shall administer and carry

1 out the provisions of this subchapter and shall issue such ~~regulations~~ rules
2 and orders as may be necessary to discharge this duty and to prevent evasions
3 of this subchapter.

4
5 SECTION 2549. Arkansas Code § 23-48-701(2), concerning the definition
6 of "healthy bank", is amended to read as follows:

7 (2) "Healthy bank" means a state bank whose financial
8 condition satisfies the criteria established by State Bank Department
9 ~~regulation rule~~; and

10
11 SECTION 2550. Arkansas Code § 23-48-702(d)(2), concerning the notice
12 fee to be paid to the Bank Commissioner when relocating any existing full-
13 service branch, is amended to read as follows:

14 (2) A fee of not less than three hundred dollars (\$300) nor more
15 than five hundred dollars (\$500) established by State Bank Department
16 ~~regulation rule~~ shall accompany the notice.

17
18 SECTION 2551. Arkansas Code § 23-48-703(b)-(e), concerning the State
19 Bank Department fees and application requirements necessary to establish a
20 full-service branch bank, are amended to read as follows:

21 (b) The sponsor of a full-service branch application may file an
22 application with the commissioner by:

23 (1) Paying a filing fee established by State Bank Department
24 ~~regulation rule~~ of not less than three hundred dollars (\$300) nor more than
25 five hundred dollars (\$500); and

26 (2) Not less than thirty (30) days prior to filing the
27 application, publishing notice of the application one (1) time per week for
28 four (4) consecutive weeks in a newspaper of statewide circulation.

29 (c) The commissioner:

30 (1) May establish by ~~regulation rule~~ an expedited application
31 process and procedure for the approval of a healthy bank full-service branch
32 application; and

33 (2) Shall approve a healthy bank full-service branch application
34 unless the commissioner determines that approving the application is not
35 consistent with the standards provided in subsection (a) of this section.

36 (d)(1) The commissioner shall give notice of the filing of an

1 application under subsection (b) or subsection (c) of this section to all
2 Arkansas state-chartered banks with a bank or a full service branch currently
3 open and operating within the market area of the proposed new branch.

4 (2) The procedure for giving notice and the parameters of the
5 market area shall be established by State Bank Department ~~regulation~~ rule.

6 (e)(1) A written protest to a full-service branch application may be
7 filed with the commissioner within fifteen (15) days of the filing of the
8 application.

9 (2) The protest shall include:

10 (A) A detailed explanation of the protesting party's
11 reasons why the commissioner should deny the application; and

12 (B) A filing fee established by department ~~regulation~~ rule
13 of not less than three hundred dollars (\$300) nor more than five hundred
14 dollars (\$500).

15
16 SECTION 2552. Arkansas Code § 23-48-906(b), concerning the authority
17 of state banks to operate additional branches, is amended to read as follows:

18 (b) A state bank may conduct any activities at any branch outside
19 Arkansas which are permissible for a bank chartered by the host state in
20 which the branch is located, provided that the Bank Commissioner may prohibit
21 any state bank from engaging in any activity not expressly allowed by the
22 Arkansas Banking Code of 1997 if the commissioner determines, by order or
23 ~~regulation~~ rule, that the involvement of out-of-state branches of state banks
24 in such activities would threaten the safety or soundness of state banks.

25
26 SECTION 2553. Arkansas Code § 23-48-907(f)(1), concerning supervisory
27 and examination fees for out-of-state state-chartered banks, is amended to
28 read as follows:

29 (f)(1) Each out-of-state state-chartered bank that maintains one (1)
30 or more branches in Arkansas may be assessed and, if assessed, shall pay
31 supervisory and examination fees in accordance with the Arkansas Banking Code
32 of 1997 and ~~regulations~~ rules of the commissioner.

33
34 SECTION 2554. Arkansas Code § 23-48-909 is amended to read as follows:
35 23-48-909. ~~Regulations~~ Rules.

36 The Bank Commissioner, with the approval of the State Banking Board,

1 may promulgate ~~regulations~~ rules that he or she determines to be necessary or
2 appropriate in order to implement the provisions of this subchapter.

3
4 SECTION 2555. Arkansas Code § 23-48-1009(5), concerning revocation of
5 the certificate of authority of a registered out-of-state bank, is amended to
6 read as follows:

7 (5) The out-of-state bank or an officer, director, or employee
8 thereof is found to be violating federal banking laws or regulations,
9 violating the banking laws of this state or department ~~regulations~~ rules,
10 violating any regulatory agreement, or jeopardizing the safety and soundness
11 of the out-of-state bank;

12
13 SECTION 2556. Arkansas Code § 23-49-102(a)(5), concerning the Bank
14 Commissioner's and State Bank Department's authority to take possession of
15 the business and property of an institution under his or its supervision
16 under certain circumstances, is amended to read as follows:

17 (5) Has substantially dissipated assets or earnings due to:

- 18 (A) Any violation of any law or ~~regulation~~ rule; or
19 (B) An unsafe or unsound practice;

20
21 SECTION 2557. Arkansas Code § 23-49-118(a), concerning the filing of
22 articles of dissolution, is amended to read as follows:

23 (a) The articles of dissolution shall be executed in duplicate and
24 presented in duplicate to the State Bank Department accompanied by fees
25 prescribed by department ~~regulations~~ rules.

26
27 SECTION 2558. Arkansas Code § 23-49-119(g), concerning submittal of an
28 application for approval of dissolution to the State Bank Department, is
29 amended to read as follows:

30 (g) Each application for approval of a voluntary dissolution shall be
31 accompanied by a fee as shall be set by State Bank Department ~~regulations~~
32 rules and shall be paid to the department.

33
34 SECTION 2559. Arkansas Code § 23-50-101 is amended to read as follows:

35 23-50-101. Prosecution of violations – Nonliability of commissioner.

36 (a) The Bank Commissioner may initiate any appropriate civil or

1 administrative action or remedy upon discovering a violation of the Arkansas
2 Banking Code of 1997 or any other statute or ~~regulation~~ rule the enforcement
3 of which is within the scope of his or her duty.

4 (b) Civil, administrative, or criminal actions initiated by the
5 commissioner under this section which expose him or her or his or her estate
6 to personal liability for damages, or otherwise, shall be defended by the
7 State of Arkansas, and judgments, if any shall be obtained against him or her
8 or his or her estate, shall be borne by the State of Arkansas.

9 (c) No person shall be subjected to any civil or criminal liability
10 for any act or omission to act in good faith reliance upon an order or
11 ~~regulation~~ rule of the State Bank Department notwithstanding a subsequent
12 decision by a court invalidating the order or ~~regulation~~ rule.

13
14 SECTION 2560. Arkansas Code § 23-50-102(a)(1), concerning penalties
15 for violation of State Bank Department rules, is amended to read as follows:

16 (a)(1) If the directors of any institution under the supervision of
17 the State Bank Department shall knowingly violate or knowingly permit any of
18 its officers, agents, or servants to violate any of the laws enacted for the
19 ~~regulation~~ rule of any such institutions or any department ~~regulations~~ rules,
20 all rights, privileges, and franchises of the institution shall be subject to
21 forfeiture.

22
23 SECTION 2561. Arkansas Code § 23-51-102(a)(10), concerning the
24 definition of "capital base", is amended to read as follows:

25 (10) "Capital base" means the sum of capital, surplus, and
26 undivided profits, plus any additions and less any subtractions which the
27 commissioner may by ~~regulation~~ rule prescribe;

28
29 SECTION 2562. Arkansas Code § 23-51-102(a)(21)(C)(iv)-(vi), concerning
30 the definition of "hazardous condition", are amended to read as follows:

31 (iv) Violates or refuses to comply with this
32 chapter, another statute or ~~regulation~~ rule applicable to trust companies, or
33 any final and enforceable order of the commissioner;

34 (v) Is in a condition that renders the continuation
35 of a particular business practice hazardous to its clients and creditors; or

36 (vi) Conducts business in an unsafe or unsound

1 manner, which includes, but is not limited to conducting business with:

- 2 (a) Inexperienced or inattentive management;
- 3 (b) Potentially dangerous operating practices;
- 4 (c) Infrequent or inadequate audits;
- 5 (d) Administration of assets that is notably
- 6 deficient in relation to the volume and character or responsibility for asset
- 7 holdings;
- 8 (e) Failure to adhere to sound administrative
- 9 practices;
- 10 (f) Frequent occurrences of violations of
- 11 laws, ~~regulations~~ rules, or terms of the governing instruments; or
- 12 (g) Engaging in self-dealing or evidencing a
- 13 notable degree of potential or actual conflicts of interest;

14
 15 SECTION 2563. Arkansas Code § 23-51-102(b), concerning interpretation
 16 of the definitions within the Arkansas Trust Institutions Act, is amended to
 17 read as follows:

18 (b) These definitions shall be liberally construed to accomplish
 19 the purposes of this chapter. The commissioner by ~~regulation~~ rule may adopt
 20 other definitions to accomplish the purposes of this chapter.

21
 22 SECTION 2564. Arkansas Code § 23-51-103 is amended to read as follows:

23 23-51-103. ~~Regulations~~ Rules.

24 The Bank Commissioner may promulgate such ~~regulations~~ rules as he or
 25 she determines to be necessary or appropriate in order to implement the
 26 provisions of this chapter.

27
 28 SECTION 2565. Arkansas Code § 23-51-106(a), concerning the fee for an
 29 application for a state trust company charter, is amended to read as follows:

30 (a) An application for a state trust company charter must be made
 31 under oath and in the form required by the Bank Commissioner and must be
 32 supported by information, data, records, and opinions of counsel that the
 33 commissioner requires. The application must be accompanied by a non-
 34 refundable filing fee of not less than three thousand dollars (\$3,000) nor
 35 more than ten thousand dollars (\$10,000) as set by ~~regulation~~ rule of the
 36 commissioner and proof of escrow of deposit for the required capital.

1
2 SECTION 2566. Arkansas Code § 23-51-107(b), concerning notice and
3 investigation of a charger application, is amended to read as follows:

4 (b) At the expense of the organizers, the commissioner shall
5 investigate the application and inquire into the identity and character of
6 each proposed director, officer, and principal shareholder. The commissioner
7 shall prepare a written report of the investigation, and any person may
8 request a copy of the nonconfidential portions of the application and written
9 report as provided by the Freedom of Information Act of 1967, § 25-19-101 et
10 seq. ~~Regulations~~ Rules adopted under this chapter may specify the
11 confidential or nonconfidential character of information obtained by the
12 State Bank Department under this section. Except as provided in ~~regulations~~
13 rules regarding confidential information, the financial statement of a
14 proposed officer, director or principal shareholder is confidential and not
15 subject to public disclosure.

16
17 SECTION 2567. Arkansas Code § 23-51-108(a), concerning filing a
18 protest to the grant of a charter application, is amended to read as follows:

19 (a) No person shall appear in opposition to the application unless the
20 person shall have filed a written protest to the granting of the application
21 within thirty (30) days of the date of the notice of the filing of the
22 application. The protest must state the grounds for objection and must be
23 accompanied by a filing fee of not less than two thousand dollars (\$2,000)
24 nor more than five thousand dollars (\$5,000) for each protestant, such amount
25 to be set by ~~regulation~~ rule promulgated by the Bank Commissioner.

26
27 SECTION 2568. Arkansas Code § 23-51-108(d), concerning administration
28 of a hearing upon the protest of a grant of a charter application, is amended
29 to read as follows:

30 (d) If the commissioner sets a hearing, the commissioner shall conduct
31 a public hearing and as many prehearing conferences and opportunities for
32 discovery as the commissioner considers advisable and consistent with
33 applicable law and ~~regulations~~ rules.

34
35 SECTION 2569. Arkansas Code § 23-51-111 is amended to read as follows:
36 23-51-111. Application of laws relating to general business

1 corporations.

2 (a) The Arkansas Business Corporation Act, § 4-27-101 et seq., applies
3 to a trust company to the extent not inconsistent with this chapter or the
4 proper business of a trust company, except that any reference to the
5 Secretary of State means the Bank Commissioner unless the context requires
6 otherwise.

7 (b) Unless expressly authorized by this chapter or a ~~regulation~~ rule
8 of the commissioner, a trust company may not take an action authorized by the
9 Arkansas Business Corporation Act, § 4-27-101 et seq., regarding its
10 corporate status, capital structure, or a matter of corporate governance, of
11 the type for which the Arkansas Business Corporation Act, § 4-27-101 et seq.,
12 would require a filing with the Secretary of State if the trust company were
13 a business corporation, without first submitting the filing to the
14 commissioner for the same purposes for which it otherwise would be required
15 to be submitted to the Secretary of State and compliance with the applicable
16 provisions of this chapter.

17 (c) The commissioner may adopt ~~regulations~~ rules to limit or refine
18 the applicability of subsection (a) of this section to a trust company or to
19 alter or supplement the procedures and requirements of the Arkansas Business
20 Corporation Act, § 4-27-101 et seq., applicable to an action taken under this
21 chapter.

22

23 SECTION 2570. Arkansas Code § 23-51-114(c), concerning amendments of
24 the articles of association of a state trust company, is amended to read as
25 follows:

26 (c) Amendment or restatement of the articles of association of a state
27 trust company and approval of the board and shareholders must be made or
28 obtained in accordance with provisions of the Arkansas Business Corporation
29 Act, § 4-27-101 et seq., for the amendment or restatement of articles of
30 incorporation except as otherwise provided by this chapter or ~~regulations~~
31 rules adopted under this chapter. The original and one copy of the articles
32 of amendment or restated articles of association must be filed with the Bank
33 Commissioner for approval. Unless the submission presents novel or unusual
34 questions, the commissioner shall approve or reject the amendment or
35 restatement within thirty (30) days after the date the commissioner considers
36 the submission informationally complete and accepted for filing. The

1 commissioner may require the submission of additional information as
2 considered necessary to an informed decision to approve or reject any
3 amendment or restatement or articles of association under this section.
4

5 SECTION 2571. Arkansas Code § 23-51-115(a), concerning board authority
6 to establish a series of shares, is amended to read as follows:

7 (a) If the articles of association expressly give the board authority
8 to establish series and determine the preferences, limitations, and relative
9 rights of each series of shares, the board may do so only on compliance with
10 this section and any ~~regulations~~ rules adopted under this chapter.
11

12 SECTION 2572. Arkansas Code § 23-51-116 is amended to read as follows:
13 23-51-116. Change in outstanding capital and surplus.

14 (a) A state trust company may not reduce or increase its outstanding
15 capital through dividend, redemption, issuance of shares or otherwise,
16 without the prior approval of the Bank Commissioner, except as permitted by
17 this section or ~~regulations~~ rules adopted under this chapter.

18 (b) Unless otherwise restricted by ~~regulations~~ rules, prior approval
19 is not required for an increase in capital accomplished through:

20 (1) Issuance of shares of common stock for cash;

21 (2) Declaration and payment of pro rata share dividends as
22 defined in the Arkansas Business Corporation Act, § 4-27-101 et seq.; or

23 (3) Adoption by the board of a resolution directing that all or
24 part of undivided profits be transferred to capital.

25 (c) Prior approval is not required for a decrease in surplus caused by
26 incurred losses in excess of undivided profits.
27

28 SECTION 2573. Arkansas Code § 23-51-117(d), concerning outstanding
29 notes or debentures, is amended to read as follows:

30 (d) The amount of any outstanding capital notes or debentures that
31 meet the requirements of this section and are subordinated to unsecured
32 creditors of the state trust company may be included in equity capital of the
33 state trust company for purposes of determining hazardous condition or
34 insolvency, and for such other purposes as may be provided by ~~regulations~~
35 rules adopted under this chapter.
36

1 SECTION 2574. Arkansas Code § 23-51-118(a), concerning conduct of
2 private trust companies, is amended to read as follows:

3 (a) A private trust company engaging in the trust business in this
4 state shall comply with each and every provision of this chapter applicable
5 to a trust company unless expressly exempted therefrom in writing by the Bank
6 Commissioner pursuant to this section or by ~~regulation~~ rule adopted by the
7 commissioner.

8
9 SECTION 2575. Arkansas Code § 23-51-118(e), concerning the Bank
10 Commissioner's rulemaking authority over certain aspects of business done
11 with private trust companies, is amended to read as follows:

12 (e) The commissioner may adopt ~~regulations~~ rules defining other
13 circumstances that do not constitute transaction of business with the public,
14 specifying the provisions of this chapter that are subject to an exemption
15 request, and establishing procedures and requirements for obtaining,
16 maintaining, or revoking exempt status.

17
18 SECTION 2576. Arkansas Code § 23-51-119(a)(1)(A), concerning the
19 application fee for a private trust company requesting an exemption from the
20 requirements under Arkansas law, is amended to read as follows:

21 (A) A non-refundable application fee on an amount not less
22 than three thousand dollars (\$3,000) nor more than five thousand dollars
23 (\$5,000), as set by ~~regulations~~ rules issued by the commissioner;

24
25 SECTION 2577. Arkansas Code § 23-51-119(g)(1), concerning remedies
26 against a private trust company for failures to comply with Arkansas law, is
27 amended to read as follows:

28 (1) Institute any action or remedy prescribed by this chapter,
29 or any applicable rule ~~or regulation~~; or

30
31 SECTION 2578. Arkansas Code § 23-51-121(a) and (b), concerning
32 investment in state trust company facilities, are amended to read as follows:

33 (a) In this chapter, "state trust company facility" means real estate,
34 including an improvement, owned, or leased to the extent the lease or the
35 leasehold improvements are capitalized, by a state trust company for the
36 purpose of:

1 (1) Providing space for state trust company employees to perform
2 their duties and space for parking by state trust company employees and
3 customers;

4 (2) Conducting trust business, including meeting the reasonable
5 needs and convenience of the state trust company's customers, computer
6 operations, document and other item processing, maintenance and record
7 retention and storage;

8 (3) Holding, improving, and occupying as an incident to future
9 expansion of the state trust company's facilities; or

10 (4) Conducting another activity authorized by ~~regulations~~ rules
11 adopted under this chapter.

12 (b) Without the prior written approval of the Bank Commissioner, a
13 state trust company may not directly or indirectly invest an amount in excess
14 of its capital and surplus in state trust company facilities, furniture,
15 fixtures, and equipment. Except as otherwise provided by ~~regulations~~ rules
16 adopted under this chapter, in computing this limitation a state trust
17 company:

18 (1) Shall include:

19 (A) Its direct investment in state trust company
20 facilities;

21 (B) Any investment in equity or investment securities of a
22 company holding title to a facility used by the state trust company for the
23 purposes specified by subsection (a) of this section;

24 (C) Any loan made by the state trust company to or on the
25 security of equity or investment securities issued by a company holding title
26 to a facility used by the state trust company; and

27 (D) Any indebtedness incurred on state trust company
28 facilities by a company:

29 (i) That holds title to the facility;

30 (ii) That is an affiliate of the state trust
31 company; and

32 (iii) In which the state trust company is invested
33 in the manner described by subdivision (b)(1)(B) or subdivision (b)(1)(C) of
34 this section; and

35 (2) May exclude an amount included under subdivisions (b)(1)(B)-
36 (D) of this section to the extent any lease of a facility from the company

1 holding title to the facility is capitalized on the books of the state trust
2 company.

3
4 SECTION 2579. Arkansas Code § 23-51-122(a)(1), concerning acquisition
5 of real estate by a state trust company, is amended to read as follows:

6 (1) As permitted by § 23-51-121 or as otherwise provided by this
7 chapter, including ~~regulations~~ rules adopted under this chapter;

8
9 SECTION 2580. Arkansas Code § 23-51-122(c)(1)(A), concerning
10 disposition of real estate by a state trust company, is amended to read as
11 follows:

12 (A) It was acquired, except as otherwise provided by
13 ~~regulations~~ rules adopted under this chapter; or

14
15 SECTION 2581. Arkansas Code § 23-51-123(e), concerning investments by
16 state trust companies in investment securities, is amended to read as
17 follows:

18 (e) The commissioner may adopt ~~regulations~~ rules to establish limits,
19 requirements, or exemptions other than those specified by this section for
20 particular classes or categories of investment, or limit or expand investment
21 authority for state trust companies for particular classes or categories of
22 securities or other property.

23
24 SECTION 2582. Arkansas Code § 23-51-125(a), concerning a state trust
25 company's acquisition or establishment of a subsidiary, is amended to read as
26 follows:

27 (a) Except as otherwise provided by this chapter or ~~regulations~~ rules
28 adopted under this chapter, a state trust company may acquire or establish a
29 subsidiary to conduct any activity that may lawfully be conducted through the
30 form of organization chosen for the subsidiary.

31
32 SECTION 2583. Arkansas Code § 23-51-125(e), concerning a state trust
33 company's acquisition or establishment of a subsidiary, is amended to read as
34 follows:

35 (e) A subsidiary of a state trust company is subject to ~~regulation~~
36 rule by the commissioner to the extent provided by this chapter or

1 ~~regulations~~ rules adopted under this chapter. In the absence of limiting
2 ~~regulations~~ rules, the commissioner may regulate a subsidiary as if it were a
3 state trust company.
4

5 SECTION 2584. Arkansas Code § 23-51-127 is amended to read as follows:
6 23-51-127. Engaging in commerce prohibited.

7 Except as otherwise provided by this chapter or ~~regulations~~ rules
8 adopted under this chapter, a state trust company may not invest its funds in
9 trade or commerce by buying, selling, or otherwise dealing in goods or by
10 owning or operating a business not part of the state trust business, except
11 as necessary to fulfil a fiduciary obligation to a client.
12

13 SECTION 2585. Arkansas Code § 23-51-128(c), concerning the rulemaking
14 authority of the Bank Commissioner under the Arkansas Trust Institutions Act,
15 is amended to read as follows:

16 (c) The Bank Commissioner may adopt ~~regulations~~ rules to administer
17 and carry out this section, including ~~regulations~~ rules to establish limits,
18 requirements, or exemptions other than those specified by this section for
19 particular classes or categories of loans or extensions of credit, and
20 establish collective lending and investment limits.
21

22 SECTION 2586. Arkansas Code § 23-51-129(a), concerning a state trust
23 company becoming the owner and lessor of tangible personal property for lease
24 financing transactions, is amended to read as follows:

25 (a) Subject to ~~regulations~~ rules adopted under this chapter, a state
26 trust company may become the owner and lessor of tangible personal property
27 for lease financing transactions on a net lease basis on the specific request
28 and for the use of a client. Without the written approval of the Bank
29 Commissioner to continue holding property acquired for leasing purposes under
30 this subsection, the state trust company may not hold the property more than
31 six months after the date of expiration of the original or any extended or
32 renewed lease period agreed to by the client for whom the property was
33 acquired or by a subsequent lessee.
34

35 SECTION 2587. Arkansas Code § 23-51-131(b), concerning the rulemaking
36 authority of the Bank Commissioner concerning common investment funds, is

1 amended to read as follows:

2 (b) The Bank Commissioner may adopt ~~regulations~~ rules to administer
3 and carry out this section, including but not limited to ~~regulations~~ rules to
4 establish investment and participation limitations, disclosure of fees, audit
5 requirements, limit or expand investment authority for particular classes or
6 categories of securities or other property, advertising, exemptions, and
7 other requirements that may be necessary to carry out this section.

8

9 SECTION 2588. Arkansas Code § 23-51-133 is amended to read as follows:
10 23-51-133. Pledge of assets.

11 A state trust company may not pledge or create a lien on any of its
12 assets except to secure the repayment of money borrowed or as specifically
13 authorized or required by § 23-51-130, or by ~~regulations~~ rules adopted under
14 this chapter. An act, deed, conveyance, pledge, or contract in violation of
15 this section is void.

16

17 SECTION 2589. Arkansas Code § 23-51-134(c)(4), concerning acquisition
18 of control of a state trust company, is amended to read as follows:

19 (4) A transaction exempted by the commissioner by ~~regulation~~
20 rule or order because the transaction is not within the purposes of this
21 chapter or the ~~regulation~~ rule of which is not necessary or appropriate to
22 achieve the objectives of this chapter.

23

24 SECTION 2590. Arkansas Code § 23-51-135(a), concerning the filing of
25 an application regarding acquisition of control with the Bank Commissioner,
26 is amended to read as follows:

27 (a) The proposed transferee seeking approval to acquire control of a
28 state trust company or a person that controls a state trust company must file
29 with the Bank Commissioner:

30 (1) An application in the form prescribed by the commissioner;

31 (2) The filing fee in an amount not less than one thousand five
32 hundred dollars (\$1,500) and not more than three thousand dollars (\$3,000),
33 as set by ~~regulations~~ rules issued by the commissioner;

34 (3) All information required by ~~regulation~~ rule or that the
35 commissioner requires in a particular application as necessary to an informed
36 decision to approve or reject the proposed acquisition.

1
2 SECTION 2591. Arkansas Code § 23-51-136(a), concerning hearing and
3 decision on acquisition of control, is amended to read as follows:

4 (a) Not later than sixty (60) days after the application is officially
5 filed, the Bank Commissioner may approve the application or set the
6 application for hearing. If the commissioner sets a hearing, the commissioner
7 shall conduct a hearing as he or she considers advisable and consistent with
8 governing statutes and ~~regulations~~ rules.

9
10 SECTION 2592. Arkansas Code § 23-51-139(a), concerning civil action by
11 the Bank Commissioner for violations of the Arkansas Trust Institution Act,
12 is amended to read as follows:

13 (a) The Bank Commissioner may bring any appropriate civil action
14 against any person who the commissioner believes has committed or is about to
15 commit a violation of this chapter or a ~~regulation~~ rule or order of the
16 commissioner pertaining to this chapter.

17
18 SECTION 2593. Arkansas Code § 23-51-145(e), concerning the rulemaking
19 authority of the Bank Commissioner regarding transactions with management and
20 affiliates, is amended to read as follows:

21 (e) The commissioner may adopt ~~regulations~~ rules to administer and
22 carry out this section, including ~~regulations~~ rules to establish limits,
23 requirements, or exemptions other than those specified by this section for
24 particular categories of transactions.

25
26 SECTION 2594. Arkansas Code § 23-51-148(a) and (b), concerning bonding
27 requirements of the board of a state trust and its clients, are amended to
28 read as follows:

29 (a) The board of a state trust company shall require protection and
30 indemnity for clients in reasonable amounts established by ~~regulations~~ rules
31 adopted under this chapter, against dishonesty, fraud, defalcation, forgery,
32 theft, and other similar insurable losses, with corporate insurance or surety
33 companies:

- 34 (1) Authorized to do business in this state; or
35 (2) Acceptable to the Bank Commissioner and otherwise lawfully
36 permitted to issue the coverage against those losses in this state.

1 (b) Except as otherwise provided by ~~regulation~~ rule, coverage required
2 under subsection (a) of this section must include each director, officer and
3 employee of the state trust company without regard to whether the person
4 receives salary or other compensation.

5
6 SECTION 2595. Arkansas Code § 23-51-150(b) and (c), concerning the
7 merger plan of a state trust company, are amended to read as follows:

8 (b) Implementation of a plan of merger by a trust company and a state
9 bank, approval of the board, and shareholders of the parties must be made or
10 obtained as provided by the Arkansas Banking Code of 1997 as if the state
11 trust company were a state bank, except as otherwise provided by ~~regulations~~
12 rules adopted under this chapter.

13 (c) Implementation of the plan of merger with a person other than a
14 state bank, approval of the board and shareholders of the parties must be
15 made or obtained as provided by the Arkansas Business Corporation Act, § 4-
16 27-101 et seq., as if the state trust company were a domestic corporation and
17 all other parties to the merger were foreign corporations and other entities,
18 except as otherwise provided by ~~regulations~~ rules adopted under this chapter.

19
20 SECTION 2596. Arkansas Code § 23-51-151(b)(2), concerning approval
21 requirements for the merger application of a state trust company, is amended
22 to read as follows:

23 (2) Each resulting state trust company has in all respects
24 complied with the statutes and ~~regulations~~ rules relative to the organization
25 of a state trust company;

26
27 SECTION 2597. Arkansas Code § 23-51-153 is amended to read as follows:
28 23-51-153. Rights of dissenters to mergers.

29 A shareholder may dissent from the merger to the extent and by
30 following the procedure provided by the Arkansas Business Corporation Act, §
31 4-27-101 et seq., or ~~regulations~~ rules adopted under this chapter.

32
33 SECTION 2598. Arkansas Code § 23-51-154(b)(2), concerning requirements
34 prerequisite to approval of a state trust company's application to purchase
35 the assets of another trust institution, is amended to read as follows:

36 (2) The acquiring state trust company has complied with all

1 applicable statutes and ~~regulations~~ rules, including without limitation any
2 applicable requirements of §§ 23-51-178 and 23-51-179;

3
4 SECTION 2599. Arkansas Code § 23-51-166(9), concerning activities of a
5 state trust company that do not require a charter, is amended to read as
6 follows:

7 (9) Engaging in other activities expressly excluded from the
8 application of this chapter by ~~regulations~~ rules issued by the Bank
9 Commissioner;

10
11 SECTION 2600. Arkansas Code § 23-51-167(b), concerning conduct of the
12 trust business of a state trust institution, is amended to read as follows:

13 (b) In addition, a state trust institution may conduct any activities
14 at any office outside this state that are permissible for a trust institution
15 chartered by the host state where the office is located, except to the extent
16 such activities are expressly prohibited by the laws of this state or by any
17 ~~regulation~~ rule or order of the Bank Commissioner applicable to the state
18 trust institution. Provided, however, that the commissioner may waive any
19 such prohibition if he or she determines, by order or ~~regulation~~ rule, that
20 the involvement of out-of-state offices of state trust institutions in
21 particular activities would not threaten the safety or soundness of the state
22 trust institutions.

23
24 SECTION 2601. Arkansas Code § 23-51-181(f), concerning the supervisory
25 and examination fees for an out-of-state trust institution with one (1) or
26 more offices in this state, is amended to read as follows:

27 (f) Each out-of-state trust institution that maintains one (1) or more
28 offices in this state may be assessed and, if assessed, shall pay supervisory
29 and examination fees in accordance with the laws of this state and
30 ~~regulations~~ rules of the commissioner. The fees may be shared with other bank
31 supervisory agencies or any organization affiliated with or representing one
32 (1) or more bank supervisory agencies in accordance with agreements between
33 such parties and the commissioner.

34
35 SECTION 2602. Arkansas Code § 23-51-184 is amended to read as follows:
36 23-51-184. Commissioner shall supervise and examine authorized trust

1 institutions.

2 Every authorized trust institution shall be under the supervision of
3 the Bank Commissioner. The commissioner shall execute and enforce through the
4 State Bank Department and such other agents as are now or may hereafter be
5 created or appointed, all laws which are now or may hereafter be enacted
6 relating to authorized trust institutions. For the more complete and thorough
7 enforcement of the provisions of this chapter, the commissioner is hereby
8 empowered to promulgate such ~~regulations~~ rules not inconsistent with the
9 provisions of the chapter, as may, in his or her opinion, be necessary to
10 carry out the provisions of the laws relating to authorized trust
11 institutions and as may be further necessary to insure safe and conservative
12 management of an authorized trust institution under his or her supervision
13 taking into consideration the appropriate interest of the creditors,
14 stockholders, and the public in their relations with the authorized trust
15 institutions. All authorized trust institutions doing business under the
16 provisions of this chapter shall conduct their business in a manner
17 consistent with all laws relating to authorized trust institutions and all
18 ~~regulations~~ rules and instructions that may be promulgated or issued by the
19 commissioner.

20

21 SECTION 2603. Arkansas Code § 23-51-187(a), concerning confidentiality
22 of certain records maintained by the State Bank Department, is amended to
23 read as follows:

24 (a) The following records of the State Bank Department shall be
25 confidential and shall not be exhibited or revealed to the public except as
26 stated in this section or in accordance with department ~~regulations~~ rules:

27 (1) All examination reports filed with the department;

28 (2) All records disclosing information obtained from
29 examinations;

30 (3) Investigations and reports revealing facts concerning a
31 state trust company or the customers of the organization; and

32 (4) All personal financial statements submitted to the
33 department for any purpose.

34

35 SECTION 2604. Arkansas Code § 23-51-187(c), concerning disclosure of
36 certain confidential records maintained by the State Bank Department, is

1 amended to read as follows:

2 (c) The commissioner shall have the power to promulgate ~~regulations~~
3 rules with regard to disclosure of confidential information.

4

5 SECTION 2605. Arkansas Code § 23-51-188(a)(1), concerning
6 administrative orders of the Bank Commissioner for violations of the Arkansas
7 Trust Institutions Act, is amended to read as follows:

8 (1) Order any authorized trust institution, or subsidiary
9 thereof, or any director, officer, or employee to cease and desist violating
10 any provision of this chapter or any lawful ~~regulation~~ rule issued
11 thereunder;

12

13 SECTION 2606. Arkansas Code § 23-51-191 is amended to read as follows:
14 23-51-191. Removal of directors, officers, and employees.

15 Consistent with § 23-51-189, the Bank Commissioner shall have the
16 right, and is hereby empowered, to require the immediate removal from office
17 of any officer, director, or employee of any authorized trust institution who
18 shall be found to be dishonest, incompetent, or reckless in the management of
19 the affairs of the authorized trust institution or who persistently violates
20 the laws of this state or the lawful orders, instructions, and ~~regulations~~
21 rules issued by the commissioner.

22

23 SECTION 2607. Arkansas Code § 23-55-607(b)(3)(A), concerning
24 confidentiality of certain records under the Arkansas Home Loan Protection
25 Act, is amended to read as follows:

26 (A) Information concerning all employees of the State
27 Securities Department and all persons subject to ~~regulation~~ rule by the
28 department; and

29

30 SECTION 2608. Arkansas Code § 23-60-103(5), concerning exemptions from
31 applicability of the Arkansas Insurance Code for certain nonprofit vision
32 service plan corporations, is amended to read as follows:

33 (5) Nonprofit vision service plan corporations composed of at
34 least fifty (50) participating optometrists or ophthalmologists licensed by
35 the State of Arkansas to provide vision care services on a prepaid basis when
36 each licensed optometrist or ophthalmologist is subject to the rules ~~and~~

1 ~~regulations~~ of the professional's respective state board and when each
2 participating licensed optometrist or ophthalmologist agrees to assume
3 responsibility for completion of the provisions of the vision care services
4 contracted for so that no element of risk is incurred by any subscriber group
5 or person.

6
7 SECTION 2609. Arkansas Code § 23-60-108 is amended to read as follows:
8 23-60-108. Penalty generally.

9 Unless a greater penalty is provided by another law of this state, a
10 violation of a statute or ~~regulation~~ rule enforceable by the Insurance
11 Commissioner is punishable:

12 (1) By the refusal, suspension, revocation, or nonrenewal of a
13 license or certificate of authority; and

14 (2) A fine no greater than one thousand dollars (\$1,000) per
15 violation, not to exceed fifty thousand dollars (\$50,000) in any six-month
16 period.

17
18 SECTION 2610. Arkansas Code § 23-61-101(c)(1)(A), concerning the
19 purpose of the State Insurance Department, is amended to read as follows:

20 (c)(1)(A) The purpose of the department is to serve and protect the
21 public interest by the equitable enforcement of the state's laws and
22 ~~regulations~~ rules affecting the insurance industry.

23
24 SECTION 2611. Arkansas Code § 23-61-107(4), concerning record
25 retention by the State Insurance Commissioner, is amended to read as follows:

26 (4) The commissioner shall maintain as confidential, and not
27 subject to subpoena, financial information regarding material transactions of
28 insurers, as defined in § 23-63-1403 or other applicable laws or ~~regulations~~
29 rules promulgated by the commissioner.

30
31 SECTION 2612. Arkansas Code § 23-61-108 is amended to read as follows:
32 23-61-108. Rules ~~and regulations~~.

33 (a)(1) The Insurance Commissioner may make reasonable rules ~~and~~
34 ~~regulations~~ necessary for or as an aid to the effectuation of any provision
35 of the Arkansas Insurance Code.

36 (2) No rule ~~or regulation~~ shall extend, modify, or conflict with

1 any law of this state or the reasonable implications thereof.

2 (3) Any rule ~~or regulation~~ affecting persons or matters other
3 than the personnel or the internal affairs of the commissioner's office shall
4 be made or amended only after a hearing thereon of which notice was given as
5 required by § 23-61-304.

6 (4) If reasonably possible, the commissioner shall set forth the
7 proposed rule ~~or regulation~~ or amendment in or with the notice of hearing.

8 (5) No rule ~~or regulation~~ as to which a hearing is required
9 under this subsection shall be effective until after it has been on file as a
10 public record in the commissioner's office, and otherwise as provided by law,
11 for at least ten (10) days.

12 (b)(1) The commissioner shall have the authority to promulgate rules
13 ~~and regulations~~ necessary for the effective regulation of the business of
14 insurance or as required for this state to be in compliance with federal
15 laws.

16 (2) The commissioner shall have the authority to coordinate
17 regulatory activities and administration with other states and their
18 appropriate regulatory officials and with the federal government with respect
19 to the regulation of insurance.

20 (c) In addition to any other penalty provided, willful violation of
21 any rule ~~or regulation~~ shall subject the violator to such denial, suspension,
22 or revocation of certificate of authority or license as may be applicable
23 under the Arkansas Insurance Code for violation of the provision to which the
24 rule ~~or regulation~~ relates.

25 (d)(1) The commissioner is authorized to employ the standards and
26 requirements set forth in publications recited in the Arkansas Insurance
27 Code, as those publications existed on January 1, 2001, and adopted and
28 published by the National Association of Insurance Commissioners or by other
29 authors in the regulation of insurance, including, but not limited to, the
30 Valuation of Securities Manual, the examiners handbook, the Accounting
31 Practices and Procedures Manual, and the Annual Statement Instructions as
32 published by the National Association of Insurance Commissioners.

33 (2) The publications identified in subdivision (d)(1) of this
34 section and others recited in and throughout § 23-60-101 et seq. are hereby
35 adopted as they existed on January 1, 2001.

36 (3) The commissioner is authorized and empowered to promulgate

1 ~~regulations~~ rules for the purposes of adopting all or part of other
2 publications of the National Association of Insurance Commissioners or
3 publications by other authors if the commissioner determines that such an
4 action is in the best interest of the public.

5 (4) Upon the mailing of written notice by the commissioner to
6 all domestic reporting entities of promulgation and publication by the
7 National Association of Insurance Commissioners or other authors of
8 amendments, revisions, or modifications to any publication previously adopted
9 by the commissioner in the Arkansas Insurance Code, such published
10 amendments, revisions, or modifications shall become effective on the date
11 designated by the commissioner in the written notice, which date shall not be
12 earlier than eight (8) months after the date of mailing of the notice.

13 (e) The commissioner is authorized and empowered to adopt ~~regulations~~
14 rules for the purpose of modifying, amending, or revising any publication
15 promulgated by the National Association of Insurance Commissioners or other
16 authors, or any published amendments, modifications, or revisions to any such
17 publications if the commissioner determines that such an action is in the
18 best interest of the public. In such an event the effective date of any
19 modification, amendment, or revision shall be the effective date of the
20 ~~regulation~~ rule.

21
22 SECTION 2613. Arkansas Code § 23-61-115(a)(4), concerning standards
23 for the Insurance Commissioner under the Policyholder's Bill of Rights, is
24 amended to read as follows:

25 (4) Adopting rules ~~and regulations~~.

26
27 SECTION 2614. Arkansas Code § 23-61-205(a)(3)(A), concerning the
28 review of examination reports by the Insurance Commissioner, is amended to
29 read as follows:

30 (A) Adopting the examination report as filed or with
31 modification or corrections. If the examination report reveals that the
32 company is operating in violation of any law, ~~regulation~~ rule, or prior order
33 of the commissioner, the commissioner may order the company to take any
34 action the commissioner considers necessary and appropriate to cure such a
35 violation;

36

1 SECTION 2615. Arkansas Code § 23-61-303(b)(1), concerning hearings
2 conducted by the Insurance Commissioner, is amended to read as follows:

3 (b)(1) The commissioner shall hold a hearing if required by any
4 provision or upon written demand for a hearing by a person aggrieved by any
5 act, threatened act, or failure of the commissioner to act, or by any report,
6 rule, ~~regulation~~, or order of the commissioner, other than an order for the
7 holding of a hearing, or an order on hearing or pursuant thereto.

8
9 SECTION 2616. Arkansas Code § 23-61-502 is amended to read as follows:
10 23-61-502. Exempt health care plans.

11 The provisions of this subchapter shall not apply to those health care
12 plans which are maintained:

- 13 (1) Pursuant to a collective bargaining agreement;
14 (2) By a tax exempt rural electric cooperative;
15 (3) By the Arkansas Poultry Federation; or
16 (4) By any nonprofit vision service plan corporation composed of
17 at least fifty (50) participating optometrists or ophthalmologists licensed
18 by the State of Arkansas to provide vision care services on a prepaid basis
19 when each licensed optometrist or ophthalmologist is subject to the rules ~~and~~
20 ~~regulations~~ of the professional's respective state board and when each
21 participating licensed optometrist or ophthalmologist agrees to assume
22 responsibility for completion of the provisions of the vision care services
23 contracted for so that no element of risk is incurred by any subscriber group
24 or person.

25
26 SECTION 2617. Arkansas Code § 23-61-508 is amended to read as follows:
27 23-61-508. Rules ~~and regulations~~.

28 The Insurance Commissioner is authorized to promulgate rules ~~and~~
29 ~~regulations~~ which may be necessary for the implementation and enforcement of
30 this subchapter.

31
32 SECTION 2618. Arkansas Code § 23-61-606(b), procurement of insurance
33 surety bonding by the State Procurement Director, is amended to read as
34 follows:

35 (b) When the Administrator of the Risk Management Division authorizes
36 state agencies to procure insurance or surety bonding, the authorization

1 shall be made in writing and approved by the Insurance Commissioner. The
2 authorization may be made for, but not limited to, purchases not exceeding an
3 amount established by ~~regulations~~ rules, particular lines of insurance, and
4 purchases by state agencies with a demonstrated expertise in the field of
5 risk management.

6
7 SECTION 2619. Arkansas Code § 23-61-607 is amended to read as follows:
8 23-61-607. Rules ~~and regulations~~.

9 (a) The Administrator of the Risk Management Division shall have the
10 authority to promulgate rules ~~and regulations~~ consistent with this
11 subchapter.

12 (b) All rules ~~and regulations~~ shall be subject to the approval of the
13 Insurance Commissioner and conform with the requirements of the Arkansas
14 Administrative Procedure Act, § 25-15-201 et seq.

15
16 SECTION 2620. Arkansas Code § 23-61-706(b), concerning payment of fees
17 to the State Insurance Department Trust Fund, is amended to read as follows:

18 (b) The fees shall be payable to the State Insurance Department Trust
19 Fund for the support and operation of the State Insurance Department, and in
20 no event shall any one (1) fee required by subsection (a) of this section
21 exceed a maximum of fifty dollars (\$50.00) per license or registration. The
22 fees due per license as required by this section commencing on and after July
23 1, 1994, and annually thereafter, shall be due in an amount and at such times
24 or upon such schedule as the Insurance Commissioner shall prescribe in a
25 companion rule ~~and regulation~~ to this chapter after notice and a public
26 hearing, so long as the companion rule does not provide for any one (1) fee
27 set pursuant to this section to exceed the maximum amount of fifty dollars
28 (\$50.00) per license.

29
30 SECTION 2621. Arkansas Code § 23-61-708(a)(2), concerning the
31 rulemaking authority of the Insurance Commissioner concerning fees, is
32 amended to read as follows:

33 (2) In the event the commissioner is required by laws enacted
34 contemporaneous with or subsequent to this subchapter to perform other duties
35 or incur other obligations, and in the event current revenues of the
36 department, including, but not limited to, those revenues produced by this

1 subchapter, are not sufficient for the commissioner to perform those new or
2 additional duties efficiently and promptly or to the extent the commissioner
3 deems necessary, then the commissioner shall enact new or additional or
4 increased fees for departmental services, documents, and publications, but
5 such fees shall only be adopted and imposed in a rule ~~and regulation~~
6 promulgated by the commissioner after notice and a hearing pursuant to the
7 Arkansas Administrative Procedure Act, § 25-15-201 et seq., and other
8 applicable sections of the Arkansas Insurance Code and other laws.

9
10 SECTION 2622. Arkansas Code § 23-61-708(c), concerning the rulemaking
11 authority of the Insurance Commissioner concerning fees, is amended to read
12 as follows:

13 (c) The commissioner may from time to time alter the fee amounts by
14 rule ~~and regulation~~ amendment pursuant to the Arkansas Administrative
15 Procedure Act, § 25-15-201 et seq., but in no event shall such fee amendments
16 necessary for continued support and operation of the department exceed the
17 limitations set forth in this section.

18
19 SECTION 2623. Arkansas Code § 23-61-709(a) and (b), concerning the
20 authority, powers, and duties of the Insurance Commissioner, are amended to
21 read as follows:

22 (a) The Insurance Commissioner shall be duly authorized to promulgate
23 rules ~~and regulations~~ necessary to effectuate the purposes of this
24 subchapter.

25 (b) Upon his or her determination and finding that State Insurance
26 Department appropriations or funding is insufficient to operate the
27 department efficiently or to allow the commissioner to perform all of his or
28 her statutorily mandated duties and tasks, the commissioner may, in his or
29 her discretion, by rule ~~and regulation~~ following notice and a public hearing,
30 increase the amounts of the fees, license fees, fines, penalties, and
31 revenues as provided in this subchapter for deposit into the State Insurance
32 Department Trust Fund as special revenues.

33
34 SECTION 2624. Arkansas Code § 23-61-807(d), concerning the
35 compatibility of the Arkansas Health Insurance Marketplace Act in relation to
36 other laws governing the subject matter, is amended to read as follows:

1 (d) Except as expressly provided to the contrary in this subchapter, a
2 health insurer offering a qualified health plan in this state shall comply
3 fully with all applicable health insurance laws of this state and ~~regulations~~
4 rules adopted and orders issued by the commissioner.

5
6 SECTION 2625. Arkansas Code § 23-62-203 is amended to read as follows:

7 23-62-203. Rules ~~and regulations~~.

8 The Insurance Commissioner may adopt reasonable rules ~~and regulations~~
9 to implement the provisions of this subchapter.

10
11
12 SECTION 2626. Arkansas Code § 23-62-413 is amended to read as follows:

13 23-62-413. Rules ~~and regulations~~.

14 The Insurance Commissioner may adopt reasonable rules ~~and regulations~~
15 for the implementation and administration of the provisions of this
16 subchapter.

17
18 SECTION 2627. Arkansas Code § 23-63-218(d), concerning the Insurance
19 Commissioner's rulemaking authority concerning changes of domicile, is
20 amended to read as follows:

21 (d) The commissioner may promulgate rules ~~and regulations~~ to carry out
22 the purposes of this section.

23
24 SECTION 2628. Arkansas Code § 23-63-510(b)(3)(B), concerning conduct
25 of an approval hearing held by the Insurance Commissioner concerning control
26 of or merger with a domestic insurer, is amended to read as follows:

27 (B) In connection with the change in control of the
28 insurer, any determination by the commissioner that the person acquiring
29 control of a domestic insurer shall be required to maintain or restore the
30 capital of the insurer to the level required by the laws and ~~regulations~~
31 rules of this state shall be made not later than sixty (60) calendar days
32 after the date of notification of the change in control submitted pursuant to
33 § 23-63-506(b).

34
35 SECTION 2629. Arkansas Code § 23-63-514(c)(1), concerning registration
36 of insurers with the Insurance Commissioner, is amended to read as follows:

1 (1) No information need be disclosed on the registration
2 statement filed pursuant to subsection (b) of this section if the information
3 is not material for the purposes of this section. Unless the commissioner by
4 rule, ~~regulation~~, or order provides otherwise, sales, purchases, exchanges,
5 loans, or extensions of credit, or investments, involving one-half of one
6 percent (0.5%) or less of an insurer's admitted assets as of the December 31
7 next-preceding shall not be deemed material for purposes of this section.

8
9 SECTION 2630. Arkansas Code § 23-63-514(h), concerning registration of
10 insurers with the Insurance Commissioner, is amended to read as follows:

11 (h) Exemptions. The provisions of this section shall not apply to any
12 insurer, information, or transaction if, and to the extent that, the
13 commissioner by rule, ~~regulation~~, or order shall exempt it from the
14 provisions of this section.

15
16 SECTION 2631. Arkansas Code § 23-63-518 is amended to read as follows:
17 23-63-518. Rules ~~and regulations~~.

18 After compliance with §§ 23-61-108 and 23-61-304 of the Arkansas
19 Insurance Code, the Insurance Commissioner may issue such rules, ~~regulations~~,
20 and orders as shall be necessary to carry out the provisions of this
21 subchapter.

22
23 SECTION 2632. Arkansas Code § 23-63-520(a), concerning when voting of
24 securities is prohibited, is amended to read as follows:

25 (a) When Prohibited.

26 (1) No security which is the subject of any agreement or
27 arrangement regarding acquisition, or which is acquired or to be acquired, in
28 contravention of the provisions of this subchapter or of any rule,
29 ~~regulation~~, or order issued by the Insurance Commissioner pursuant to this
30 subchapter may be voted at any shareholders' meeting, or may be counted for
31 quorum purposes, and any action of shareholders requiring the affirmative
32 vote of a percentage of shares may be taken as though the securities were not
33 issued and outstanding.

34 (2) However, no action taken at any meeting shall be invalidated
35 by the voting of the securities unless the action would materially affect
36 control of the insurer or unless the courts of this state have so ordered.

1 (3) If an insurer or the commissioner has reason to believe that
 2 any security of the insurer has been or is about to be acquired in
 3 contravention of the provisions of this subchapter or of any rule,
 4 ~~regulation~~, or order issued by the commissioner pursuant to it, the insurer
 5 or the commissioner may apply to the Pulaski County Circuit Court to enjoin
 6 any offer, request, invitation, agreement, or acquisition made in
 7 contravention of §§ 23-63-506 – 23-63-513 or any rule, ~~regulation~~, or order
 8 issued by the commissioner pursuant to it to enjoin the voting of any
 9 security so acquired, to void any vote of a security already cast at any
 10 meeting of shareholders, and for such other equitable relief as the nature of
 11 the case and the interests of the insurer's policyholders, creditors, and
 12 shareholders, or the public may require.

13
 14 SECTION 2633. Arkansas Code § 23-63-521 is amended to read as follows:
 15 23-63-521. Injunctions.

16 Whenever it appears to the Insurance Commissioner that any insurer or
 17 any director, officer, employee, or agent of an insurer has committed or is
 18 about to commit a violation of this subchapter or of any rule, ~~regulation~~, or
 19 order issued by the commissioner pursuant to it, the commissioner may apply
 20 to the Pulaski County Circuit Court for an order enjoining the insurer or the
 21 director, officer, employee, or agent of the insurer from violating or
 22 continuing to violate this subchapter or any rule, ~~regulation~~, or order, and
 23 for such other relief as the nature of the case and the interests of the
 24 insurer's policyholders, creditors, and shareholders or the public may
 25 require.

26
 27 SECTION 2634. Arkansas Code § 23-63-601(2), concerning the rulemaking
 28 authority of the Insurance Commissioner in determining the financial
 29 condition of certain domestic-related entities regulated by the Insurance
 30 Commissioner, is amended to read as follows:

31 (2) Other assets as specified by the commissioner in a rule ~~or~~
 32 ~~regulation~~.

33
 34 SECTION 2635. Arkansas Code § 23-63-611(3), concerning valuation and
 35 reporting of assets, is amended to read as follows:

36 (3) Other assets shall be valued as specified by the Insurance

1 Commissioner in a rule ~~and regulation~~, in accordance with the provisions of §
2 23-63-601(2), which method of valuation is not inconsistent with the National
3 Association of Insurance Commissioners' publication as it existed on January
4 1, 2001, entitled the "Valuation of Securities Manual", prepared by the
5 Securities Valuation Office.

6
7 SECTION 2636. Arkansas Code § 23-63-613(a)(3), concerning the
8 rulemaking authority of the Insurance Commissioner, is amended to read as
9 follows:

10 (3) The commissioner is authorized and empowered to promulgate
11 ~~regulations~~ rules for the purposes of adopting all or part of other financial
12 standards publications of the National Association of Insurance Commissioners
13 or publications by other authors if the commissioner determines that such an
14 action is in the best interest of the public.

15
16 SECTION 2637. Arkansas Code § 23-63-802(e), concerning limitations on
17 the applicability of this section as it applies to eligible investments, is
18 amended to read as follows:

19 (e) None of the requirements, restrictions, limitations, or
20 prohibitions for investments made under this subchapter, or contained in any
21 regulation promulgated pursuant thereto, shall be preempted by the provisions
22 of section 106 of Title 1 of the Secondary Mortgage Market Enhancement Act of
23 1984. The provisions of this subchapter and any ~~regulations~~ rules promulgated
24 pursuant thereto that pertain to investments in the categories of securities
25 specified in paragraphs (1) and (2) of subsection (a) of the Secondary
26 Mortgage Market Enhancement Act shall remain in full force and effect
27 notwithstanding the enactment of the Secondary Mortgage Market Enhancement
28 Act.

29
30 SECTION 2638. Arkansas Code § 23-63-1402(a), concerning reports filed
31 with the Insurance Commissioner, is amended to read as follows:

32 (a) Every insurer domiciled in this state shall file a report with the
33 Insurance Commissioner disclosing material acquisitions and dispositions of
34 assets or material nonrenewals, cancellations, or revisions of ceded
35 reinsurance agreements unless the acquisitions and dispositions of assets or
36 material nonrenewals, cancellations, or revisions of ceded reinsurance

1 agreements have been submitted to the commissioner for review, approval, or
2 information purposes pursuant to other provisions of the Arkansas Insurance
3 Code, laws, ~~regulations~~ rules, or other requirements.

4
5 SECTION 2639. Arkansas Code § 23-63-1405 is amended to read as
6 follows:

7 23-63-1405. Rules ~~and regulations~~.

8 The Insurance Commissioner may adopt reasonable rules ~~and regulations~~
9 for the implementation and administration of the provisions of this
10 subchapter.

11
12 SECTION 2640. Arkansas Code § 23-63-1602(d)(1), concerning the fee to
13 be paid by a captive insurance company, is amended to read as follows:

14 (d)(1) A captive insurance company shall pay to the State Insurance
15 Department Trust Fund a nonrefundable fee in an amount and manner to be
16 prescribed by ~~regulation~~ rule.

17
18 SECTION 2641. Arkansas Code § 23-63-1607(b)(3)(B), concerning annual
19 reports required of a captive insurance company, is amended to read as
20 follows:

21 (B) The commissioner shall prescribe by ~~regulation~~ rule
22 the forms in which producer reinsurance captive insurance companies, pure
23 captive insurance companies, and industrial insured captive insurance
24 companies shall report.

25
26 SECTION 2642. Arkansas Code § 23-63-1615 is amended to read as
27 follows:

28 23-63-1615. ~~Regulations~~ Rules.

29 (a) The Insurance Commissioner may promulgate ~~regulations~~ rules
30 relating to captive insurance companies as are necessary to carry out this
31 subchapter.

32 (b)(1) The commissioner may promulgate ~~regulations~~ rules establishing
33 standards to ensure that a parent or affiliated company is able to exercise
34 control of the risk management function of any controlled unaffiliated
35 business to be insured by the pure captive insurance company.

36 (2) Prior to these ~~regulations~~ rules' being promulgated, the

1 commissioner may grant, by temporary order, authority to a pure captive
2 insurance company to insure risks.

3
4 SECTION 2643. Arkansas Code § 23-63-1616(b), concerning exemptions for
5 certain captive insurance companies, is amended to read as follows:

6 (b) The Insurance Commissioner may exempt by rule, ~~regulation~~, or
7 other order special purpose captive insurance companies on a case-by-case
8 basis from the provisions of this chapter that he or she determines to be
9 inappropriate, given the nature of the risks to be insured.

10
11 SECTION 2644. Arkansas Code § 23-63-1707(a), concerning conservation,
12 rehabilitation, or liquidation of protected cell companies, is amended to
13 read as follows:

14 (a) Notwithstanding any provision of the Arkansas Insurance Code or
15 any ~~regulation~~ rule promulgated under the Arkansas Insurance Code or any
16 other applicable law or ~~regulation~~ rule, upon any order of conservation,
17 rehabilitation, or liquidation of a protected cell company, the receiver
18 shall be bound to deal with the protected cell company's assets and
19 liabilities, including protected cell assets and protected cell liabilities,
20 in conformance with this subchapter.

21
22 SECTION 2645. Arkansas Code § 23-63-1709 is amended to read as
23 follows:

24 23-63-1709. Authority to adopt ~~regulations~~ rules.

25 The Insurance Commissioner may promulgate ~~regulations~~ rules necessary
26 to carry out the purpose and intent of this subchapter.

27
28 SECTION 2646. Arkansas Code § 23-63-1806 is amended to read as
29 follows:

30 23-63-1806. Rules ~~and regulations~~.

31 The Insurance Commissioner shall adopt rules ~~and regulations~~ by January
32 1, 2006, to ensure compliance with this subchapter.

33
34 SECTION 2647. Arkansas Code § 23-64-202(b)(2)(A)(i), concerning
35 requirements of applicants for a license as an insurance agent, broker,
36 adjuster, or consultant, is amended to read as follows:

1 (2)(A)(i) Before licensure or examination, if examination is
2 required, complete specific courses of instruction in the field of insurance
3 as the commissioner shall by ~~regulation~~ rule prescribe for the license.
4

5 SECTION 2648. Arkansas Code § 23-64-202(b)(2)(A)(vii), concerning
6 requirements of applicants for a license as an insurance agent, broker,
7 adjuster, or consultant, is amended to read as follows:

8 (vii) The commissioner shall issue appropriate
9 ~~regulations~~ rules to implement the educational requirements and standards
10 prescribed in this subdivision (b)(2) and to prescribe the general curriculum
11 of courses of instruction.
12

13 SECTION 2649. Arkansas Code § 23-64-210(b)(2)(B), concerning licensing
14 of adjuster and insurance consulting partnerships, limited partnerships,
15 joint ventures, limited liability companies, and corporations, is amended to
16 read as follows:

17 (B) The commissioner shall charge, and the licensee shall
18 pay, a full additional license fee as to each respective individual licensee
19 in the license in excess of one (1), in the amounts stated in § 23-61-401 and
20 any existing or future rule ~~and regulation~~.
21

22 SECTION 2650. Arkansas Code § 23-64-216(f)(1), concerning the
23 Insurance Commissioner's ability to take judicial notice of previous
24 violations in a hearing on suspension or revocation of a licensee, is amended
25 to read as follows:

26 (f)(1) If upon notice and hearing the commissioner finds that the
27 licensee has violated a provision of the insurance laws of this state or any
28 rule, ~~regulation~~, or order of the commissioner and that the licensee
29 previously has been found to have violated provisions of the insurance laws
30 of this state or any rule, ~~regulation~~, or order of the commissioner, by an
31 order of the commissioner after hearing or by an order entered with the
32 consent and agreement of the parties, the commissioner may take judicial
33 notice of the previous orders against the licensee and, within the
34 commissioner's discretion, may enhance or increase the penalties ordered in
35 the current proceeding as to the licensee, and the commissioner shall
36 incorporate a finding to that effect in his or her order.

1
2 SECTION 2651. Arkansas Code § 23-64-302(8), concerning exceptions to
3 the continuing education requirements for licensees, is amended to read as
4 follows:

5 (8) Nonresident agents and brokers in the first full year of
6 resident licensing following the year after a change in the state of domicile
7 or residency to the State of Arkansas, but thereafter annually or otherwise
8 in accordance with insurance continuing education laws and rules ~~and~~
9 ~~regulations~~ of the commissioner; and

10
11 SECTION 2652. Arkansas Code § 23-64-404(6)(B), concerning minimum
12 requirements for agency contracts with those acting in the capacity of a
13 managing general agent placing business with an insurer, is amended to read
14 as follows:

15 (B) The insurer shall have the right to cancel or nonrenew
16 any policy of insurance subject to the applicable laws and ~~regulations~~ rules
17 of this state concerning the cancellation and nonrenewal of insurance
18 policies;

19
20 SECTION 2653. Arkansas Code § 23-64-408 is amended to read as follows
21 23-64-408. Insurance Commissioner's ~~regulatory~~ authority to adopt
22 rules.

23 The Insurance Commissioner may adopt reasonable rules ~~and regulations~~
24 for the implementation and administration of the provisions of this
25 subchapter.

26
27 SECTION 2654. Arkansas Code § 23-64-505(a), concerning examination for
28 an insurance producer license, is amended to read as follows:

29 (a) A resident individual applying for an insurance producer license
30 shall pass a written examination unless exempt pursuant to § 23-64-205. The
31 examination shall test the knowledge of the individual concerning the lines
32 of authority for which application is made, the duties and responsibilities
33 of an insurance producer, and the insurance laws ~~and regulations~~ of this
34 state. Examinations required by this section shall be developed and conducted
35 under rules ~~and regulations~~ prescribed by the Insurance Commissioner.

36

1 SECTION 2655. Arkansas Code § 23-64-506(b)(2), concerning licensure
2 for a business entity acting as an insurance producer, is amended to read as
3 follows:

4 (2) The business entity has designated a licensed producer
5 responsible for the business entity's compliance with the insurance laws, and
6 ~~rules, and regulations~~ of this state.

7
8 SECTION 2656. Arkansas Code § 23-64-507(b)(1), concerning an insurance
9 producer license fee, is amended to read as follows:

10 (1) As long as the fee set forth in § 23-61-401 and any existing
11 or future rule ~~and regulation~~ is paid and education requirements for resident
12 individual producers are met by the due date; or
13

14 SECTION 2657. Arkansas Code § 23-64-509(b), concerning the exemption
15 from examination for certain persons licensed as an insurance producer in
16 another state, is amended to read as follows:

17 (b) A person licensed as an insurance producer in another state who
18 moves to this state shall make application within ninety (90) days after
19 establishing legal residence to become a resident licensee pursuant to § 23-
20 64-506. No prelicensing education or examination shall be required of that
21 person to obtain any line of authority previously held in the prior state
22 except when the Insurance Commissioner determines otherwise by ~~regulation~~
23 rule.

24
25 SECTION 2658. Arkansas Code § 23-64-514(d) and (e), concerning certain
26 fees for an insurer to appoint an agent, are amended to read as follows:

27 (d) An insurer shall pay an appointment fee, in the amount and method
28 of payment set forth in § 23-61-401 and any existing or future rule ~~and~~
29 ~~regulation~~, for each insurance producer appointed by the insurer.

30 (e) An insurer shall remit, in a manner prescribed by the
31 commissioner, a renewal appointment fee in the amount set forth in § 23-61-
32 401 and any existing or future rule ~~and regulation~~.

33
34 SECTION 2659. Arkansas Code § 23-64-518 is amended to read as follows:

35 23-64-518. ~~Regulations~~ Rules.

36 The Insurance Commissioner may, in accordance with § 23-61-108,

1 promulgate reasonable ~~regulations~~ rules as are necessary or proper to carry
2 out the purposes of this subchapter.

3
4 SECTION 2660. Arkansas Code § 23-64-614(d), concerning the requirement
5 that a health insurer offering a qualified health plan in Arkansas comply
6 with all applicable laws, is amended to read as follows:

7 (d) Except as expressly provided to the contrary in this subchapter, a
8 health insurer offering a qualified health plan in this state shall comply
9 fully with all applicable health insurance laws of this state and ~~regulations~~
10 rules adopted and orders issued by the commissioner.

11
12 SECTION 2661. Arkansas Code § 23-65-101(i), concerning the rulemaking
13 authority of the Insurance Commissioner regarding the prohibition of
14 unauthorized insurance transactions, is amended to read as follows:

15 (i) The commissioner may promulgate such reasonable rules ~~and~~
16 ~~regulations~~ as are necessary to carry out the provisions of this section.

17
18 SECTION 2662. Arkansas Code § 23-66-206(4)(B)(vi), concerning the
19 definition of "failure to maintain complaint handling procedures", is amended
20 to read as follows:

21 (vi) Such other information as the commissioner may
22 reasonably require by way of ~~regulations~~ rules.

23
24 SECTION 2663. Arkansas Code § 23-66-207 is amended to read as follows:

25 23-66-207. Rules ~~and regulations~~ to identify prohibited methods of
26 competition, acts, or practices.

27 (a) The Insurance Commissioner may, after notice and hearing,
28 promulgate reasonable rules ~~and regulations~~, as are necessary or proper to
29 identify specific methods of competition or acts or practices which are
30 prohibited by § 23-66-206 or § 23-66-312, but the ~~regulations~~ rules shall not
31 enlarge upon or extend the provisions of those sections.

32 (b) The ~~regulations~~ rules shall be subject to review in accordance
33 with § 23-61-307.

34
35 SECTION 2664. Arkansas Code § 23-66-215(a)(1), concerning the penalty
36 for late payment of claims by health carriers, is amended to read as follows:

1 (a)(1) A health carrier shall pay a penalty of twelve percent (12%)
 2 per annum for late payment of claims under a health insurance contract
 3 pursuant to ~~regulations~~ rules promulgated by the Insurance Commissioner,
 4 without necessity for demand for payment by a claimant.

5
 6 SECTION 2665. Arkansas Code § 23-66-316(a), concerning advertising by
 7 health and accident insurers and prepaid health plans, is amended to read as
 8 follows:

9 (a) It shall be unlawful for any insurance company or association
 10 transacting any health and accident or hospital or surgical insurance or
 11 prepaid hospital and surgical or health care plan in this state, in violation
 12 of a prior order or ~~regulation~~ rule of the Insurance Commissioner directed to
 13 the company or association, to make, issue, circulate, or place before the
 14 public or to cause the making, issuing, circulation, or placing before the
 15 public in a newspaper, magazine, or other publication or in the form of a
 16 notice, brochure, circular, pamphlet, letter, or poster or by way of any
 17 radio or television station or in any other way or manner any advertisement,
 18 announcement, or statement with respect to the terms, benefits, premiums, or
 19 advantages of the policy or plan unless and until the advertisement,
 20 announcement, or statement has been filed with and approved by the
 21 commissioner, pursuant to the prior order or ~~regulation~~ rule, as not being
 22 untrue, deceptive, or misleading in any respect.

23
 24 SECTION 2666. Arkansas Code § 23-66-403 is amended to read as follows:
 25 23-66-403. Rules ~~and regulations~~.

26 The Insurance Commissioner shall have such authority as he or she deems
 27 reasonably necessary to regulate the home service system of distribution,
 28 and, to that end, to promulgate, adopt, and enforce reasonable rules ~~and~~
 29 ~~regulations~~ necessary and proper to regulate the home service system of
 30 distribution.

31
 32 SECTION 2667. Arkansas Code § 23-66-404(1)(C), concerning the
 33 requirement that an insurer engaged in the home service system of
 34 distribution of policies conducts audits, is amended to read as follows:

35 (C) Conduct audits periodically, or in the manner as
 36 described by rules ~~and regulations~~, at the field level or premium payor level

1 which reasonably ensure that the premium payor's premium recording item or
2 records accurately reflect the premium due date and premium paid-to status of
3 the policy or policies purchased;

4
5 SECTION 2668. Arkansas Code § 23-66-511 is amended to read as follows:
6 23-66-511. ~~Regulations~~ Rules.

7 The Insurance Commissioner may promulgate reasonable rules ~~and~~
8 ~~regulations~~ deemed necessary by the commissioner for the administration of
9 this subchapter.

10
11 SECTION 2669. Arkansas Code § 23-66-608 is amended to read as follows:
12 23-66-608. Authorization to promulgate ~~regulations~~ rules.

13 The Insurance Commissioner may promulgate ~~regulations~~ rules to
14 effectuate the purposes of this subchapter.

15
16 SECTION 2670. Arkansas Code § 23-67-214(c)(1)(A), concerning an
17 application for licensure by an advisory organization, is amended to read as
18 follows:

19 (A) A copy of its constitution, charter, or articles of
20 organization, agreement, association, or incorporation and a copy of its
21 bylaws, plan of operation, and any other rules ~~or regulations~~ governing the
22 conduct of its business;

23
24 SECTION 2671. Arkansas Code § 23-67-304(f)(2)(B), concerning
25 competitive selection of servicing carriers by the Insurance Commissioner, is
26 amended to read as follows:

27 (B) Each such insurer shall comply with the following
28 specific service or performance standards and such further standards as the
29 commissioner may by rule ~~and regulation~~ provide:

30 (i) Provide a level of service comparable to that
31 provided to employer-insureds in its voluntary workers' compensation line of
32 business and assure the same by putting into effect internal administrative
33 procedures, which shall assure that such is the case;

34 (ii) Maintain with the commissioner a list of
35 responsible management personnel of the insurer qualified to make
36 administrative decisions on the insurer's behalf concerning policies issued

1 within the plan;

2 (iii) Keep the commissioner continually advised of
3 the address and telephone number of the insurer's office servicing the plan
4 on its behalf;

5 (iv) Maintain a toll-free telephone number or
6 numbers adequate to service the plan and keep the commissioner, employers,
7 and agents continually apprised of same;

8 (v)(a) Maintain its billing and rating procedure in
9 timely compliance with orders of the commissioner.

10 (b) In particular, no insurer shall ever
11 purport to effect a retroactive rate adjustment based upon a succeeding rate
12 filing unless the insurer has specifically included within its policies a
13 specific notice of pending rate change.

14 (c) No insurer shall fail to physically
15 implement any rate change later than sixty (60) days of the date the order
16 effecting the change is entered;

17 (vi) Such other service or performance standards,
18 including, but not limited to, matters relating to loss experience, safety
19 and loss control success, and profitability as the commissioner shall by rule
20 ~~and regulation~~ prescribe; and

21 (vii) Such further standards as the commissioner may
22 by rule ~~and regulation~~ provide.

23

24 SECTION 2672. Arkansas Code § 23-67-304(j), concerning competitive
25 selection of servicing carriers by the Insurance Commissioner, is amended to
26 read as follows:

27 (j) The commissioner shall establish within the plan an alternate
28 preferred plan for employers who have carried workers' compensation insurance
29 continually for at least four (4) policy years and who have had better than
30 average loss experience and meet such additional reasonable standards as the
31 commissioner shall by rule ~~and regulation~~ prescribe.

32

33 SECTION 2673. Arkansas Code § 23-67-304(k)(1)-(3), concerning
34 competitive selection of servicing carriers by the Insurance Commissioner,
35 are amended to read as follows:

36 (k)(1) The commissioner shall by rule ~~and regulation~~ establish a

1 performance plan related to the aforementioned service or performance
2 standards and others to be promulgated with incentives and penalties to
3 improve servicing carrier performance.

4 (2) The performance plan shall provide for up to thirty-three
5 percent (33%) of the servicing carrier's remuneration to be based on
6 performance.

7 (3) The servicing carrier performance plan shall provide an
8 annual basis for penalties on carriers performing below standard to the
9 extent of their underperformance under the criteria as hereinafter
10 established by rule ~~and regulation~~ up to thirty-three percent (33%) of their
11 remuneration.

12
13 SECTION 2674. Arkansas Code § 23-67-306(a)(2), concerning
14 prerequisites to an entitlement to insurance, is amended to read as follows:

15 (2) The employer has complied with all effective laws, orders,
16 or rules, ~~or regulations~~ made by public authorities relating to the welfare,
17 health, and safety of employees;

18
19 SECTION 2675. Arkansas Code § 23-67-310 is amended to read as follows:
20 23-67-310. Rules ~~and regulations~~.

21 The Insurance Commissioner is authorized to promulgate such reasonable
22 rules ~~and regulations~~ as are necessary to carry out the provisions of this
23 subchapter.

24
25 SECTION 2676. Arkansas Code § 23-67-311 is amended to read as follows:
26 23-67-311. Association policies.

27 Under such rules ~~and regulations~~ as shall be adopted by the Insurance
28 Commissioner, and notwithstanding other provisions of this chapter, the
29 commissioner is given the authority in the Arkansas Workers' Compensation
30 Insurance Plan to allow the issuance of group or association workers'
31 compensation insurance policies to logging contractors or dealers as
32 sponsors. The policies may, in turn, insure for workers' compensation and
33 employers' liability purposes no fewer than five (5) independent contractors
34 who provide logging services to the sponsoring contractor or dealer.
35 Provided, however, that such association or group coverage be made available
36 on a nondiscriminatory basis to all other industries if the commissioner

1 rules that the coverage is reasonably applicable to that industry and
2 economically sound with respect to the plan.

3
4 SECTION 2677. Arkansas Code § 23-67-312(a), concerning the duty of the
5 Insurance Commissioner to establish an alternate preferred plan within the
6 Arkansas Workers' Compensation Insurance Plan, is amended to read as follows:

7 (a) The Insurance Commissioner shall establish within the Arkansas
8 Workers' Compensation Insurance Plan an alternate preferred plan for
9 employers, including logging or pulpwood dealers or contractors, who have
10 carried workers' compensation insurance coverage continuously for at least
11 four (4) policy years and who have had better than average loss experience
12 and meet such additional reasonable standards as the commissioner shall by
13 rule ~~and regulation~~ prescribe.

14
15 SECTION 2678. Arkansas Code § 23-67-313(a)(3), concerning competitive
16 selection of the administrator of the Arkansas Workers' Compensation
17 Insurance Plan and servicing carriers, is amended to read as follows:

18 (3) The commissioner judges continuation of the present
19 administrator subject to the modifications herein set forth and to hereafter
20 be promulgated by rule ~~and regulation~~ to be in the best interests of
21 Arkansas;

22
23 SECTION 2679. Arkansas Code § 23-67-313(b)(2), concerning competitive
24 selection of the administrator of the Arkansas Workers' Compensation
25 Insurance Plan and servicing carriers, is amended to read as follows:

26 (2) Plan operating performance and service in accordance with
27 the intent of this act, including performance reviews of the administrator,
28 servicing carriers, and plan ~~regulations~~ rules;

29
30 SECTION 2680. Arkansas Code § 23-67-410(a), concerning indemnification
31 by an insurer, is amended to read as follows:

32 (a) An insurer shall indemnify, defend, and hold agents harmless from
33 and against all liability, fees, and costs arising out of or relating to the
34 actions, errors, or omissions of a producer who obtains or uses credit
35 information or credit scores, or both, for an insurer, provided the producer
36 follows the instructions of or procedures established by the insurer and

1 complies with any applicable law or ~~regulation~~ rule.

2
3 SECTION 2681. Arkansas Code § 23-67-414 is amended to read as follows:
4 23-67-414. ~~Regulations~~ Rules.

5 The Insurance Commissioner may make reasonable rules ~~and regulations~~
6 necessary for or as an aid to the effectuation of any provision of this
7 subchapter.

8
9 SECTION 2682. Arkansas Code § 23-68-102(14), concerning the definition
10 of "hazardous financially", is amended to read as follows:

11 (14) "Hazardous financially" means the existence of any
12 condition or the omission or commission of any act which would, in the
13 reasonable discretion of the commissioner, seriously affect the advisability
14 of an insurer's continued operation in this state or, as a result of its
15 financial condition or other matters, would render the insurer's continued
16 operation in this state perilous to the general public or to the
17 policyholders or creditors of the insurer. The commissioner is authorized to
18 promulgate ~~regulations~~ rules to set forth standards by which he or she might
19 make a determination that the continued operation of an insurer might be
20 hazardous financially.

21
22 SECTION 2683. Arkansas Code § 23-69-109(d), concerning the rulemaking
23 authority of the Insurance Commissioner concerning pecuniary interests of
24 officers, directors, and employees, is amended to read as follows:

25 (d) The Insurance Commissioner may, by ~~regulations~~ rule from
26 time to time, define and permit additional exceptions to the prohibition
27 contained in subsection (a) of this section solely to enable payment of
28 reasonable compensation to a director who is not otherwise an officer or
29 employee of the insurer, or to a corporation or firm in which a director is
30 interested, for necessary services performed or sales or purchases made to or
31 for the insurer in the ordinary course of the insurer's business and in the
32 usual private, professional, or business capacity of the director or the
33 corporation or firm.

34
35 SECTION 2684. Arkansas Code § 23-69-122(c) and (d), concerning the
36 Insurance Commissioner's authority concerning proxies of a stockholder of an

1 insurer, are amended to read as follows:

2 (c) The Insurance Commissioner shall have the authority to:

3 (1) Regulate the solicitation of proxies by any person;

4 (2) Require the disclosure of information deemed relevant to an
5 understanding of issues and matters with respect to which proxies are, or are
6 proposed to be, solicited;

7 (3) Specify general requirements as to form and contents of
8 proxies;

9 (4) Determine the length of time for which proxies may be
10 effective unless sooner revoked;

11 (5) Prohibit solicitations of proxies which do not comply with
12 such rules ~~and regulations~~ as the commissioner may issue hereunder, or as to
13 which disclosures required by the rules ~~and regulations~~ are not made;

14 (6) Prohibit the making or use of false or misleading statements
15 or the distribution of any false or misleading material with respect to the
16 solicitation of any proxy or with respect to any election or election
17 contest; and

18 (7) Issue such other rules ~~and regulations~~ respecting proxies
19 and elections as the commissioner may deem necessary or appropriate in the
20 public interest or for the protection of stockholders of insurers.

21 (d) Rules ~~and regulations~~ issued by the commissioner under authority
22 of this section shall be made or amended as provided in § 23-61-108.

23

24 SECTION 2685. Arkansas Code § 23-69-134(b)(4)(B)(xi), concerning
25 location and maintenance of assets and records in Arkansas by domestic
26 insurers, is amended to read as follows:

27 (xi) Any other requirements provided by rules ~~and~~
28 ~~regulations~~ of the commissioner; and

29

30 SECTION 2686. Arkansas Code § 23-69-201(4), concerning the definition
31 of "equity security", is amended to read as follows:

32 (4) Any other security which the Insurance Commissioner shall
33 deem to be of similar nature and consider necessary or appropriate, by such
34 rules ~~and regulations~~ as he or she may prescribe in the public interest or
35 for the protection of investors, to treat as an equity security.

36

1 SECTION 2687. Arkansas Code § 23-69-203 is amended to read as follows:
2 23-69-203. Application of §§ 23-69-204 – 23-69-206 to foreign or
3 domestic arbitrage transactions.

4 The provisions of §§ 23-69-204 – 23-69-206 shall not apply to foreign
5 or domestic arbitrage transactions unless made in contravention of such rules
6 ~~and regulations~~ as the Insurance Commissioner may adopt in order to carry out
7 the purposes of this subchapter.

8
9 SECTION 2688. Arkansas Code § 23-69-205(c), concerning limitations on
10 the provisions preventing unfair use of information by owners, directors, or
11 officers, is amended to read as follows:

12 (c) This section shall not be construed to cover any transaction where
13 the beneficial owner was not such both at the time of the purchase and sale,
14 or the sale and purchase, of the security involved, or any transaction or
15 transactions which the Insurance Commissioner by rules ~~and regulations~~ may
16 exempt as not comprehended within the purpose of this section.

17
18 SECTION 2689. Arkansas Code § 23-69-207(b), concerning rule-making
19 authority of the Insurance Commissioner concerning equity securities held in
20 an investment account, is amended to read as follows:

21 (b) The Insurance Commissioner may, by such rules ~~and regulations~~ as
22 he or she deems necessary or appropriate in the public interest, define and
23 prescribe terms and conditions with respect to securities held in an
24 investment account and transactions made in the ordinary course of business
25 and incident to the establishment or maintenance of a primary or secondary
26 market.

27
28 SECTION 2690. Arkansas Code § 23-69-208 is amended to read as follows:
29 23-69-208. Rules ~~and regulations~~.

30 (a) The Insurance Commissioner shall have the power to make such rules
31 ~~and regulations~~ as may be necessary for the execution of the functions vested
32 in him or her by this subchapter and for such purpose may classify domestic
33 stock insurance companies, securities, and other persons or matters within
34 his or her jurisdiction.

35 (b) No provision of this subchapter imposing any liability shall apply
36 to any act done or omitted, in good faith, in conformity with any rule ~~or~~

1 ~~regulation~~ of the commissioner, notwithstanding that the rule ~~or regulation~~,
2 after the act or omission, may be amended or rescinded or determined by
3 judicial or other authority to be invalid for any reason.

4
5 SECTION 2691. Arkansas Code § 23-69-321 is amended to read as follows:
6 23-69-321. Injunctive orders.

7 Whenever it appears to the Insurance Commissioner that any person or
8 any director, officer, employee, or agent of the person has committed or is
9 about to commit a violation of this subchapter or of any rule, ~~regulation~~, or
10 order of the commissioner, the commissioner may apply to the Pulaski County
11 Circuit Court for an order enjoining such person, director, officer,
12 employee, or agent from violating or continuing to violate this subchapter or
13 any such rule, ~~regulation~~, or order and for such other equitable relief as
14 the nature of the case and the interest of the insurer's policyholders,
15 creditors, and shareholders or the public may require.

16
17 SECTION 2692. Arkansas Code § 23-69-322 is amended to read as follows:
18 23-69-322. Promulgation of rules ~~and regulations~~.

19 The Insurance Commissioner may adopt and promulgate rules ~~and~~
20 ~~regulations~~ and issue orders to carry out this subchapter.

21
22 SECTION 2393. Arkansas Code § 23-73-113(c)(5), concerning suspension
23 or revocation of a farmers' mutual aid company's or association's certificate
24 of authority, is amended to read as follows:

25 (5) Has violated or failed to comply with any applicable
26 provision of the Arkansas Code or any lawful order or ~~regulation~~ rule of the
27 commissioner.

28
29 SECTION 2694. Arkansas Code § 23-73-115(g), concerning a farmers'
30 mutual aid company's or association's management and exclusive agency
31 contracts, is amended to read as follows:

32 (g) The commissioner may adopt reasonable rules ~~and regulations~~ for
33 the implementation and administration of the provisions of this section.

34
35 SECTION 2695. Arkansas Code § 23-73-117(d), concerning conversion of a
36 farmers' mutual aid association to a mutual insurer, is amended to read as

1 follows:

2 (d) Upon conversion to a mutual insurer as provided for herein, the
3 association shall be subject to and comply with all laws and ~~regulations~~
4 rules applicable to mutual insurers.

5

6 SECTION 2696. Arkansas Code § 23-75-120(b), concerning corporations
7 with tax exempt status as nonprofit and benevolent institutions, is amended
8 to read as follows:

9 (b) The corporations are exempt from state, county, district,
10 municipal, and school tax, including the taxes prescribed by this code, and
11 excepting only tax on net direct written premiums under § 23-75-119 and § 26-
12 57-601 et seq. and applicable fees prescribed by § 23-61-401 and other
13 sections of this code, or the Insurance Commissioner's rules ~~and regulations~~
14 applicable to hospital and medical service corporations, and taxes on real
15 and tangible personal property situated in this state.

16

17 SECTION 2697. Arkansas Code § 23-75-122(d), concerning conversion of a
18 hospital and medical service corporation to a legal reserve mutual life
19 insurer, is amended to read as follows:

20 (d) Upon completion of its conversion to a legal reserve mutual life
21 insurer as provided in this section, the corporation shall be subject to and
22 comply with all laws and ~~regulations~~ rules applicable to legal reserve mutual
23 life insurers.

24

25 SECTION 2698. Arkansas Code § 23-76-103(b), concerning applicability
26 of the Arkansas Insurance Code and laws concerning hospital and medical
27 service corporations to certain nonprofit vision service plan corporations,
28 is amended to read as follows:

29 (b) The provisions of this chapter, the Arkansas Insurance Code, and
30 the law concerning hospital and medical service corporations, § 23-75-101 et
31 seq., shall not be applicable to any nonprofit vision service plan
32 corporation composed of at least fifty (50) participating licensed
33 optometrists or ophthalmologists licensed by the State of Arkansas to provide
34 vision care services on a prepaid basis, when each licensed optometrist or
35 ophthalmologist is subject to the rules ~~and regulations~~ of the professional's
36 respective state board, and when each participating licensed optometrist or

1 ophthalmologist agrees to assume responsibility for completion of the
2 provisions of the vision care services contracted for, so that no element of
3 risk is incurred by any subscriber group or person.

4
5 SECTION 2699. Arkansas Code § 23-76-107(c)(2), concerning an
6 application for a certificate of authority to establish and operate a health
7 maintenance organization, is amended to read as follows:

8 (2) A copy of the bylaws, rules ~~and regulations~~, or similar
9 document, if any, regulating the conduct of the internal affairs of the
10 applicant;

11
12 SECTION 2700. Arkansas Code § 23-76-107(d)(2), concerning the filing
13 requirements for notice describing any major modification of the operation of
14 a health maintenance organization, is amended to read as follows:

15 (2) The commissioner shall promulgate rules ~~and regulations~~
16 exempting from the filing requirements of subdivision (c)(1) of this section
17 those items the commissioner deems unnecessary.

18
19 SECTION 2701. Arkansas Code § 23-76-109(b)(2), concerning filing
20 requirements for a health maintenance organization, is amended to read as
21 follows:

22 (2) The commissioner may promulgate rules ~~and regulations~~
23 exempting from the filing requirement of subdivision (b)(1) of this section
24 those activities having a de minimis effect.

25
26 SECTION 2702. Arkansas Code § 23-76-120(a), concerning the Insurance
27 Commissioner's rulemaking authority providing for the licensing of agents, is
28 amended to read as follows:

29 (a) After notice and hearing, the Insurance Commissioner may
30 promulgate such reasonable rules ~~and regulations~~ as are necessary to provide
31 for the licensing of agents.

32
33 SECTION 2703. Arkansas Code § 23-76-125 is amended to read as follows:
34 23-76-125. ~~Regulations~~ Rule.

35 (a) After notice and hearing, the Insurance Commissioner may
36 promulgate reasonable rules ~~and regulations~~, not inconsistent with existing

1 statutes of this state, as are necessary or proper to carry out the
2 provisions of this chapter.

3 (b) The rules ~~and regulations~~ shall be subject to review in accordance
4 with § 23-61-307.

5
6 SECTION 2704. Arkansas Code § 23-77-103(a), concerning penalties for
7 violation of laws concerning soliciting members for an automobile club or
8 association, is amended to read as follows:

9 (a) It shall be unlawful for any person, firm, association,
10 copartnership, corporation, company, or other organization to organize,
11 operate, or in any way solicit members for an automobile club or association
12 or offer any of the motor club services as defined in § 23-77-101, except in
13 the manner provided in this chapter and under the rules ~~and regulations~~
14 promulgated by the Insurance Commissioner.

15
16 SECTION 2705. Arkansas Code § 23-77-105(a)(1), concerning the
17 Insurance Commissioner's authority to grant certificates of authority to
18 automobile clubs or associations, is amended to read as follows:

19 (a)(1) The Insurance Commissioner shall have full and complete
20 authority to grant certificates of authority to automobile clubs or
21 associations, to revoke the certificates, and to prescribe such rules ~~and~~
22 ~~regulations~~ as are reasonably necessary for the conduct of the business of
23 the automobile clubs or associations within the state and for carrying out
24 the objects and purposes of this chapter.

25
26 SECTION 2706. Arkansas Code § 23-79-119(b), concerning construction of
27 an an insurance contract consistently with the policy statement within it, is
28 amended to read as follows:

29 (b) All insurance contracts that are issued for specific terms and
30 that may be renewed for subsequent terms at the option of the insured or the
31 insurer shall be construed from and after their respective dates of renewal
32 as being new contracts to the extent of having incorporated therein all
33 applicable public policy that by statute or ~~regulation~~ rule may have become
34 applicable to those contracts in the interval between:

35 (1) Original issuance or last renewal; and

36 (2) The renewal following the newly applicable statement of

1 public policy.

2

3 SECTION 2707. Arkansas Code § 23-79-120(c), concerning Insurance
4 Commissioner approval for extension or renewal of a binder, is amended to
5 read as follows:

6 (c) If the policy has not been issued, a binder may be extended or
7 renewed beyond the ninety (90) days with the written approval of the
8 Insurance Commissioner or in accordance with such rules ~~and regulations~~
9 relative thereto as the commissioner may promulgate.

10

11 SECTION 2708. Arkansas Code § 23-79-123(b), concerning renewal of an
12 insurance policy by certificate, is amended to read as follows:

13 (b) By reasonable rules ~~and regulations~~ or by order the Insurance
14 Commissioner may deny the use of such certificates for renewal of such types
15 of policies or in such circumstances as may be necessary or advisable to
16 protect insureds who may otherwise hold forms of policies which no longer
17 contain all of the benefits or conditions applicable under similar policies
18 currently issued by the same insurer.

19

20 SECTION 2709. Arkansas Code § 23-79-150(a)(1)(B)(ii), concerning
21 exceptions from the definition of "healthcare plan", is amended to read as
22 follows:

23 (ii) A Medicare supplement policy of insurance, as
24 defined by the Insurance Commissioner by ~~regulation~~ rule;

25

26 SECTION 2710. Arkansas Code § 23-79-152(c), concerning cancellation,
27 increase in premium, and negative risk rating when the insured is not at
28 fault, is amended to read as follows:

29 (c) Nothing in this section shall prevent an insurer from canceling,
30 not renewing, or revising the rating of an insurance policy if the insurer is
31 otherwise permitted to do so by statute or ~~regulation~~ rule.

32

33 SECTION 2711. Arkansas Code § 23-79-310 is amended to read as follows:
34 23-79-310. Rules ~~and regulations~~.

35 The Insurance Commissioner may promulgate such reasonable rules ~~and~~
36 ~~regulations~~ as are necessary to carry out the provisions of this subchapter.

1
2 SECTION 2712. Arkansas Code § 23-79-404 is amended to read as follows:

3 23-79-404. Standards for policy provisions and authority to promulgate
4 ~~regulations~~ rules.

5 (a) No Medicare supplement policy or certificate in force in this
6 state shall contain benefits that duplicate benefits provided by Medicare.

7 (b) Notwithstanding any other provision of law of this state, a
8 Medicare supplement policy or certificate shall not exclude or limit benefits
9 for losses incurred more than six (6) months from the effective date of
10 coverage because it involved a preexisting condition. The policy or
11 certificate shall not define a preexisting condition more restrictively than
12 a condition for which medical advice was given or treatment was recommended
13 by or received from a physician within six (6) months before the effective
14 date of coverage.

15 (c) The Insurance Commissioner shall adopt reasonable ~~regulations~~
16 rules to establish specific standards for policy provisions of Medicare
17 supplement policies and certificates. Such standards shall be in addition to
18 and in accordance with applicable laws of this state, including §§ 23-66-306,
19 23-79-109, and 23-79-112. No requirement of the Arkansas Insurance Code
20 relating to minimum required policy benefits, other than the minimum
21 standards contained in this subchapter, shall apply to Medicare supplement
22 policies and certificates. The standards may cover, but not be limited to:

- 23 (1) Terms of renewability;
24 (2) Initial and subsequent conditions of eligibility;
25 (3) Nonduplication of coverage;
26 (4) Probationary periods;
27 (5) Benefit limitations, exceptions, and reductions;
28 (6) Elimination periods;
29 (7) Requirements for replacement;
30 (8) Recurrent conditions; and
31 (9) Definitions of terms.

32 (d) The commissioner shall adopt reasonable ~~regulations~~ rules to
33 establish minimum standards for benefits, claims payment, marketing practices
34 and compensation arrangements, and reporting practices for Medicare
35 supplement policies and certificates.

36 (e) The commissioner may adopt, from time to time, such reasonable

1 ~~regulations~~ rules as are necessary to conform Medicare supplement policies
2 and certificates to the requirements of federal law and regulations
3 promulgated thereunder, including, but not limited to:

4 (1) Requiring refunds or credits if the policies or certificates
5 do not meet loss ratio requirements;

6 (2) Establishing a uniform methodology for calculating and
7 reporting loss ratios;

8 (3) Assuring public access to policies, premiums, and loss ratio
9 information of issuers of Medicare supplement insurance;

10 (4) Establishing a process for approving or disapproving policy
11 forms and certificate forms and proposed premium increases;

12 (5) Establishing a policy for holding public hearings prior to
13 approval of premium increases; and

14 (6) Establishing standards for Medicare SELECT policies and
15 certificates.

16 (f) The commissioner may adopt reasonable ~~regulations~~ rules that
17 specify prohibited policy provisions not otherwise specifically authorized by
18 statute which, in the opinion of the commissioner, are unjust, unfair, or
19 unfairly discriminatory to any person insured or proposed to be insured under
20 a Medicare supplement policy or certificate.

21
22 SECTION 2713. Arkansas Code § 23-79-405 is amended to read as follows:
23 23-79-405. Loss ratio standards.

24 Medicare supplement policies shall return to policyholders benefits
25 which are reasonable in relation to the premiums charged. The Insurance
26 Commissioner shall issue reasonable ~~regulations~~ rules to establish minimum
27 standards for loss ratios of Medicare supplement policies on the basis of
28 incurred claims experience, or incurred healthcare expenses when coverage is
29 provided by a health maintenance organization on a service rather than
30 reimbursement basis, and earned premiums in accordance with accepted
31 actuarial principles and practices.

32
33 SECTION 2714. Arkansas Code § 23-79-406(d) and (e), concerning
34 disclosure standards in the sale of Medicare supplement policies, are amended
35 to read as follows:

36 (d) The commissioner may adopt ~~regulations~~ rules for captions or

1 notice requirements determined to be in the public interest and designed to
2 inform prospective insureds that particular insurance coverages are not
3 Medicare supplement coverages for all accident and health insurance policies
4 sold to persons eligible for Medicare by reason of age, other than:

- 5 (1) Medicare supplement policies;
- 6 (2) Disability income policies;
- 7 (3) Basic, catastrophic, or major medical expense policies; or
- 8 (4) Single premium, nonrenewable policies.

9 (e) The commissioner may adopt reasonable ~~regulations~~ rules to govern
10 the full and fair disclosure of the information in connection with the
11 replacement of accident and health policies, subscriber contracts, or
12 certificates by persons eligible for Medicare.

13
14 SECTION 2715. Arkansas Code § 23-79-409 is amended to read as follows:

15 23-79-409. Administrative procedures.

16 ~~Regulations~~ Rules adopted pursuant to this subchapter shall be subject
17 to the provisions of § 23-61-108 and to the provisions of the Arkansas
18 Administrative Procedure Act, § 25-15-201 et seq.

19
20 SECTION 2716. Arkansas Code § 23-79-410 is amended to read as follows:

21 23-79-410. Penalties.

22 In addition to any other applicable penalties for violations of the
23 Arkansas Insurance Code, the Insurance Commissioner may require issuers
24 violating any provisions of this subchapter or ~~regulations~~ rules promulgated
25 pursuant to this subchapter to cease marketing any Medicare supplement policy
26 or certificate in this state which is related directly or indirectly to a
27 violation or may require the issuer to take such actions as are necessary to
28 comply with the provisions of this subchapter, or both.

29
30 SECTION 2717. Arkansas Code § 23-79-604 is amended to read as follows:

31 23-79-604. Exclusions.

32 This subchapter shall not be construed as prohibiting a health
33 insurance policy from excluding from coverage diabetes self-management
34 training or equipment or supplies and related services for the treatment of
35 Type I diabetes, Type II diabetes, or gestational diabetes when the training,
36 equipment, supplies, and services are not medically necessary, provided that

1 the medical necessity determination is made in accordance with generally
2 accepted standards of the medical profession and other applicable laws and
3 ~~regulations~~ rules.

4
5 SECTION 2718. Arkansas Code § 23-79-605 is amended to read as follows:
6 23-79-605. ~~Regulations~~ Rules.

7 The State Insurance Department shall develop and promulgate ~~regulations~~
8 rules to implement the provisions of this subchapter.

9
10 SECTION 2719. Arkansas Code § 23-79-802(2)(A)(i), concerning the
11 definition of "state-mandated health benefits", is amended to read as
12 follows:

13 (2)(A)(i) "State-mandated health benefits" means coverages for
14 healthcare services or benefits required by state law or state ~~regulations~~
15 rules, requiring the reimbursement or utilization related to a specific
16 health illness, injury, or condition of the covered person or inclusion of a
17 specific category of licensed healthcare practitioner to be provided to the
18 covered person in a health benefits plan for a health-related condition of a
19 covered person.

20
21 SECTION 2720. Arkansas Code § 23-79-803(c), concerning requirements
22 relating to offering a health benefits plan not subject to state mandated
23 health benefits, is amended to read as follows:

24 (c) In each sale of health policies or health contracts in which the
25 proposed insured has selected a health benefits plan that, either in whole or
26 in part, does not provide state-mandated health benefits, the accident and
27 health insurer, hospital and medical service corporation, or health
28 maintenance organization shall provide to the policyholder and to each
29 certificate holder of a group health benefit plan a written notice, in a form
30 and manner required by rule ~~or regulation~~ promulgated by the Insurance
31 Commissioner, that one (1) or more of the mandated benefits are not included
32 in the health benefit plan selected by the policyholder.

33
34 SECTION 2721. Arkansas Code § 23-79-805 is amended to read as follows:
35 23-79-805. ~~Regulations~~ Rules.

36 The Insurance Commissioner may promulgate ~~regulations~~ rules necessary

1 to implement the provisions of this subchapter.

2
3 SECTION 2722. Arkansas Code § 23-80-206(b)(3)(B), concerning minimum
4 standards and testing, is amended to read as follows:

5 (B) Any policy language which is drafted to conform to the
6 requirements of any federal law, regulation, or agency interpretation, any
7 policy language required by any collectively bargained agreement, any medical
8 terminology, any words which are defined in the policy, and any policy
9 language required by law or ~~regulation~~ rule, provided that the insurer
10 identifies the language or terminology excepted by this subdivision (b)(3)
11 and certifies in writing that the language or terminology is entitled to be
12 excepted by this subdivision (b)(3).

13
14 SECTION 2723. Arkansas Code § 23-80-207(3), concerning the Insurance
15 Commissioner's discretion to authorize a lower score than the Flesch reading
16 ease score under certain circumstances, is amended to read as follows:

17 (3) Is caused by certain policy language which is drafted to
18 conform to the requirements of any state law, ~~regulation~~ rule, or agency
19 interpretation.

20
21 SECTION 2724. Arkansas Code § 23-80-305(a), concerning rulemaking
22 power of the Insurance Commissioner, is amended to read as follows:

23 (a) After notice and hearing, the Insurance Commissioner may issue
24 reasonable rules ~~or regulations~~ implementing §§ 23-80-306 and 23-80-308.

25
26 SECTION 2725. Arkansas Code § 23-80-306(b), concerning rulemaking
27 authority of the Insurance Commissioner regarding compliance dates for
28 personal lines policies, is amended to read as follows:

29 (b)(1)(A) In addition to any other requirements of law, the Insurance
30 Commissioner shall by ~~regulation~~ rule specify the dates by which personal
31 lines policies shall comply with subsection (a) of this section.

32 (B) The dates established by the commissioner for
33 compliance shall not be less than eighteen (18) months nor more than thirty-
34 six (36) months from the effective date of the regulation.

35 (C) "Personal lines policies" are policies:

36 (i) Solely used to provide homeowners' insurance,

1 dwelling fire insurance on one (1) to four (4) family units, or individual
2 fire insurance on dwelling contents; or

3 (ii) Principally used to provide primary insurance
4 on private passenger nonfleet automobiles individually owned and used for
5 personal or family needs.

6 (2) In addition to any other requirements of law, the
7 commissioner may by ~~regulations~~ rules specify which policies, other than
8 those described in subdivision (b)(1) of this section, shall comply with
9 subsection (a) of this section. The dates, if any, established by the
10 commissioner for compliance may not be less than forty-eight (48) months from
11 June 17, 1981, or twenty-four (24) months from the effective date of the
12 regulation establishing the dates, whichever is later.

13
14 SECTION 2726. Arkansas Code § 23-80-409 is amended to read as follows:
15 23-80-409. Enabling clause.

16 The Insurance Commissioner shall promulgate ~~regulations~~ rules necessary
17 to implement this subchapter and shall look for guidance to the standards and
18 implementation guides produced by the National Council for Prescription Drug
19 Programs.

20
21 SECTION 2727. Arkansas Code § 23-81-209(h)(2)(F)(i), concerning the
22 calculation of adjusted premiums and present values, is amended to read as
23 follows:

24 (F)(i) For a policy issued before the operative date of
25 the valuation manual, any Commissioner's Standard Ordinary Mortality Table,
26 adopted after 1980 by the National Association of Insurance Commissioners,
27 that is approved by ~~regulation~~ rule promulgated by the Insurance Commissioner
28 for use in determining the minimum nonforfeiture standard may be substituted
29 for the 1980 Commissioner's Standard Ordinary Mortality Table with or without
30 Ten-Year Select Mortality Factors or for the 1980 Commissioner's Extended
31 Term Insurance Table.

32
33 SECTION 2728. Arkansas Code § 23-81-209(h)(2)(G)(i), concerning the
34 calculation of adjusted premiums and present values, is amended to read as
35 follows:

36 (G)(i) For a policy issued before the operative date of

1 the valuation manual, any Commissioner's Standard Industrial Mortality Table,
2 adopted after 1980 by the National Association of Insurance Commissioners,
3 that is approved by ~~regulations~~ rules promulgated by the commissioner for use
4 in determining the minimum nonforfeiture standard may be substituted for the
5 1961 Commissioner's Standard Industrial Mortality Table or the 1961
6 Commissioner's Industrial Extended Term Insurance Table.

7
8 SECTION 2729. Arkansas Code § 23-81-210(a)(3), concerning rulemaking
9 authority of the Insurance Commissioner regarding the calculation of future
10 adjusted premiums, is amended to read as follows:

11 (3) The cash surrender values and paid-up nonforfeiture benefits
12 provided by the plan must not be less than the minimum values and benefits
13 required for the plan computed by a method consistent with the principles of
14 this subchapter, as determined by ~~regulations~~ rules promulgated by the
15 commissioner.

16
17 SECTION 2730. Arkansas Code § 23-81-313 is amended to read as follows:

18 23-81-313. Rules ~~and regulations~~.

19 The Insurance Commissioner may adopt rules ~~and regulations~~ to implement
20 the provisions of this subchapter.

21
22 SECTION 2731. Arkansas Code § 23-81-402 is amended to read as follows:

23 23-81-402. Provisions for allocation of income.

24 A domestic life insurance company may establish one (1) or more
25 separate accounts and may allocate thereto amounts including, without
26 limitation, proceeds applied under optional modes of settlement or under
27 dividend options to provide for life insurance or annuities, and benefits
28 incidental thereto, payable in fixed or variable amounts, or subject to a
29 market value adjustment as provided in rules ~~and regulations~~ adopted by the
30 Insurance Commissioner, subject to the following:

31 (1) The income, gains, and losses, realized or unrealized, from
32 assets allocated to a separate account shall be credited to or charged
33 against the account without regard to other income, gains, or losses of the
34 company or to any other separate account of the company;

35 (2) Except as may be provided with respect to reserves for
36 guaranteed benefits and funds referred to in subdivision (3) of this section,

1 amounts allocated to any separate account and accumulations thereon may be
2 invested and reinvested without regard to any requirements or limitations
3 prescribed by the laws of this state governing the investments of life
4 insurance companies. The investments in the separate accounts shall not be
5 considered when applying the investment limitations otherwise applicable to
6 the investments of the company;

7 (3) Except with the approval of the commissioner and under such
8 conditions as to investments and other matters as the commissioner may
9 prescribe which shall recognize the guaranteed nature of the benefits
10 provided, reserves for benefits guaranteed as to dollar amount and duration
11 and funds guaranteed as to principal amount or stated rate of interest shall
12 not be maintained in a separate account;

13 (4)(A) Unless otherwise approved by the commissioner, assets
14 allocated to a separate account shall be valued at their market value on the
15 date of valuation, with the exception of separate accounts supporting
16 modified guaranteed annuities which shall be valued as provided in such rules
17 ~~and regulations~~ as the commissioner shall adopt, or, if there is no readily
18 available market, then as provided under the terms of the contract or the
19 rules or other written agreement applicable to the separate account.

20 (B) However, unless approved by the commissioner, the
21 portion of any of the assets of the separate account equal to the company's
22 reserve liability with regard to the guaranteed benefits and funds referred
23 to in subdivision (3) of this section shall be valued in accordance with the
24 rules otherwise applicable to the company's assets;

25 (5)(A) Amounts allocated to a separate account in the exercise
26 of the power granted by this subchapter shall be owned by the company. The
27 company shall not be, nor hold itself out to be, a trustee with respect to
28 the amounts.

29 (B)(i) If and to the extent so provided under the
30 applicable contracts, that portion of the assets of any such separate account
31 equal to the reserves and other contract liabilities with respect to the
32 account shall not be chargeable with liabilities arising out of any other
33 business the company may conduct.

34 (ii) However, in no event shall the assets in a
35 separate account for support of modified guaranteed annuity contracts subject
36 to a market adjustment as provided in this section be immune from liabilities

1 arising out of any other business the company conducts;

2 (6)(A) No sale, exchange, or other transfer of assets may be
3 made by a company between any of its separate accounts or between any other
4 investment account and one (1) or more of its separate accounts unless, in
5 case of a transfer into a separate account, the transfer is made solely to
6 establish the account or to support the operation of the contracts with
7 respect to the separate account to which the transfer is made, and unless
8 such a transfer, whether into or from a separate account, is made by a
9 transfer of cash or by a transfer of securities having a readily determinable
10 market value, provided that the transfer of securities is approved by the
11 commissioner.

12 (B) The commissioner may approve other transfers among
13 accounts if, in the commissioner's opinion, the transfers would not be
14 inequitable; and

15 (7) To the extent the company deems it necessary to comply with
16 any applicable federal or state laws, the company, with respect to any
17 separate account, including, without limitation, any separate account which
18 is a management investment company or a unit investment trust, may provide
19 for persons having an interest therein appropriate voting and other rights
20 and special procedures for the conduct of the business of the account,
21 including, without limitation, special rights and procedures relating to
22 investment policy, investment advisory services, selection of independent
23 public accountants, and the selection of a committee, the members of which
24 need not be otherwise affiliated with the company, to manage the business of
25 the account.

26
27 SECTION 2732. Arkansas Code § 23-83-107(3), concerning requirements of
28 group insurance coverage offered to a resident of Arkansas, is amended to
29 read as follows:

30 (3) The commissioner may issue ~~regulations~~ rules implementing
31 the requirements of subdivision (1) of this section; and

32
33 SECTION 2733. Arkansas Code § 23-84-103(b)(2), concerning minimum
34 standards for valuation of certain policies and contracts, is amended to read
35 as follows:

36 (2) For industrial life insurance policies issued on the

1 standard basis, excluding any disability and accidental death benefits in
 2 such policies, the Commissioner's 1941 Standard Industrial Mortality Table
 3 for policies issued prior to the operative date of § 23-81-213(c) and, for
 4 policies issued on or after the operative date of § 23-81-213(c), the
 5 Commissioner's 1961 Standard Industrial Mortality Table or any industrial
 6 mortality table adopted after 1980 by the National Association of Insurance
 7 Commissioners that is approved by ~~regulations~~ rules promulgated by the
 8 commissioner for use in determining the minimum standard of valuation for the
 9 policies;

10
 11 SECTION 2734. Arkansas Code § 23-84-103(b)(5) and (6), concerning
 12 minimum standards for valuation of certain policies and contracts, are
 13 amended to read as follows:

14 (5) For total and permanent disability benefits in or
 15 supplementary to ordinary policies or contracts, for policies or contracts
 16 issued on or after January 1, 1966, the tables of Period 2 disablement rates
 17 and the 1930 to 1950 termination rates of the 1952 Disability Study of the
 18 Society of Actuaries, with due regard to the type of benefit, or any tables
 19 of disablement rates and termination rates adopted after 1980 by the National
 20 Association of Insurance Commissioners that are approved by ~~regulation~~ rule
 21 promulgated by the commissioner for use in determining the minimum standard
 22 of valuation for the policies and, for policies or contracts issued on or
 23 after January 1, 1961, and prior to January 1, 1966, either such tables, or,
 24 at the option of the insurer, the Class (3) Disability Table (1926) and, for
 25 policies issued prior to January 1, 1961, the Class (3) Disability Table
 26 (1926). Any table, for active lives, shall be combined with a mortality table
 27 permitted for calculating the reserves for life insurance policies;

28 (6) For accidental death benefits in or supplementary to
 29 policies, for policies issued on or after January 1, 1966, the 1959
 30 Accidental Death Benefits Table or any accidental death benefits table
 31 adopted after 1980 by the National Association of Insurance Commissioners,
 32 that is approved by ~~regulation~~ rule promulgated by the commissioner for use
 33 in determining the minimum standard of valuation for the policies and, for
 34 policies issued on or after January 1, 1961, and prior to January 1, 1966,
 35 either such table, or, at the option of the insurer, the Inter-Company Double
 36 Indemnity Mortality Table and, for policies issued prior to January 1, 1961,

1 the Inter-Company Double Indemnity Mortality Table. Either table shall be
2 combined with a mortality table permitted for calculating the reserves for
3 life insurance policies; and

4
5 SECTION 2735. Arkansas Code § 23-84-104(a)(1)-(3), concerning minimum
6 standards for the valuation of certain individual annuity and pure endowment
7 contracts, are amended to read as follows:

8 (1) For individual single premium immediate annuity contracts
9 excluding any disability and accidental death benefits in the contracts, the
10 1971 Individual Annuity Mortality Table or any individual annuity mortality
11 table adopted after 1980 by the National Association of Insurance
12 Commissioners and approved by ~~regulation~~ rule promulgated by the commissioner
13 for use in determining the minimum standard of valuation for the contracts,
14 or any modification of these tables approved by the commissioner, and seven
15 and one-half percent (7.5%) interest;

16 (2) For individual annuity and pure endowment contracts other
17 than single premium immediate annuity contracts, excluding any disability and
18 accidental death benefits in the contracts, the 1971 Individual Annuity
19 Mortality Table or any individual annuity mortality table adopted after 1980
20 by the National Association of Insurance Commissioners that is approved by
21 ~~regulation~~ rule promulgated by the commissioner for use in determining the
22 minimum standard of valuation for the contracts, or any modification of these
23 tables approved by the commissioner, and five and one-half percent (5.5%)
24 interest for single premium deferred annuity and pure endowment contracts and
25 four and one-half percent (4.5%) interest for all other individual annuity
26 and pure endowment contracts; and

27 (3) For all annuities and pure endowments under group annuity
28 and pure endowment contracts, excluding any disability and accidental death
29 benefits purchased under the contracts, the 1971 Group Annuity Mortality
30 Table or any group annuity mortality table adopted after 1980 by the National
31 Association of Insurance Commissioners that is approved by ~~regulations~~ rules
32 promulgated for the commissioner for use in determining the minimum standard
33 of valuation for the annuities and pure endowments, or any modification of
34 these tables approved by the commissioner, and seven and one-half percent
35 (7.5%) interest.

36

1 SECTION 2736. Arkansas Code § 23-84-105(e), concerning methods of
2 determining reference interest rates, is amended to read as follows:

3 (e) Alternative Method for Determining Reference Interest Rates. In
4 the event that the Monthly Average of the Composite Yield on Seasoned
5 Corporate Bonds is no longer published by Moody's Investors Service, Inc., or
6 in the event that the National Association of Insurance Commissioners
7 determines that the Monthly Average of the Composite Yield on Seasoned
8 Corporate Bonds as published by Moody's Investors Service, Inc., is no longer
9 appropriate for the determination of the reference interest rate, then an
10 alternative method for determination of the reference interest rate which is
11 adopted by the National Association of Insurance Commissioners and approved
12 by ~~regulation~~ rule promulgated by the Insurance Commissioner may be
13 substituted.

14
15 SECTION 2737. Arkansas Code § 23-84-111(a)(2), concerning the
16 calculation of reserves by life insurers, is amended to read as follows:

17 (2) Computed by a method which is consistent with the principles
18 of this chapter, as determined by ~~regulations~~ rules promulgated by the
19 Insurance Commissioner.

20
21 SECTION 2738. Arkansas Code § 23-84-112(a)(1)(B), concerning
22 rulemaking authority of the Insurance Commissioner concerning actuarial
23 studies, is amended to read as follows:

24 (B) By ~~regulation~~ rule, the commissioner shall define the
25 specifics of this opinion and add any other items deemed to be necessary to
26 its scope.

27
28 SECTION 2739. Arkansas Code § 23-84-112(a)(2)-(4), concerning the
29 actuarial analysis of reserves and assets supporting the reserves, are
30 amended to read as follows:

31 (2) Actuarial Analysis of Reserves and Assets Supporting Such
32 Reserves.

33 (A) Except as exempted by or pursuant to ~~regulation~~ rule,
34 every life insurance company shall also annually include in the opinion
35 required by subdivision (a)(1) of this section an opinion of the same
36 qualified actuary as to whether the reserves and related actuarial items held

1 in support of the policies and contracts specified by the commissioner by
2 ~~regulation rule~~, when considered in light of the assets held by the company
3 with respect to the reserves and related actuarial items, including, but not
4 limited to, the investment earnings on the assets and the considerations
5 anticipated to be received and retained under the policies and contracts,
6 make adequate provision for the company's obligations under the policies and
7 contracts, including, but not limited to, the benefits under and expenses
8 associated with the policies and contracts.

9 (B) The commissioner may provide by ~~regulation rule~~ for a
10 transition period for establishing any higher reserves which the qualified
11 actuary may deem necessary in order to render the opinion required by this
12 section.

13 (3) Requirements for Opinion Under Subdivision (a)(2) of this
14 Section. An opinion required by subdivision (a)(2) of this section shall be
15 governed by the following provisions:

16 (A) A memorandum, in form and substance acceptable to the
17 commissioner as specified by regulation, shall be prepared to support each
18 actuarial opinion; and

19 (B) If the insurance company fails to provide a supporting
20 memorandum at the request of the commissioner within a period specified by
21 ~~regulation rule~~ or the commissioner determines that the supporting memorandum
22 provided by the insurance company fails to meet the standards prescribed by
23 the ~~regulations rules~~ or is otherwise unacceptable to the commissioner, the
24 commissioner may engage a qualified actuary at the expense of the company to
25 review the opinion and the basis for the opinion and prepare such supporting
26 memorandum as is required by the commissioner.

27 (4) Requirement for All Opinions Subject to this Subsection.
28 An opinion required by this subsection shall be governed by the following
29 provisions:

30 (A) The opinion shall be submitted with the annual
31 statement reflecting the valuation of such reserve liabilities for each year
32 ending on or after December 31, 1995;

33 (B) The opinion shall apply to all business in force,
34 including individual and group health insurance plans, in form and substance
35 acceptable to the commissioner as specified by ~~regulation rule~~;

36 (C) The opinion shall be based on standards adopted from

1 time to time by the Actuarial Standards Board and on such additional
2 standards as the commissioner may by ~~regulation~~ rule prescribe;

3 (D) In the case of an opinion required to be submitted by
4 a foreign or alien company, the commissioner may accept the opinion filed by
5 that company with the insurance supervisory official of another state if the
6 commissioner determines that the opinion reasonably meets the requirements
7 applicable to a company domiciled in this state;

8 (E) For the purposes of this section, "qualified actuary"
9 means a member in good standing of the American Academy of Actuaries who
10 meets the requirements set forth in such ~~regulations~~ rules;

11 (F) Except in cases of fraud or willful misconduct, the
12 qualified actuary shall not be liable for damages to any person, other than
13 the insurance company and the commissioner, for any act, error, omission,
14 decision, or conduct with respect to the actuary's opinion;

15 (G) Disciplinary action by the commissioner against the
16 company or the qualified actuary shall be defined in ~~regulations~~ rules by the
17 commissioner; and

18 (H)(i) Any memorandum in support of the opinion and any
19 other material provided by the company to the commissioner in connection
20 therewith shall be kept confidential by the commissioner and shall not be
21 made public and shall not be subject to subpoena, other than for the purpose
22 of defending an action seeking damages from any person by reason of any
23 action required by this section or by ~~regulations~~ rules promulgated under
24 this chapter.

25 (ii) However, the memorandum or other material may
26 otherwise be released by the commissioner:

27 (a) With the written consent of the company;
28 or

29 (b) To the American Academy of Actuaries upon
30 request stating that the memorandum or other material is required for the
31 purpose of professional disciplinary proceedings and setting forth procedures
32 satisfactory to the commissioner for preserving the confidentiality of the
33 memorandum or other material.

34 (iii) Once any portion of the confidential
35 memorandum is cited by the company in its marketing or is cited before any
36 governmental agency other than a state insurance department or is released by

1 the company to the news media, all portions of the confidential memorandum
2 shall be no longer confidential.

3
4 SECTION 2740. Arkansas Code § 23-84-112(b)(2), concerning the
5 actuarial opinion of reserves after the operative date of the valuation
6 manual, is amended to read as follows:

7 (2) Actuarial Analysis of Reserves and Assets Supporting Such
8 Reserves. A company with an outstanding policy or contract in this state
9 that is subject to ~~regulation~~ rules promulgated by the commissioner, except
10 as exempted in the valuation manual, annually shall include in the opinion
11 required by subdivision (b)(1) of this section an opinion of the appointed
12 actuary under subdivision (b)(1)(A) of this section as to whether the
13 reserves and related actuarial items held in support of the policies and
14 contracts specified in the valuation manual, when considered in light of the
15 assets held by the company with respect to the reserves and related actuarial
16 items, including without limitation the investment earnings on the assets and
17 the considerations anticipated to be received and retained under the policies
18 and contracts, make adequate provision for the company's obligations under
19 the policies and contracts, including without limitation the benefits under
20 and expenses associated with the policies and contracts.

21
22 SECTION 2741. Arkansas Code § 23-84-113 is amended to read as follows:
23 23-84-113. Rules ~~and regulations~~.

24 The Insurance Commissioner shall have the authority to promulgate
25 reasonable rules ~~and regulations~~ as may be appropriate to carry out the
26 purposes and provisions of this chapter.

27
28 SECTION 2742. Arkansas Code § 23-85-104(4)(C), concerning the format
29 and text of the official forms concerning accident and health insurance
30 policies, is amended to read as follows:

31 (C) The appearance of text in forms developed for
32 electronic transmission shall comply with rules ~~and regulations~~ developed by
33 the Insurance Commissioner.

34
35 SECTION 2743. Arkansas Code § 23-85-132 is amended to read as follows:
36 23-85-132. Reduction of benefits due to other insurance contracts

1 prohibited.

2 (a) No contract of individual accident and health insurance or health
3 coverage sold, delivered, or issued for delivery or offered for sale in this
4 state by an insurer, hospital and medical service corporation, or health
5 maintenance organization, directly or indirectly providing indemnity
6 services, healthcare services, or cash to an individual as a result of
7 hospitalization, medical or surgical treatment, or dental care shall contain
8 a provision reducing the benefit that would otherwise be payable to the
9 individual in the absence of other insurance or health coverage if the
10 reduction of benefits is due solely to the existence of one (1) or more
11 additional contracts providing benefits to that individual unless the
12 reduction complies with coordination of benefit rules ~~and regulations~~ adopted
13 by the Insurance Commissioner.

14 (b) No contract of individual accident and health insurance sold,
15 delivered, or issued for delivery or offered for sale in this state providing
16 disability income coverage shall contain any provision for the denial or
17 reduction of benefits because of the existence of other insurance, except as
18 provided in § 23-85-122 or any coverages approved by the commissioner
19 pursuant thereto and except that the benefits may be reduced to offset
20 disability income benefits payable under the Social Security Act.

21 (c) The commissioner may issue rules ~~and regulations~~ to implement this
22 section, including, but not limited to, ~~regulations~~ rules as to the amount of
23 reductions and the nature and timing of proofs of eligibility for Social
24 Security benefits.

25

26 SECTION 2744. Arkansas Code § 23-86-110(a)(1), concerning rulemaking
27 authority of the Insurance Commissioner regarding group accident and health
28 insurance carriers, is amended to read as follows:

29 (a)(1) All group accident and health insurance carriers including
30 hospital and medical service corporations shall be subject to the “primary”
31 and “secondary” carrier rules ~~and regulations~~ promulgated by the Insurance
32 Commissioner.

33

34 SECTION 2745. Arkansas Code § 23-86-111(b)(2)-(4), concerning payment
35 of benefits under group accident and health insurance coverage when other
36 similar insurance exists, are amended to read as follows:

1 (2) "Other such coverage" for which a reduction may be effected
2 includes:

3 (A) Governmental programs such as Social Security, the
4 Arkansas Public Employees' Retirement System, the state workers' compensation
5 system, and all other government-sponsored, mandatory plans or programs that
6 provide for disability benefit coverage;

7 (B) Disability or pension income coverages as established
8 by the Insurance Commissioner through implementing rules ~~and regulations~~; and

9 (C) Such other programs, coverages, or permissible
10 reductions as the commissioner may establish through rules ~~and regulations~~.

11 (3) The amount of any such reduction shall not be increased with
12 any increase in the level of Social Security benefits payable that becomes
13 effective after a claim commences.

14 (4) The commissioner may also issue rules ~~and regulations~~ to
15 implement this section and § 23-86-110, including, but not limited to, the
16 nature and timing of proofs of eligibility for Social Security benefits.
17

18 SECTION 2746. Arkansas Code § 23-86-303(33), concerning the definition
19 of the term "regulations", is amended to read as follows:

20 (33) "~~Regulations~~ Rules" means rules ~~and regulations~~ promulgated
21 by the Insurance Commissioner unless the context requires otherwise;
22

23 SECTION 2747. Arkansas Code § 23-86-304(c)(2)(i), concerning the
24 method of crediting coverage with regard to preexisting conditions, is
25 amended to read as follows:

26 (i) A group health plan or a health insurance issuer
27 offering group health insurance coverage may elect to apply subdivision
28 (a)(3) of this section based on coverage of benefits within each of several
29 classes or categories of benefits specified in ~~regulations~~ rules rather than
30 as provided under subdivision (c)(2)(A) of this section.
31

32 SECTION 2748. Arkansas Code § 23-86-310(2)(C), concerning the
33 definition of "excepted benefits", is amended to read as follows:

34 (C) Such other similar, limited benefits as specified in
35 ~~regulations~~ rules;
36

1 SECTION 2749. Arkansas Code § 23-86-311(b)(7)(B), concerning
2 circumstances under which a health insurer may nonrenew or discontinue health
3 insurance coverage offered in connection with a group plan, is amended to
4 read as follows:

5 (B) The Insurance Commissioner shall determine by rule ~~or~~
6 ~~regulation~~ the form, content, and timing of the notice under subdivision
7 (7)(A) of this section.

8
9 SECTION 2750. Arkansas Code § 23-86-404(b)(2), concerning the
10 rulemaking authority of the Insurance Commissioner regarding optional health
11 benefit plans, is amended to read as follows:

12 (2) The Insurance Commissioner shall promulgate rules ~~and~~
13 ~~regulations~~ as may be necessary to implement the provisions of this
14 subchapter and to ensure that the price of the option provided in this
15 section bears a reasonable relationship to the costs and benefits of the
16 limited network plan.

17
18 SECTION 2751. Arkansas Code § 23-86-502(15), concerning the definition
19 of "state-mandated health benefits", is amended to read as follows:

20 (15)(A)(i) "State-mandated health benefits" means coverages for
21 healthcare services or benefits required by state law or state ~~regulations~~
22 rules requiring the reimbursement or utilization related to a specific health
23 illness, injury, or condition of the covered person or the inclusion of a
24 specific category of licensed healthcare practitioner to be provided to the
25 covered person in a health benefits plan for a health-related condition of a
26 covered person.

27 (ii) However, for the purposes of the options
28 provided by this subchapter, state-mandated health benefits that may be
29 excluded, in whole or in part, shall not include any healthcare services or
30 benefits that were mandated by Acts 1971, No. 34.

31 (B) "State-mandated health benefits" does not mean
32 standard provisions or rights required to be present in a health benefit plan
33 pursuant to state law or state ~~regulations~~ rules unrelated to a specific
34 health illness, injury, or condition of the insured, including, but not
35 limited to, those related to continuation of benefits in § 23-86-114, or
36 entitlement to a conversion policy under § 23-86-115; and

1
2 SECTION 2752. Arkansas Code § 23-86-503(d)(1)(C), concerning the
3 annual filings of health insurance purchasing groups, is amended to read as
4 follows:

5 (C) Membership and disclosure requirements or other
6 information as required by the commissioner through rules ~~and regulations~~.

7
8 SECTION 2753. Arkansas Code § 23-86-504(g), concerning health benefits
9 plans offered by a health insurance purchasing group, is amended to read as
10 follows:

11 (g) The health insurance purchasing group may also offer a health
12 benefits plan not subject to state-mandated health benefits that does not
13 contain standard provisions or rights required to be present in a health
14 benefits plan pursuant to law or regulations unrelated to a specific health
15 illness, injury, or condition of the insured, for the provisions as may be
16 determined by rules ~~and regulations~~ of the Insurance Commissioner.

17
18 SECTION 2754. Arkansas Code § 23-86-505 is amended to read as follows:
19 23-86-505. Notice requirements.

20 In each sale of a health benefits plan to a proposed eligible employer
21 through a health insurance purchasing group in which the health insurance
22 purchasing group offers an option to an eligible employer to obtain a health
23 benefits plan that, either in whole or in part, does not provide state-
24 mandated health benefits or does not contain standard provisions as may be
25 determined by rules ~~and regulations~~ of the Insurance Commissioner, the health
26 insurance purchasing group, after the employer has selected its health
27 benefit plan, shall provide to each eligible employee of the employer a
28 written notice, in a form and manner as prescribed by rule or regulation
29 promulgated by the commissioner, that one (1) or more mandated benefits are
30 not included in the health benefit plan.

31
32 SECTION 2755. Arkansas Code § 23-86-507 is amended to read as follows:
33 23-86-507. Filing and form filing requirements.

34 Each health insurance purchasing group shall file forms as may be
35 described by rules ~~and regulations~~ of the Insurance Commissioner.

36

1 SECTION 2756. Arkansas Code § 23-86-511 is amended to read as follows:
2 23-86-511. ~~Regulations~~ Rules.

3 The Insurance Commissioner may promulgate ~~regulations~~ rules necessary
4 to implement the provisions of this subchapter.
5

6 SECTION 2757. Arkansas Code § 23-87-117(a)(1), concerning rulemaking
7 authority of the Insurance Commissioner concerning the maximum compensation
8 payable to certain insurance professionals, is amended to read as follows:

9 (a)(1) In order to assure that the premium rates charged or to be
10 charged for credit life insurance or credit disability insurance are
11 reasonable in relation to benefits provided, the Insurance Commissioner,
12 after due notice and hearing, may issue rules ~~and regulations~~ establishing
13 the maximum compensation payable to an agent, a broker, or a creditor or any
14 affiliate, associate, subsidiary, director, officer, employee, or other
15 representative of or for the creditor for writing or handling the insurance,
16 including commission, dividends, premium adjustments, policy writing fees,
17 underwriting gain, or any compensation or remuneration in whatever form.
18

19 SECTION 2758. Arkansas Code § 23-87-117(b), concerning exceptions from
20 the definition of "compensation", is amended to read as follows:

21 (b) Provided, the term "compensation" as defined and used in this
22 section shall not be deemed to include reinsurance premiums paid to, or
23 underwriting profits generated by, an insurer or reinsurer owned by,
24 controlled by, or under common control with a credit insurer, an agent,
25 broker, creditor, group of creditors, or any affiliate, associate,
26 subsidiary, director, officer, employee, or other representative of, or for
27 such a credit insurer, creditor, or group of creditors, on accounts in
28 existence with such an insurer or reinsurer on January 17, 1989, that have
29 been registered with the commissioner within twenty (20) days of July 3,
30 1989, in accordance with pertinent rules ~~and regulations~~ promulgated by the
31 commissioner.
32

33 SECTION 2759. Arkansas Code § 23-87-118(a), concerning the Insurance
34 Commissioner's rulemaking authority regarding enforcement of the Model Act
35 for the Regulation of Credit Life Insurance and Credit Disability Insurance,
36 is amended to read as follows:

1 (a) After notice and hearing, the Insurance Commissioner may issue
2 such rules ~~and regulations~~ as the commissioner deems appropriate for the
3 supervision of this chapter.

4
5 SECTION 2760. Arkansas Code § 23-88-308(a), concerning the powers and
6 duties of the Insurance Commissioner, is amended to read as follows:

7 (a) In addition to approving the plan of operation, the Insurance
8 Commissioner shall have the authority to promulgate rules ~~and regulations~~
9 necessary to effect the purpose of this subchapter.

10
11 SECTION 2761. Arkansas Code § 23-88-405 is amended to read as follows:
12 23-88-405. Rules ~~and regulations~~.

13 The Insurance Commissioner may adopt reasonable rules ~~and regulations~~
14 to enforce the provisions of this subchapter.

15
16 SECTION 2762. Arkansas Code § 23-89-504(b)(3), concerning the
17 rulemaking authority of the Director of the Department of Labor regarding
18 amusement attractions and amusement rides, is amended to read as follows:

19 (3) The Director of the Department of Labor shall promulgate
20 ~~regulations~~ rules for the proper administration and enforcement of this
21 subchapter, including ~~regulations~~ rules establishing minimum safety
22 requirements for the operation and maintenance of amusement rides and
23 amusement attractions.

24
25 SECTION 2763. Arkansas Code § 23-89-506(a)(4)(A), concerning amusement
26 ride safety inspections, is amended to read as follows:

27 (4)(A) Inflatable attractions, self-contained mobile
28 playgrounds, artificial climbing walls, and other patron-propelled amusement
29 rides or amusement attractions shall be inspected every six (6) months,
30 unless a more frequent schedule of inspections is established by ~~regulation~~
31 rule of the director for certain types of inflatable attractions and self-
32 contained mobile playgrounds.

33
34 SECTION 2764. Arkansas Code § 23-89-506(f), concerning the fee for
35 amusement ride safety inspections, is amended to read as follows:

36 (f) The director is authorized by ~~regulation~~ rule to implement an

1 inspection fee waiver program for the benefit of a county fair association,
2 provided that:

3 (1) The county's population is under fifteen thousand (15,000)
4 based on United States Bureau of the Census estimates as of July 1, 1999; and

5 (2) The county fair association can demonstrate that it would be
6 unable to obtain a carnival for its county fair without such a waiver.

7
8 SECTION 2765. Arkansas Code § 23-89-507(f), concerning registration of
9 an employee or contractor of an insurer inspecting amusement rides, is
10 amended to read as follows:

11 (f) Any employee or contractor of an insurer inspecting amusement
12 rides in Arkansas shall be registered and certified by the Department of
13 Labor pursuant to ~~regulation~~ rule adopted by the director.

14
15 SECTION 2766. Arkansas Code § 23-89-508 is amended to read as follows:
16 23-89-508. Rules ~~and regulations~~.

17 The Director of the Department of Labor is authorized to adopt
18 appropriate rules ~~and regulations~~ to carry out the intent and purposes of
19 this subchapter and to assure its efficient and effective enforcement.

20
21 SECTION 2767. Arkansas Code § 23-89-518(b)(1), concerning duties of
22 the Amusement Ride Safety Advisory Board, is amended to read as follows:

23 (1) To assist the Director of the Department of Labor with the
24 formulation of rules ~~and regulations~~ regarding the safe operation of
25 amusement rides; and

26
27 SECTION 2768. Arkansas Code § 23-90-122 is amended to read as follows:
28 23-90-122. Rules ~~and regulations~~.

29 The State Insurance Department is authorized and directed to issue such
30 reasonable rules ~~and regulations~~ as may be necessary to carry out the various
31 purposes and provisions of this chapter, and in augmentation thereof.

32
33 SECTION 2769. Arkansas Code § 23-91-204(b), concerning applicability
34 of other insurance laws governing hearings and appeals to the Arkansas Legal
35 Insurance Act, is amended to read as follows:

36 (b) Orders, or rules, ~~or regulations~~ of the Insurance Commissioner

1 issued under the provisions of this subchapter shall be subject to the
2 provisions of the general insurance laws and the provisions of the Arkansas
3 Administrative Procedure Act, § 25-15-201 et seq., relating to hearings and
4 appeals.

5
6 SECTION 2770. Arkansas Code § 23-91-209(a)(3)(C), concerning the
7 applicability of other laws to the considerations for the Insurance
8 Commissioner in issuing a certificate of authority, is amended to read as
9 follows:

10 (C) Any agreement with another person authorized under
11 this subchapter, an insurer licensed under the general insurance laws to do
12 business in this state, a reinsurer eligible under the laws or ~~regulations~~
13 rules of this state to provide reinsurance, or an agency of the federal or
14 state government for insuring the payment of the cost of legal services or
15 the provision for automatic applicability of an alternative coverage in the
16 event the insurer is unable to perform its obligation;

17
18 SECTION 2771. Arkansas Code § 23-91-224 is amended to read as follows:
19 23-91-224. Authority to promulgate rules.

20 The Insurance Commissioner may promulgate such reasonable rules ~~or~~
21 ~~regulations~~ as are necessary or proper to carry out the provisions of this
22 subchapter.

23
24 SECTION 2772. Arkansas Code § 23-92-402(14), concerning the definition
25 of "professional employer organization service organization affidavit", is
26 amended to read as follows:

27 (14) "Professional employer organization service organization
28 affidavit" means an attestation or certification of a professional employer
29 organization service organization and any additional information that
30 conforms to the requirements in the rules ~~and regulations~~ as promulgated by
31 the commissioner;

32
33 SECTION 2773. Arkansas Code § 23-92-403(d), concerning the effect of
34 other laws on Arkansas Code Title 23, Chapter 92, Subchapter 4, is amended to
35 read as follows:

36 (d) A professional employer organization shall not be deemed to engage

1 in any occupation, trade, profession, or other activity that is subject to
2 licensing, registration, or certification requirements, or is otherwise
3 regulated by a governmental entity, solely by entering into and maintaining a
4 coemployment relationship with a covered employee who is subject to this
5 subchapter or to ~~regulations~~ rules promulgated under this subchapter.

6
7 SECTION 2774. Arkansas Code § 23-92-407(e), concerning the Insurance
8 Commissioner's rulemaking authority over fees for certain licensing
9 statements, is amended to read as follows:

10 (e) By ~~regulation~~ rule, the Insurance Commissioner may increase,
11 decrease, or eliminate any fee provided for in this section, but no fee
12 provided for in this section shall ever exceed five thousand dollars
13 (\$5,000).

14
15 SECTION 2775. Arkansas Code § 23-92-408(a)(2)(C)(i), concerning
16 bonding requirements for certain professional employer organizations, is
17 amended to read as follows:

18 (i) Violate the provisions of this subchapter or
19 violate rules, ~~regulations~~, or orders lawfully promulgated by the
20 commissioner under this subchapter; or

21
22 SECTION 2776. Arkansas Code § 23-92-409(j), concerning a licensed
23 professional employer's status as an employer, is amended to read as follows:

24 (j) A licensed professional employer organization shall be deemed an
25 employer of the covered employees and shall perform the following employer
26 responsibilities in conformity with all applicable federal and state laws,
27 rules, and regulations to:

28 (1) Pay wages and collect, report, and pay employment taxes from
29 its own accounts;

30 (2) Pay unemployment taxes as required by the Department of
31 Workforce Services Law, § 11-10-101 et seq.;

32 (3)(A) Ensure that all covered employees are covered by workers'
33 compensation insurance provided in conformance with the laws of this state.

34 (B) Workers' compensation coverage may be provided through
35 a policy or plan maintained by either the professional employer organization
36 or the client.

1 (C) However, for purposes of risks insured under the
2 Arkansas Workers' Compensation Insurance Plan, § 23-67-301 et seq., the
3 commissioner is authorized to promulgate rules ~~and regulations~~ as he or she
4 deems necessary to assure that workers' compensation coverage is available to
5 employees providing services for a client;

6 (4) Be entitled and to entitle the client, together as joint
7 employers, to the exclusive remedy under § 11-9-105, under both the workers'
8 compensation and employer's liability provisions of a workers' compensation
9 policy or plan that either party has secured within the meaning of § 11-9-
10 105; and

11 (5)(A) Not be vicariously liable for the liabilities of the
12 client, whether contractual or otherwise.

13 (B) However, the client shall not be vicariously liable
14 for the liabilities of the professional employer organization, whether
15 contractual or otherwise.

16 (C) This section shall limit any direct contractual
17 liability or any joint liability between the client and the professional
18 employer organization.

19
20 SECTION 2777. Arkansas Code § 23-92-410(b), concerning issuance,
21 refusal, suspension, or revocation of licensure of a professional employer
22 organization, is amended to read as follows:

23 (b) In addition, the commissioner may refuse to issue a license to any
24 person, may suspend or revoke the license of any professional employer
25 organization, or impose administrative fines as provided for in this
26 subchapter when the commissioner finds:

27 (1) That the licensee or applicant has violated any of the
28 provisions of this subchapter, the rules ~~and regulations~~ or other orders
29 lawfully promulgated by the commissioner, or the conditions of financial
30 assurances required by this subchapter;

31 (2) That the licensee or applicant has engaged in a fraudulent,
32 deceptive, or dishonest practice; or

33 (3) For good and sufficient cause, that the licensee or
34 applicant is unfit to be a professional employer organization within the
35 meaning of this subchapter or of any of the rules ~~and regulations~~ or orders
36 lawfully promulgated by the commissioner.

1
2 SECTION 2778. Arkansas Code § 23-92-412(b)(1), concerning penalties
3 for violations of Insurance Commissioner's rules, is amended to read as
4 follows:

5 (b)(1) Any person who violates any of the provisions under this
6 subchapter or who violates any rules ~~or regulations~~ promulgated by the
7 Insurance Commissioner under this subchapter shall be liable for a civil
8 penalty for each offense of not less than two hundred fifty dollars (\$250)
9 nor more than five thousand dollars (\$5,000) for each violation.

10
11 SECTION 2779. Arkansas Code § 23-92-414(a), concerning rules governing
12 the acceptance of an employer service, is amended to read as follows:

13 (a) The Insurance Commissioner may provide by rule ~~and regulation~~ for
14 the acceptance of an employer service assurance organization affidavit
15 provided on behalf of a professional employer organization in lieu of the
16 requirements under §§ 23-92-404 – 23-92-406 and 23-92-408 and the fees
17 provided for in § 23-92-407.

18
19 SECTION 2780. Arkansas Code § 23-92-419 is amended to read as follows:
20 23-92-419. Rules ~~and regulations~~.

21 (a)(1) The Insurance Commissioner may prescribe rules ~~and regulations~~
22 for the conduct of the business of professional employer organizations needed
23 to implement this subchapter.

24 (2) The commissioner shall adopt rules ~~and regulations~~ under
25 this subchapter in compliance with the Arkansas Administrative Procedure Act,
26 § 25-15-201 et seq.

27 (b)(1) The commissioner may adopt reasonable rules for use by employer
28 service assurance organizations to record and report to the commissioner
29 information determined by the commissioner to be necessary or appropriate for
30 the administration of this subchapter and for the effectuation of its
31 purposes.

32 (2) The commissioner may designate one (1) or more employer
33 service assurance organizations to assist him or her in gathering, compiling,
34 and reporting the information.

35
36 SECTION 2781. Arkansas Code § 23-93-105 is amended to read as follows:

1 23-93-105. Rules ~~and regulations~~.

2 The Insurance Commissioner shall have the authority to adopt, amend, or
3 repeal such rules ~~and regulations~~ as are reasonably necessary for the
4 enforcement of the provisions of this subchapter.

5
6 SECTION 2782. Arkansas Code § 23-93-108(b)(13), concerning the minimum
7 requirements of a continuing care contract, is amended to read as follows:

8 (13) State the rules ~~and regulations~~ of the provider then in
9 effect and state the circumstances under which the provider claims to be
10 entitled to have access to the resident's unit;

11
12 SECTION 2783. Arkansas Code § 23-93-205(a)(1), concerning violations
13 of law by providers, is amended to read as follows:

14 (1) Willfully violated any provision of this subchapter, or any
15 ~~regulation~~ rule promulgated under this subchapter;

16
17 SECTION 2784. Arkansas Code § 23-94-204(a)(1), concerning organization
18 and licensing of risk retention groups, is amended to read as follows:

19 (a)(1) To be organized as a risk retention group in this state, the
20 risk retention group must be organized and licensed to write only casualty
21 insurance pursuant to this subchapter and, except as provided elsewhere in
22 this subchapter, must comply with all of the laws, rules, ~~regulations~~, and
23 requirements applicable to such insurers licensed in this state and with §
24 23-94-205 to the extent such requirements are not a limitation on laws,
25 rules, ~~regulations~~, or requirements of this state. The commissioner shall
26 issue a certificate of registration to a risk retention group organized,
27 formed, or domiciled under the laws of this state when the commissioner is
28 satisfied that the applicant group has fully complied with the provisions of
29 this subchapter. No risk retention group organized, formed, or domiciled
30 under the laws of this state shall transact business in this state unless so
31 authorized by a subsisting certificate of registration issued by the
32 commissioner.

33
34 SECTION 2785. Arkansas Code § 23-94-209(b), concerning restrictions on
35 insurance purchased by purchasing groups, is amended to read as follows:

36 (b) A purchasing group which obtains liability insurance from an

1 insurer not admitted in this state or a risk retention group shall inform
2 each of the members of the group which have a risk resident or located in
3 this state that the risk is not protected by an insurance insolvency guaranty
4 fund in this state, and that the risk retention group or insurer may not be
5 subject to all insurance laws and ~~regulations~~ rules of this state.

6
7 SECTION 2786. Arkansas Code § 23-94-215 is amended to read as follows:
8 23-94-215. Rules ~~and regulations~~.

9 The commissioner may establish and from time to time amend such rules
10 relating to risk retention groups as may be necessary or desirable to carry
11 out the provisions of this subchapter.

12
13 SECTION 2787. Arkansas Code § 23-95-108 is amended to read as follows:
14 23-95-108. Rules ~~and regulations~~.

15 The Insurance Commissioner shall have the authority to promulgate rules
16 ~~and regulations~~ necessary to effectuate the purpose of this chapter.

17
18 SECTION 2788. Arkansas Code § 23-96-105(a), concerning restrictions on
19 advertisements using the existence of the Arkansas Life and Health Insurance
20 Guaranty Association, is amended to read as follows:

21 (a) No person, including an insurer, agent, or affiliate of an
22 insurer shall make, publish, disseminate, circulate, or place before the
23 public, or cause, directly or indirectly, to be made, published,
24 disseminated, circulated, or placed before the public, in any newspaper,
25 magazine, or other publication, or in the form of a notice, circular,
26 pamphlet, letter, or poster, or over any radio station or television station,
27 or in any other way, any advertisement, announcement, or statement, written
28 or oral, which uses the existence of the Arkansas Life and Health Insurance
29 Guaranty Association for the purpose of sales, solicitation, or inducement to
30 purchase any form of insurance covered by this chapter, except in conformity
31 with the rules ~~and regulations~~ of the Insurance Commissioner. In adopting
32 such rules ~~and regulations~~, the commissioner, in consultation with the Board
33 of Directors of the Arkansas Life and Health Insurance Guaranty Association,
34 shall take into consideration the following factors: the need of the public
35 to have confidence in the financial soundness of insurance products offered
36 for sale in this state, the financial integrity of member insurers doing

1 business in this state, and the role of the association in serving as a
2 safety net for policy owners, contract owners, insureds, and beneficiaries of
3 impaired insurers or insolvent insurers in this state. Provided, however,
4 that this section shall not apply to the association or any other entity
5 which does not sell or solicit insurance.

6
7 SECTION 2789. Arkansas Code § 23-97-303(c), concerning application of
8 other laws to § 23-97-307, is amended to read as follows:

9 (c) Laws and ~~regulations~~ rules designed and intended to apply to
10 Medicare supplement insurance policies shall not be applied to long-term care
11 insurance.

12
13 SECTION 2790. Arkansas Code § 23-97-307(a), concerning the Insurance
14 Commissioner's rulemaking authority for long-term care insurance purposes, is
15 amended to read as follows:

16 (a) The Insurance Commissioner may adopt ~~regulations~~ rules for long-
17 term care insurance that include, but are not limited to, standards for full
18 and fair disclosure addressing:

19 (1) The manner, content, and required disclosures for the sale
20 of long-term care insurance policies;

21 (2) Terms of renewability;

22 (3) Initial and subsequent conditions of eligibility;

23 (4) Nonduplication of coverage provisions;

24 (5) Coverage of dependents;

25 (6) Preexisting conditions;

26 (7) Termination of insurance;

27 (8) Continuation or conversion of coverage;

28 (9) Probationary periods;

29 (10) Limitations, exceptions, reductions, and elimination
30 periods;

31 (11) Requirements for replacement;

32 (12) Recurrent conditions; and

33 (13) Definitions of terms.

34
35 SECTION 2791. Arkansas Code § 23-97-314(b)(3)(D), concerning
36 requirements of the policy summary for an individual life insurance policy

1 that provides long-term care benefits, is amended to read as follows:

2 (D) A statement that any long-term care inflation
 3 protection option, if required by rules ~~and regulations~~ of the Insurance
 4 Commissioner, is not available under the policy.

5
 6 SECTION 2792. Arkansas Code § 23-97-320 is amended to read as follows:

7 23-97-320. Authority to promulgate ~~regulations~~ rules.

8 The Insurance Commissioner shall issue rules for long-term care
 9 insurance to:

- 10 (1) Promote premium adequacy;
- 11 (2) Protect the policyholder in the event of substantial rate
 12 increases; and
- 13 (3) Establish minimum standards for:
 - 14 (A) Marketing practices;
 - 15 (B) Agent compensation;
 - 16 (C) Agent testing;
 - 17 (D) Penalties; and
 - 18 (E) Reporting practices.

19
 20 SECTION 2793. Arkansas Code § 23-98-102(9), concerning the definition
 21 of "permitted coverages", is amended to read as follows:

22 (9) "Permitted coverages" means health or hospitalization
 23 coverage under a minimum basic benefit policy issued pursuant to this
 24 chapter, under Medicaid, Medicare, limited benefit policies as defined by
 25 rules ~~and regulations~~ of the commissioner, the Consolidated Omnibus Budget
 26 Reconciliation Act of 1985, or the provisions of § 23-86-114, § 23-86-115, or
 27 § 23-86-116;

28
 29 SECTION 2794. Arkansas Code § 23-98-103 is amended to read as follows:

30 23-98-103. Notices and hearings before adopting ~~regulations~~ rules.

31 The Insurance Commissioner shall provide notice and conduct hearings in
 32 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
 33 seq., before adopting any ~~regulations~~ rules of general applicability to
 34 minimum basic benefit policies to be issued pursuant to this chapter.

35
 36 SECTION 2795. Arkansas Code § 23-98-104 is amended to read as follows:

1 23-98-104. Formation of trusts of qualified individuals.

2 Solely for purposes of obtaining minimum basic benefit policies
3 pursuant to the authority granted by this chapter, trusts may be formed
4 composed of qualified individuals, qualified families, or qualified groups.
5 Each trust may serve as a master policyholder. Members of qualified groups
6 and members of such trusts may join together solely for the purpose of
7 obtaining health insurance coverage under the provisions of this chapter. The
8 Insurance Commissioner shall adopt rules ~~and regulations~~ governing the
9 formation and operation of the trust to assure the protection of persons
10 purchasing policies pursuant to this chapter.

11
12 SECTION 2796. Arkansas Code § 23-98-105 is amended to read as follows:

13 23-98-105. Issuance of minimum basic benefit policies permitted –
14 Applicability.

15 Insurers are authorized to issue minimum basic benefit policies
16 pursuant to and in compliance with the provisions of this chapter to
17 qualified individuals, qualified families, qualified trusts, and qualified
18 groups. This chapter shall apply only to those minimum basic benefit policies
19 issued under this chapter and ~~regulations~~ rules issued by the Insurance
20 Commissioner pursuant to the authority of this chapter. Nothing in this
21 chapter shall be deemed to add to, detract from, or in any manner apply to
22 policies, subscription contracts, benefits, or related activities under any
23 other statutory or regulatory authorities.

24
25 SECTION 2797. Arkansas Code § 23-98-106(d), concerning the
26 requirements of a minimum basic benefit policy, is amended to read as
27 follows:

28 (d)(1) Any minimum basic benefit policy issued pursuant to the
29 provisions of this chapter may be issued without the provision of the
30 benefits or requirements mandated by the following statutes to be included in
31 or offered to be included in accident and health insurance or health
32 maintenance organization policies or subscription contracts or ~~regulations~~
33 rules issued pursuant to such statutes: §§ 23-79-129, 23-79-130, 23-79-137,
34 23-79-139 – 23-79-141, § 23-85-131(b), § 23-85-137, § 23-86-108(4), § 23-
35 86-108(7), §§ 23-86-113 – 23-86-116, and 23-86-118.

36 (2) However, nothing in this chapter shall:

1 (A) Reduce any professional scope of practice as defined
2 in the licensure law for any healthcare provider;

3 (B) Authorize any discrimination not permitted under
4 Arkansas law in payment or reimbursement for services; or

5 (C) Be construed to repeal or eliminate the application of
6 the Arkansas freedom of choice legislation, § 23-79-114, or coordination of
7 benefit statutes or ~~regulations~~ rules to policies issued pursuant to this
8 chapter.

9
10 SECTION 2798. Arkansas Code § 23-98-110(b), concerning the form of
11 filings for minimum basic benefit policies, is amended to read as follows:

12 (b) Minimum basic benefit policies are subject to the filing and
13 approval statutes, and rules, ~~and regulations~~ of the state. No rate shall be
14 considered reasonable nor shall it be approved unless:

15 (1) It is based upon a pool, community rating, or other rating
16 formula acceptable to the commissioner; and

17 (2)(A) As to individual policies and policies issued to
18 qualified trusts, it is likely to produce a loss ratio, as certified by a
19 qualified actuary, which is acceptable to the commissioner, but in no event
20 shall such a loss ratio be less than sixty-five percent (65%).

21 (B) However, the commissioner may set a minimum loss ratio
22 for group policies issued pursuant to this chapter if the commissioner
23 determines that inequitable or unfair treatment of policyholders would
24 otherwise result.

25
26 SECTION 2799. Arkansas Code § 23-99-203(c), concerning the definition
27 of "health benefit plan", is amended to read as follows:

28 (c) "Health benefit plan" means any entity or program that provides
29 reimbursement, including capitation, for healthcare services, except and
30 excluding any entity or program that provides reimbursement and benefits
31 pursuant to Arkansas Constitution, Amendment 26, Acts 1993, No. 796, or the
32 Public Employee Workers' Compensation Act, § 21-5-601 et seq., and rules,
33 ~~regulations~~, and schedules adopted thereunder.

34
35 SECTION 2800. Arkansas Code § 23-99-204(a)(3), concerning terms of a
36 health benefit plan, is amended to read as follows:

1 (3) Prohibit or limit a healthcare provider that is qualified
2 under § 23-99-203(d) and is willing to accept the health benefit plan's
3 operating terms and conditions, schedule of fees, covered expenses, and
4 utilization ~~regulations~~ rules and quality standards, from the opportunity to
5 participate in that health benefit plan.

6
7 SECTION 2801. Arkansas Code § 23-99-206 is amended to read as follows:
8 23-99-206. Violations.

9 It is a violation of this subchapter for any healthcare insurer or
10 other person or entity to provide any health benefit plan providing for
11 healthcare services to residents of this state that does not conform to this
12 subchapter, but nothing in this subchapter shall constitute a violation on
13 the basis of actions taken by the health benefit plan to maintain quality,
14 enforce utilization ~~regulations~~ rules, and to control costs.

15
16 SECTION 2802. Arkansas Code § 23-99-414 is amended to read as follows:
17 23-99-414. ~~Regulations~~ Rules.

18 The Insurance Commissioner may promulgate necessary rules ~~and~~
19 ~~regulations~~ for carrying out this subchapter.

20
21 SECTION 2803. Arkansas Code § 23-99-510 is amended to read as follows:
22 23-99-510. Rules ~~and regulations~~.

23 The Insurance Commissioner shall enforce this subchapter and shall
24 promulgate necessary rules ~~and regulations~~ for carrying out this subchapter.

25
26 SECTION 2804. Arkansas Code § 23-99-605 is amended to read as follows:
27 23-99-605. Rules ~~and regulations~~.

28 Within one hundred twenty (120) days of July 30, 1999, the Insurance
29 Commissioner shall promulgate necessary rules ~~and regulations~~ for carrying
30 out this subchapter, giving maximum possible effect to the General Assembly's
31 intent to promote quality medical care through increased choice.

32
33 SECTION 2805. Arkansas Code § 23-99-703(c), concerning health carrier
34 systems for resolution of grievances, is amended to read as follows:

35 (c) In consultation with the Insurance Commissioner, the director may
36 promulgate rules ~~and regulations~~ in accordance with the Arkansas

1 Administrative Procedure Act, § 25-15-201 et seq., to carry out the
2 provisions of this subchapter to enable the state to be properly informed of
3 quality issues within the state and to adequately respond to any quality
4 concerns expressed through grievances.

5
6 SECTION 2806. Arkansas Code § 23-99-704(b), concerning health carrier
7 and network quality assessments and improvement systems, is amended to read
8 as follows:

9 (b) In consultation with the Insurance Commissioner, the director may
10 promulgate rules ~~and regulations~~ in accordance with the Arkansas
11 Administrative Procedure Act, § 25-15-201 et seq., to carry out the
12 provisions of this subchapter to enable the state to be properly informed of
13 quality issues within the state and to adequately respond to any quality
14 concerns found through the outcome data.

15
16 SECTION 2807. Arkansas Code § 23-99-802(4)(DD), concerning the
17 definition of "healthcare provider" or "provider", is amended to read as
18 follows:

19 (DD) Other healthcare practitioners as determined by the
20 department in ~~regulations~~ rules promulgated under the Arkansas Administrative
21 Procedure Act, § 25-15-201 et seq.;

22
23 SECTION 2808. Arkansas Code § 23-100-106 is amended to read as
24 follows:

25 23-100-106. Rules ~~and regulations~~.

26 The Insurance Commissioner may promulgate reasonable rules ~~and~~
27 ~~regulations~~ deemed necessary for the administration of this chapter.

28
29 SECTION 2809. Arkansas Code § 23-101-108(b), concerning filing,
30 approval, and withdrawal of forms and rates, is amended to read as follows:

31 (b) The commissioner shall within thirty (30) days after the filing of
32 the policy forms and certificates of insurance disapprove a form that does
33 not conform to this chapter or to other applicable provisions of the
34 insurance statutes and ~~regulations~~ rules and shall within thirty (30) days of
35 filing disapprove a schedule of premium rates pertaining to the form if it
36 does not conform to the standard set forth in subsection (e) of this section.

1
2 SECTION 2810. Arkansas Code § 23-101-112(c), concerning rebates to the
3 creditor by an insurer or producer, is amended to read as follows:

4 (c) Unless allowed by § 23-64-513, rebates to the creditor of a
5 portion of the premium charged to the debtor are prohibited as are other
6 inducements provided to the creditor by an insurer or producer. The listing
7 of the following activities as prohibited rebates or inducements is not
8 intended to be restrictive, and the Insurance Commissioner may identify an
9 activity as prohibited by rule, ~~regulation~~, or order:

10 (1) Allowing insurers or producers to purchase certificates of
11 deposit from the creditor or to maintain accounts with the creditor at less
12 than the market interest rates and charges that the creditor applies to other
13 customers for deposit accounts of similar amounts and duration;

14 (2) Paying a commission to a person, including a creditor, who
15 is not appropriately licensed as a producer in this state; and

16 (3) Purchasing or offering to purchase certificates of deposit
17 from, or maintaining or offering to maintain deposit accounts or investment
18 accounts with, a creditor as part of a creditor-placed insurance
19 solicitation.

20
21 SECTION 2811. Arkansas Code § 23-101-114 is amended to read as
22 follows:

23 23-101-114. Rules ~~and regulations~~.

24 After notice and hearing, the Insurance Commissioner may promulgate
25 reasonable rules ~~and regulations~~ to carry out and effectuate the provisions
26 of this chapter.

27
28 SECTION 2812. Arkansas Code § 23-102-109(c), concerning the Insurance
29 Commissioner's rulemaking authority regarding the Market Assistance Program,
30 is amended to read as follows:

31 (c) By rule ~~and regulation~~, the commissioner may restructure the
32 program criteria set forth in subsection (b) of this section or any other
33 component of the program if the commissioner finds that the program is not
34 substantially accomplishing its objective of assisting residential insureds
35 in procuring earthquake coverage in the voluntary market and that the
36 restructuring will be in the best interests of Arkansas citizens.

1
2 SECTION 2813. Arkansas Code § 23-102-116 is amended to read as
3 follows:

4 23-102-116. Rules ~~and regulations~~.

5 The Insurance Commissioner is authorized to promulgate such reasonable
6 rules ~~and regulations~~ as are necessary to carry out the provisions of this
7 chapter.

8
9 SECTION 2814. Arkansas Code § 23-110-202(b)(2), concerning the duties
10 of the Secretary of the Arkansas Racing Commission, is amended to read as
11 follows:

12 (2) The secretary shall be the commission's executive officer
13 and shall administer the provisions of this chapter and the rules,
14 ~~regulations~~, and orders established under this chapter.

15
16 SECTION 2815. Arkansas Code § 23-110-405(b)(3)(B), concerning the
17 penalties for improper wagering, is amended to read as follows:

18 (B) The difference between the two percent (2%) rate being
19 withheld and so paid by the franchise holder to the State of Arkansas on
20 wagers on the races described in subdivision (b)(3)(A) of this section under
21 rules ~~and regulations~~ of the commission in effect prior to the enactment of
22 this subdivision (b)(3) and the one percent (1%) rate established in
23 subdivision (b)(3)(A) of this section shall be withheld by the franchise
24 holder from wagers on such races and set aside by the franchise holder in a
25 separate account to be used only for purses and construction, for debt
26 service on money borrowed by the franchise holder for construction, or for
27 promotions to encourage patronage and tourism, in accordance with the
28 provisions of § 23-110-407(a)(3).

29
30 SECTION 2816. Arkansas Code § 23-110-407(a)(3)(A)(iii)(a), concerning
31 the disposition of wagering money, is amended to read as follows:

32 (iii)(a) The commission shall have jurisdiction and
33 shall seek the assistance of the Department of Finance and Administration to
34 check and verify compliance by the franchise holder with the provisions of
35 this subdivision (a)(3). The commission shall make periodic determinations as
36 to compliance under such rules ~~and regulations~~ as the commission shall adopt.

1
2 SECTION 2817. Arkansas Code § 23-110-409(b)(3), concerning the
3 Arkansas Racing Commission Purse and Awards Fund, is amended to read as
4 follows:

5 (3) Registered Arkansas-bred thoroughbred horses, registered
6 Arkansas thoroughbred broodmare, registered Arkansas thoroughbred stallion,
7 foal registration, broodmare registration and stallion registration,
8 eligibility to participate in the Arkansas Racing Commission Purse and Awards
9 Fund, and eligibility to participate in races that are restricted to
10 registered Arkansas-bred thoroughbred horses shall be determined and made in
11 accordance with registration rules ~~and regulations~~, including reasonable time
12 deadlines and fee schedules, adopted by the Arkansas Thoroughbred Breeders
13 and Horsemen's Association and approved by the commission.
14

15 SECTION 2818. Arkansas Code § 23-110-413(c), concerning the Arkansas
16 Racing Commission's authority to investigate violations of its rules, is
17 amended to read as follows:

18 (c) The commission may also at any time investigate and ascertain
19 whether or not any of the provisions of this chapter or the rules ~~and~~
20 ~~regulations~~ of the commission are being violated at the race track or
21 enclosure.
22

23 SECTION 2819. Arkansas Code § 23-111-204 is amended to read as
24 follows:

25 23-111-204. Regulatory authority – Limitations.

26 (a) The Arkansas Racing Commission shall have full, complete, and sole
27 power and authority to promulgate rules, ~~regulations~~, and orders and
28 prescribe conditions under which greyhound racing shall be conducted by a
29 franchise holder, but the power and authority so granted shall be exercised
30 by the commission in a reasonable manner. The holder of any franchise, or any
31 taxpayer, shall have redress to the Pulaski County Circuit Court for any
32 wrong committed by the commission in the exercise of the power and authority
33 granted pursuant to this section.

34 (b)(1) The commission shall have no right or power to determine who
35 shall be officers or employees of any franchise holder.

36 (2) However, the commission may by rule require that all

1 officers and employees, or agents, of the franchise holder who are in charge
2 of, or whose duties relate directly to, the running of races, and the
3 handling of any funds which may be wagered on any race, be approved by the
4 commission.

5 (3) The commission may compel the discharge of any official,
6 employee, or agent of the franchise holder who fails or refuses to comply
7 with the rules, ~~regulations~~, or orders of the commission or who, in the
8 opinion of the commission, is guilty of fraud or dishonesty.

9
10 SECTION 2820. Arkansas Code § 23-111-502(a)(2), concerning rules of
11 the Arkansas Racing Commission concerning racing days and hours, is amended
12 to read as follows:

13 (2) The commission's rules ~~and regulations~~ shall be in the best
14 interests of the dog racing franchisee, kennel owners, and greyhound racing
15 in the State of Arkansas.

16
17 SECTION 2821. Arkansas Code § 23-111-503(d), concerning rulemaking
18 authority of the Arkansas Racing Commission regarding audits and verification
19 of receipts and expenditures of certain franchise holders, is amended to read
20 as follows:

21 (d) The commission shall establish appropriate rules ~~and regulations~~
22 to assure compliance with the provisions of this section and shall audit and
23 verify all receipts and expenditures of the franchise holder in determining
24 compliance with this section.

25
26 SECTION 2822. Arkansas Code § 23-111-508(d)(3), concerning the
27 Arkansas Racing Commission's rulemaking authority regarding wagering on
28 greyhound racing meets, is amended to read as follows:

29 (3) In addition to the pari-mutuel or certificate system of
30 wagering as authorized by this chapter, the commission is authorized and
31 directed to establish and adopt rules ~~and regulations~~ permitting the conduct
32 of pari-mutuel or certificate system of wagering upon racing, either horse or
33 greyhound, shown live or in any other manner approved by the commission by
34 television or otherwise to or from the premises of the franchise holder.

35
36 SECTION 2823. Arkansas Code § 23-111-512(c), concerning the Arkansas

1 Racing Commission's authority to investigate potential violations of its
2 rules, is amended to read as follows:

3 (c) The commission may also at any time investigate and ascertain
4 whether or not any of the provisions of this chapter or the rules ~~and~~
5 ~~regulations~~ of the commission are being violated at the race track or
6 enclosure.

7
8 SECTION 2824. Arkansas Code § 23-111-515(c), concerning the Arkansas
9 Racing Commission's rulemaking power to effectuate additional racing days for
10 the benefit of small municipalities and community colleges, is amended to
11 read as follows:

12 (c) The commission shall establish appropriate rules ~~and regulations~~
13 to assure compliance with the provisions of this section and shall audit and
14 verify all receipts and expenditures of the franchise holder in determining
15 compliance with this section.

16
17 SECTION 2825. Arkansas Code § 23-112-103(30)(B), concerning the
18 definition of "specialty vehicle", is amended to read as follows:

19 (B) "Specialty vehicle" includes garbage trucks,
20 ambulances, fire trucks, limousines, hearses, and other similar limited-
21 purpose vehicles as the commission may by ~~regulation~~ rule provide;

22
23 SECTION 2826. Arkansas Code § 23-112-104(a), concerning enforcement
24 authority for injunctive relief of the Arkansas Motor Vehicle Commission, is
25 amended to read as follows:

26 (a) The Arkansas Motor Vehicle Commission shall be entitled to seek an
27 injunction upon affidavit in the circuit court for the county in which the
28 commission's office is located to prevent any person, firm, partnership,
29 association, corporation, or legal entity from violating any provision of
30 this chapter or any rule ~~or regulation~~ promulgated by the commission.

31
32 SECTION 2827. Arkansas Code § 23-112-105(a), concerning civil damages
33 for certain violations of Arkansas Motor Vehicle Commission rules, is amended
34 to read as follows:

35 (a) A licensee suffering pecuniary loss because of any willful failure
36 by any other licensee to comply with this chapter, other than a new

1 automobile or truck dealer's failure to comply with § 23-112-301(d)(1) and
2 (2) or with any rule ~~or regulation~~ promulgated by the Arkansas Motor Vehicle
3 Commission under authority vested in it by this chapter, may recover
4 reasonable damages and attorney's fees therefor in any court of competent
5 jurisdiction.

6
7 SECTION 2828. Arkansas Code § 23-112-106(a), concerning enforcement
8 authority of the Arkansas Motor Vehicle Commission, is amended to read as
9 follows:

10 (a) The Arkansas Motor Vehicle Commission may enter orders that direct
11 and command compliance with this chapter and ~~regulations~~ rules under this
12 chapter if any of the following conditions have been met:

13 (1) The commission has conducted a hearing within sixty (60)
14 days on the matter;

15 (2) The commission has made written findings that the public
16 interest and welfare require the person or entity against whom the commission
17 is acting to take the specified action; or

18 (3) The commission finds that the current civil or
19 administrative penalties are insufficient.

20
21 SECTION 2829. Arkansas Code § 23-112-204 is amended to read as
22 follows:

23 23-112-204. Rules ~~and regulations~~.

24 The Arkansas Motor Vehicle Commission shall have power to prescribe,
25 issue, amend, and rescind, pursuant to the Arkansas Administrative Procedure
26 Act, § 25-15-201 et seq., such reasonable rules ~~and regulations~~ as may be
27 reasonably necessary or appropriate to carry out the provisions of this
28 chapter.

29
30 SECTION 2830. Arkansas Code § 23-112-308(a)(4), concerning the
31 Arkansas Motor Vehicle Commission's authority to deny, revoke, or suspend a
32 license, is amended to read as follows:

33 (4) For failure to comply with any provision of this chapter or
34 with any rule ~~or regulation~~ promulgated by the commission under authority
35 vested in it by this chapter;

36

1 SECTION 2831. Arkansas Code § 23-112-308(a)(6), concerning the
2 Arkansas Motor Vehicle Commission's authority to deny, revoke, or suspend a
3 license, is amended to read as follows:

4 (6) Continued violation of any of the provisions of this chapter
5 or of any of the rules ~~or regulations~~ of the commission;

6
7 SECTION 2832. Arkansas Code § 23-112-309(a)(1), concerning monetary
8 penalties allowed in lieu of suspension or revocation of license in certain
9 circumstances, is amended to read as follows:

10 (a)(1) If after alternative proceedings or notice and hearing the
11 Arkansas Motor Vehicle Commission finds that any person holding a license
12 under this chapter is guilty of any violation of this chapter or ~~regulations~~
13 rules promulgated under this chapter, it shall have the power and authority
14 to impose a monetary penalty upon the licensee in lieu of suspension or
15 revocation of license.

16
17 SECTION 2833. Arkansas Code § 23-112-314(b), concerning civil penalty
18 violations of rules of the Arkansas Motor Vehicle Commission, is amended to
19 read as follows:

20 (b) Each day of violation of this chapter or of a ~~regulation~~ rule
21 shall constitute a separate violation subjecting the person to a separate
22 civil penalty.

23
24 SECTION 2834. Arkansas Code § 23-112-316(f), concerning delivery of a
25 new motor vehicle prior to sale, is amended to read as follows:

26 (f) The Arkansas Motor Vehicle Commission shall promulgate rules ~~and~~
27 ~~regulations~~ to implement, enforce, and administer this section.

28
29 SECTION 2835. Arkansas Code § 23-112-613(f), concerning the rulemaking
30 authority of the Department of Arkansas State Police to ensure delivery prior
31 to sale, is amended to read as follows:

32 (f) The Department of Arkansas State Police shall promulgate rules ~~and~~
33 ~~regulations~~ to implement, enforce, and administer this section.

34
35 SECTION 2836. Arkansas Code § 23-113-201(e), concerning rulemaking
36 authority of the Arkansas Racing Commission concerning electronic games of

1 skill, is amended to read as follows:

2 (e) For each electronic game of skill, the commission shall provide by
3 appropriate rule ~~or regulation~~ the specifications for establishing that
4 patrons, in the aggregate, exercising some degree of skill or judgment, over
5 the expected lifetime of the electronic game of skill, will obtain a payout
6 of at least eighty-three percent (83%) of the aggregate amounts wagered on
7 the electronic game of skill.

8

9 SECTION 2837. Arkansas Code § 23-113-302(b), concerning powers and
10 duties of the Arkansas Racing Commission as it pertains to electronic games
11 of skill, is amended to read as follows:

12 (b) The commission may promulgate, revise, amend, and repeal rules,
13 ~~regulations~~, and orders, consistent with the policy, objects, and purposes of
14 this chapter, as it reasonably deems necessary or desirable in the public
15 interest in carrying out the provisions of this chapter.

16

17 SECTION 2838. Arkansas Code § 23-113-401(c), concerning payment of a
18 percentage of net wagering revenues from certain electronic games of skill to
19 the Arkansas Racing Commission, is amended to read as follows:

20 (c) With respect to a franchise holder operating a franchise to
21 conduct greyhound racing, an amount equal to one percent (1%) of the net
22 wagering revenues from electronic games of skill conducted by the greyhound
23 racing franchise holder shall be paid by the franchise holder to the
24 commission to be used for breeders' awards as provided in the commission's
25 rules ~~and regulations~~ governing greyhound racing in Arkansas in order to
26 promote and encourage greyhound breeding activities in Arkansas.

27

28 SECTION 2839. Arkansas Code § 23-113-401(e), concerning jurisdiction
29 of the Arkansas Racing Commission to verify compliance with its rules, is
30 amended to read as follows:

31 (e) The commission shall have jurisdiction to check and verify
32 compliance by the franchise holder with the provisions of this section and
33 shall make periodic determinations as to compliance under rules ~~and~~
34 ~~regulations~~ adopted by the commission.

35

36 SECTION 2840. Arkansas Code § 23-113-601 is amended to read as

1 follows:

2 23-113-601. Duty to maintain records.

3 A franchise holder operating electronic games of skill and conducting
4 wagering thereon under this chapter shall keep a complete set of books and
5 records as necessary to show fully the activities and transactions of the
6 franchise holder with respect to the operations and wagering conducted in
7 accordance with this chapter, and the Arkansas Racing Commission shall have
8 reasonable access to the books and records in order to verify compliance with
9 the provisions of this chapter and the rules ~~and regulations~~ of the
10 commission.

11

12 SECTION 2841. Arkansas Code § 24-1-203 is amended to read as follows:

13 24-1-203. Rules ~~and regulations~~.

14 The Arkansas Public Employees' Retirement System shall make and publish
15 rules ~~and regulations~~ not inconsistent with the provisions of this subchapter
16 it finds necessary or appropriate to the efficient administration of the
17 functions with which it is charged under this subchapter.

18

19 SECTION 2842. Arkansas Code § 24-1-205, concerning the retirement
20 system plans, is amended to read as follows:

21 Each political subdivision of the state is authorized to submit for
22 approval by the Arkansas Public Employees' Retirement System a plan for
23 extending the benefits of Title II of the Social Security Act, 42 U.S.C. §
24 301 et seq., in conformity with the applicable provisions of that act, to
25 employees of the political subdivisions. Each plan, and any amendment to it,
26 shall be approved by the system if it finds that the plan, or plan as
27 amended, is in conformity with such requirements as are provided in
28 ~~regulations~~ rules of the system, except that no plan shall be approved
29 unless:

30

31 SECTION 2843. Arkansas Code § 24-1-208(a)(1), concerning contributions
32 of employees of political subdivisions to the Arkansas Public Employees'
33 Retirement System, is amended to read as follows:

34 (a)(1) Each political subdivision as to which a plan has been approved
35 under § 24-1-205, with respect to wages as defined in § 24-1-202 and at such
36 time or times as the Arkansas Public Employees' Retirement System may by

1 ~~regulation~~ rule prescribe, shall pay contributions in the amounts and at the
2 rates specified in the applicable Section 218 agreement entered into by the
3 system under § 24-1-204.

4
5 SECTION 2844. Arkansas Code § 24-2-402(1)(C), concerning deferred
6 annuity eligibility under reciprocal retirement systems, is amended to read
7 as follows:

8 (C) The provisions for determining a year of service
9 credit shall be the prevailing ~~regulations~~ rules of each reciprocal system;

10
11 SECTION 2845. Arkansas Code § 24-2-402(8)(B), concerning deferred
12 annuity eligibility under reciprocal retirement systems, is amended to read
13 as follows:

14 (B) The boards of trustees of each preceding or succeeding
15 system shall promulgate such rules ~~and regulations~~ as are necessary to
16 coordinate their benefits with any system providing a deferred retirement
17 option plan; and

18
19 SECTION 2846. Arkansas Code § 24-2-405(b), concerning disability
20 benefits under the Arkansas Public Employees' Retirement System, is amended
21 to read as follows:

22 (b) Each reciprocal system shall make the determination under its
23 respective rules ~~and regulations~~ as to whether the member is eligible for
24 disability benefits.

25
26 SECTION 2847. Arkansas Code § 24-2-702(b)(3), concerning reports of
27 the Arkansas Public Employees' Retirement System, is amended to read as
28 follows:

29 (3) All contracts for audits shall be in compliance with the
30 state's fiscal laws and ~~regulations~~ rules.

31
32 SECTION 2848. Arkansas Code § 24-4-105(a)(2), concerning the powers
33 and duties of the Board of Trustees of the Arkansas Public Employees'
34 Retirement System, is amended to read as follows:

35 (2) Special meetings may be held in accordance with such rules
36 ~~and regulations~~ as the board shall adopt from time to time.

1
2 SECTION 2849. Arkansas Code § 24-4-105(b)(1), concerning the powers
3 and duties of the Board of Trustees of the Arkansas Public Employees'
4 Retirement System, is amended to read as follows:

5 (1) Make all rules ~~and regulations~~ as it shall deem necessary
6 from time to time in the transaction of its business and in administering the
7 Arkansas Public Employees' Retirement System;

8
9 SECTION 2850. Arkansas Code § 24-4-106(a)(1)(B), concerning
10 contributions by public employers to a single state-authorized retirement
11 plan, is amended to read as follows:

12 (B) The Board of Trustees of the Arkansas Public
13 Employees' Retirement System shall promulgate such rules ~~and regulations~~ as
14 are required to prohibit the establishment of such plans in the future.

15
16 SECTION 2851. Arkansas Code § 24-4-106(b), concerning contributions by
17 public employers to a single state-authorized retirement plan, is amended to
18 read as follows:

19 (b) The system shall notify all participating employers on an annual
20 basis of the requirements of this section and the board rules ~~and regulations~~
21 governing this subject.

22
23 SECTION 2852. Arkansas Code § 24-4-108(b)(1), concerning the
24 implementation of a contributory component, is amended to read as follows:

25 (b)(1) In accordance with the rules ~~and regulations~~ of the board,
26 there shall be an annual review of the actuarial valuation of the plan as
27 provided by its actuary.

28
29 SECTION 2853. The introductory language of Arkansas Code § 24-4-
30 108(c)(2), concerning the implementation of a contributory component, is
31 amended to read as follows:

32 (2) The board shall develop policies and ~~regulations~~ rules from
33 its annual review of the contributory component of the system and, as a
34 minimum, the board's ~~regulations~~ rules shall provide for:

35
36 SECTION 2854. Arkansas Code § 24-4-202(e)(1), concerning contributions

1 to the Arkansas Public Employees' Retirement System Fund, is amended to read
2 as follows:

3 (e)(1) If any participating public employer fails to remit to the
4 Arkansas Public Employees' Retirement System those moneys which are required
5 by law or ~~regulation~~ rule by the date and at the frequency established by the
6 board, the system shall impose a penalty equal to the actuarially assumed
7 rate of return on investments of the Arkansas Public Employees' Retirement
8 System Fund in the form of interest on an annual basis on the moneys due.

9
10 SECTION 2855. Arkansas Code § 24-4-507(a)(1), concerning credited
11 service to determine eligibility for benefits, is amended to read as follows:

12 (a)(1) The Board of Trustees of the Arkansas Public Employees'
13 Retirement System shall determine, by appropriate rules ~~and regulations~~
14 consistent with the provisions of this chapter, the amount of service to be
15 credited any member for any fiscal year.

16
17 SECTION 2856. Arkansas Code § 24-4-508(d), concerning eligibility for
18 retirement benefits, is amended to read as follows:

19 (d) A member's retirement election is irrevocable except under
20 circumstances as may be permitted by the board by ~~regulation~~ rule.

21
22 SECTION 2857. Arkansas Code § 24-4-517(b)(4), concerning state service
23 under a federal grant, is amended to read as follows:

24 (4) Has otherwise complied with all other rules ~~and regulations~~
25 as the Board of Trustees of the Arkansas Public Employees' Retirement System
26 may from time to time adopt under this section.

27
28 SECTION 2858. Arkansas Code § 24-4-603(e), concerning the refund of
29 retirement contributions, is amended to read as follows:

30 (e) Refunds of a member's contributions or accumulated contributions,
31 as the case may be, may be made in equal installments according to such rules
32 ~~and regulations~~ as the board may adopt from time to time.

33
34 SECTION 2859. Arkansas Code § 24-4-615(b), concerning maximum
35 retirement benefit limitation, is amended to read as follows:

36 (b)(1) The Board of Trustees of the Arkansas Public Employees'

1 Retirement System is hereby empowered and authorized to promulgate all
2 necessary rules ~~and regulations~~ to implement the limitations of the Internal
3 Revenue Code, 26 U.S.C. § 415.

4 (2) The rules ~~and regulations~~ adopted by the board pursuant to
5 this section shall be amended to reflect any changes in the content or
6 application of the Internal Revenue Code, 26 U.S.C. § 415.

7
8 SECTION 2860. Arkansas Code § 24-4-620(c), concerning a partial
9 annuity withdrawal provision, is amended to read as follows:

10 (c) A member electing to participate shall have his or her lifetime
11 annuity reduced by an actuarially determined equivalent in accordance with
12 rules ~~and regulations~~ adopted by the Board of Trustees of the Arkansas Public
13 Employees' Retirement System.

14
15 SECTION 2861. Arkansas Code § 24-4-726(d), concerning state
16 penitentiary employees, is amended to read as follows:

17 (d) The Board of Trustees of the Arkansas Public Employees' Retirement
18 System is directed to make such rules ~~and regulations~~ as, in its opinion,
19 will effect an orderly transfer of membership and service credits as provided
20 in this section.

21
22 SECTION 2862. Arkansas Code § 24-4-746 is amended to read as follows:

23 24-4-746. Authority to promulgate rules.

24 The Board of Trustees of the Arkansas Public Employees' Retirement
25 System shall have the authority to promulgate such rules ~~and regulations~~ as
26 are necessary to provide for the participation of employers defined as public
27 rehabilitative services corporations or other local units of government under
28 the provisions of § 4-34-101 and such local units of government as are
29 provided for under this Code. Provided, however, the board shall not admit or
30 retain any employer whose participation in the Arkansas Public Employees'
31 Retirement System would jeopardize the tax-qualified status of the plan under
32 the Internal Revenue Code, 26 U.S.C. § 1 et seq., or that would subject the
33 plan to additional federal requirements, or to any other consequence that the
34 board would determine to be detrimental to the system.

35
36 SECTION 2863. Arkansas Code § 24-4-748(c), concerning dual full-time

1 employment and retirement eligibility, is amended to read as follows:

2 (c) The Board of Trustees of the Arkansas Public Employees' Retirement
3 System shall have the authority to promulgate any necessary forms for
4 application to restore the service and reasonable rules ~~and regulations~~ to
5 implement this section.

6
7 SECTION 2864. Arkansas Code § 24-4-801(c), concerning participation in
8 the Arkansas Public Employees' Retirement System Deferred Retirement Option
9 Plan, is amended to read as follows:

10 (c) The Board of Trustees of the Arkansas Public Employees' Retirement
11 System, in consultation with its actuary, may promulgate rules ~~and~~
12 ~~regulations~~ lowering the required years of service for entry into the plan to
13 an amount of not less than twenty-eight (28) years of service, subject to an
14 early participation reduction. The reduction will be computed in a manner
15 that is both equitable to all members and actuarially appropriate for the
16 system.

17
18 SECTION 2865. Arkansas Code § 24-4-803(b) concerning the amount of
19 benefit and the amount of contribution to the Arkansas Public Employees'
20 Retirement System Deferred Retirement Option Plan, is amended to read as
21 follows:

22 (b) The member's deferred option account shall be the account in which
23 shall be accumulated the member's deferred option contributions, plus
24 interest. Effective July 1, 1999, the Arkansas Public Employees' Retirement
25 System's deferred option contributions shall be at least seventy-five percent
26 (75%) of the system's deferred option benefit with the exact contribution to
27 be determined in accordance with the rules ~~and regulations~~ of the board as is
28 actuarially appropriate for the system. The member shall be informed of the
29 amount of his or her deferred option contribution and informed that his or
30 her selection of the deferred retirement option, the time of the retirement
31 deferral, and the selection of the retirement annuity are irrevocable.

32
33 SECTION 2866. Arkansas Code § 24-5-104(d)(1), concerning the Board of
34 Trustees of the Arkansas State Highway Employees' Retirement System, is
35 amended to read as follows:

36 (1) To make all rules ~~and regulations~~ necessary and proper for

1 carrying out the provisions of this chapter;

2
3 SECTION 2867. Arkansas Code § 24-5-112(c), concerning eligibility for
4 benefits under the Arkansas State Highway Employees' Retirement System, is
5 amended to read as follows:

6 (c) The Board of Trustees of the Arkansas State Highway Employees'
7 Retirement System, by ~~regulation~~ rule, may reduce the amount of creditable
8 service required to retire voluntarily regardless of age from thirty (30)
9 years of creditable service to an amount of no less than twenty-eight (28)
10 years of creditable service, if the board determines that the change is fair
11 and just to the members of the system and that it is actuarially appropriate.

12
13 SECTION 2868. Arkansas Code § 24-5-201 is amended to read as follows:
14 24-5-201. Establishment.

15 (a) The Board of Trustees of the Arkansas State Highway Employees'
16 Retirement System may establish a deferred retirement option plan for its
17 members so that, in lieu of terminating employment, they might continue with
18 employment and accept a service retirement benefit pursuant to § 24-5-101 et
19 seq. The board shall be authorized to promulgate rules ~~and regulations~~ for a
20 plan to provide this deferred retirement option to its members as is
21 appropriate to maintain a goal of zero (0) cost to the system.

22 (b) The board shall be authorized to promulgate rules ~~and regulations~~
23 for a plan to provide this deferred retirement option to its members as is
24 appropriate to maintain a goal of zero (0) cost to the system.

25
26 SECTION 2869. Arkansas Code § 24-5-204 is amended to read as follows:
27 24-5-204. Rules ~~and regulations~~ - Applicability.

28 (a) The Board of Trustees of the Arkansas State Highway Employees'
29 Retirement System, in consultation with its actuary, may promulgate rules ~~and~~
30 ~~regulations~~ to lower the required years of service for entry into the
31 Arkansas State Highway Employees' Deferred Retirement Option Plan authorized
32 by this subchapter, subject to any early participation reduction. The
33 reduction will be computed in a manner that is both equitable and actuarially
34 appropriate for the system.

35 (b) This section shall apply only to entry into the plan by a person
36 who has twenty-eight (28) or twenty-nine (29) years of creditable service and

1 whose eligibility for retirement is based on ~~regulations~~ rules adopted
2 pursuant to § 24-5-112(c).

3
4 SECTION 2870. Arkansas Code § 24-6-101(b)(1), concerning the Arkansas
5 State Police Commission system for payment of disability and retirement
6 benefits and medical fees, is amended to read as follows:

7 (1) Promulgate and enforce all rules ~~and regulations~~ necessary
8 to create and administer a system of paying medical and hospitalization fees,
9 disability benefits, pensions, and retirement pay to members of the
10 department;

11
12 SECTION 2871. Arkansas Code § 24-6-204(f)(1), concerning the Board of
13 Trustees of the State Police Retirement System, is amended to read as
14 follows:

15 (1) Make all rules ~~and regulations~~ from time to time as it shall
16 deem necessary in the transaction of its business and in administering the
17 State Police Retirement System;

18
19 SECTION 2872. Arkansas Code § 24-6-210(b)(1), concerning credited
20 service in the State Police Retirement System, is amended to read as follows:

21 (b)(1) The board shall determine by appropriate rules ~~and regulations~~
22 the amount of service to be credited any member.

23
24 SECTION 2873. Arkansas Code § 24-6-210(c)(3)(B), concerning credited
25 service in the State Police Retirement System, is amended to read as follows:

26 (B) Repayment shall be made according to such rules ~~and~~
27 ~~regulations~~ as the board shall adopt from time to time.

28
29 SECTION 2874. Arkansas Code § 24-6-216(d)(3), concerning a survivor's
30 pension upon the death of a retirant, is amended to read as follows:

31 (3) The board is authorized to establish through rules ~~and~~
32 ~~regulations~~ a means of verification of enrollment in a secondary school or
33 postsecondary institution of higher education by a surviving dependent child
34 under this section for purposes of pension benefits.

35
36 SECTION 2875. Arkansas Code § 24-6-217(e)(3), concerning a survivor's

1 pension upon the death of a member, is amended to read as follows:

2 (3) The board is authorized to establish through rules ~~and~~
3 ~~regulations~~ a means of verification of enrollment in a secondary school or
4 postsecondary institution of higher education by a surviving dependent child
5 under this section for purposes of pension benefits.

6
7 SECTION 2876. Arkansas Code § 24-6-218(a)(1), concerning a survivor's
8 benefits upon the death of an officer killed in the line of duty while not a
9 member of the system, is amended to read as follows:

10 (a)(1) In the event any uniformed employee of the Department of
11 Arkansas State Police is killed while in the performance of his or her
12 duties, yet the surviving spouse and surviving children of the uniformed
13 employee of the department are deprived of receiving benefits as prescribed
14 in § 24-6-217 because the uniformed employee was not a member of the system
15 at the time of his or her death, or had not completed any probationary period
16 of service required by ~~regulations~~ rules of the Arkansas State Police
17 Commission, or had not obtained sufficient service for benefits, the
18 surviving spouse may make application to the Board of Trustees of the State
19 Police Retirement System.

20
21 SECTION 2877. Arkansas Code § 24-6-218(e)(2), concerning a survivor's
22 benefits upon the death of an officer killed in the line of duty while not a
23 member of the system, is amended to read as follows:

24 (2) The board is hereby authorized to establish through rules
25 ~~and regulations~~ a means of verification of enrollment in an institution of
26 higher education by a surviving child under this section for purposes of
27 continuation of pension benefits.

28
29 SECTION 2878. Arkansas Code § 24-6-222(d), concerning refunds of
30 contributions from the State Police Retirement System, is amended to read as
31 follows:

32 (d) Refunds of a member's contributions or accumulated contributions,
33 as the case may be, may be made in equal installments according to such rules
34 ~~and regulations~~ as the board may adopt from time to time.

35
36 SECTION 2879. Arkansas Code § 24-6-412(c), concerning refunds of

1 contributions from the State Police Retirement System, is amended to read as
2 follows:

3 (c) Refunds of a member's contributions or accumulated contributions,
4 as the case may be, may be made in equal installments according to the rules
5 ~~and regulations~~ that the board may adopt from time to time.

6
7 SECTION 2880. Arkansas Code § 24-6-414(b), concerning maximum benefit
8 limits under the State Police Retirement System, is amended to read as
9 follows:

10 (b)(1) The Board of Trustees of the State Police Retirement System is
11 hereby empowered and authorized to promulgate all necessary rules ~~and~~
12 ~~regulations~~ to implement the limitations of the Internal Revenue Code, 26
13 U.S.C. § 415.

14 (2) The rules ~~and regulations~~ adopted by the board pursuant to
15 this section shall be amended to reflect any changes in the content or
16 application of the Internal Revenue Code, 26 U.S.C. § 415 enacted by Congress
17 or promulgated by the Internal Revenue Service.

18
19 SECTION 2881. Arkansas Code § 24-7-103 is amended to read as follows:
20 24-7-103. Payment of employer contribution rate.

21 Local school districts shall pay the teacher retirement employer
22 contribution rate for any eligible employee in accordance with rules ~~and~~
23 ~~regulations~~ established by the Board of Trustees of the Arkansas Teacher
24 Retirement System.

25
26 SECTION 2882. Arkansas Code § 24-7-202(17)(D)(iii)(a), concerning the
27 definition of "employment with a school" under the Arkansas Teacher
28 Retirement System Act, is amended to read as follows:

29 (a) Approved according to rules ~~and~~
30 ~~regulations~~ established by the board;

31
32 SECTION 2883. Arkansas Code § 24-7-202(18)(A)(i), concerning the
33 definition of "final average salary" under the Arkansas Teacher Retirement
34 System Act, is amended to read as follows:

35 (18)(A)(i) "Final average salary" means the average of the
36 remuneration paid to a member by a participating employer during the fiscal

1 year ending June 30 of not less than three (3) years nor more than five (5)
2 years of credited service producing the highest annual average determined in
3 accordance with the rules ~~and regulations~~ of the board as is actuarially
4 appropriate for the Arkansas Teacher Retirement System.

5
6 SECTION 2884. Arkansas Code § 24-7-207 is amended to read as follows:
7 24-7-207. Increase in benefit amount.

8 (a) The Board of Trustees of the Arkansas Teacher Retirement System is
9 authorized by this act to raise the level of benefits to the current
10 retirants and other beneficiaries of the Arkansas Teacher Retirement System
11 to a comparable level increase to match the increase in benefits that would
12 accrue to active members as a result of any reduction of the calculation of
13 "final average salary" to not less than a three-year period nor more than the
14 five-year period in accordance with any rules ~~and regulations~~ the board might
15 promulgate.

16 (b) The amount of any increase for retirants and other beneficiaries
17 shall also be determined in accordance with the rules ~~and regulations~~ of the
18 board as is actuarially appropriate for the system.

19
20 SECTION 2885. Arkansas Code § 24-7-210(b) and (c), concerning the
21 Arkansas Teacher Retirement System and federal taxation, are amended to read
22 as follows:

23 (b) Notwithstanding any language to the contrary set forth in this
24 chapter, the Board of Trustees of the Arkansas Teacher Retirement System
25 shall have the authority to promulgate rules ~~and regulations~~ consistent with
26 these directions.

27 (c) Any ~~regulation~~ rule promulgated under this section that is found
28 to be in conflict with an applicable provision of the code is null and void.

29
30 SECTION 2886. Arkansas Code § 24-7-411(a)(1), concerning compelling
31 payment upon the delinquency of an employer to submit contributions to the
32 Arkansas Teacher Retirement System, is amended to read as follows:

33 (a)(1) If any participating employer fails to remit to the Arkansas
34 Teacher Retirement System contributions that are required by law, rule, or
35 regulation by the fifteenth day of the month in which the moneys are due,
36 then the system shall impose an interest penalty of eight percent (8%) per

1 annum with a daily interest accrual.

2
3 SECTION 2887. Arkansas Code § 24-7-603(c)(5), concerning out-of-state
4 service under the Arkansas Teacher Retirement System Act, is amended to read
5 as follows:

6 (5) Such other rules ~~and regulations~~ consistent with this
7 subchapter as the Board of Trustees of the Arkansas Teacher Retirement System
8 may from time to time adopt.

9
10 SECTION 2888. Arkansas Code § 24-7-607(b)(5), concerning the
11 definition of "private school service" under the Arkansas Teacher Retirement
12 System, is amended to read as follows:

13 (5) Such other rules ~~and regulations~~ consistent with this
14 subchapter as the Board of Trustees of the Arkansas Teacher Retirement System
15 may from time to time adopt.

16
17 SECTION 2889. Arkansas Code § 24-7-607(c)(4), concerning the
18 definition of "private school service" under the Arkansas Teacher Retirement
19 System, is amended to read as follows:

20 (4) The purchase and application of the noncertified service
21 credit shall be subject to the rules ~~and regulations~~ consistent with this
22 subchapter as the Arkansas Teacher Retirement System may from time to time
23 adopt.

24
25 SECTION 2890. Arkansas Code § 24-7-611(b)(5), concerning the
26 definition of "domestic federal service" under the Arkansas Teacher
27 Retirement System Act, is amended to read as follows:

28 (5) The other rules ~~and regulations~~ consistent with this section
29 as the Board of Trustees of the Arkansas Teacher Retirement System may from
30 time to time adopt.

31
32 SECTION 2891. Arkansas Code § 24-7-728 is amended to read as follows:

33 24-7-728. Computation of benefits based on life annuity.

34 The Board of Trustees of the Arkansas Teacher Retirement System is
35 authorized by this section to raise the level of benefit to the current
36 retirants and other beneficiaries of the Arkansas Teacher Retirement System

1 to a comparable level increase to match the increase in benefits that would
2 accrue to active members as a result of any increase in the calculation of a
3 life annuity as provided in § 24-7-705(a)(1)(A) and (a)(1)(B) in accordance
4 with any rules ~~and regulations~~ the board might promulgate. The amount of any
5 increase for retirants and other beneficiaries shall also be determined in
6 accordance with the rules ~~and regulations~~ of the board as is actuarially
7 appropriate for the system. Prior to increasing a benefit as provided in this
8 section, the board shall file relevant information concerning the actuarial
9 appropriateness of the action with the Joint Committee on Public Retirement
10 and Social Security Programs, and the action shall be reviewed by the
11 committee.

12
13 SECTION 2892. Arkansas Code § 24-7-1314(a), concerning early
14 participation in the Teacher Deferred Retirement Option Plan, is amended to
15 read as follows:

16 (a) The Board of Trustees of the Arkansas Teacher Retirement System,
17 in consultation with its actuary, may promulgate rules ~~and regulations~~ to
18 allow members having at least twenty-eight (28) but less than thirty (30)
19 years of credited service to enter the Teacher Deferred Retirement Option
20 Plan as early participants. The board may authorize the early participation
21 as soon as it is technologically feasible and actuarially appropriate.

22
23 SECTION 2893. Arkansas Code § 24-8-203(c)(1), concerning the Board of
24 Trustees of the Arkansas Judicial Retirement System, is amended to read as
25 follows:

26 (1) To make all rules ~~and regulations~~ necessary and proper for
27 carrying out the provisions of this section;

28
29 SECTION 2894. Arkansas Code § 24-10-203(c), concerning the proceedings
30 of the Board of Trustees of the Arkansas Local Police and Fire Retirement
31 System, is amended to read as follows:

32 (c) Subject to the limitations of this chapter, the board shall
33 formulate and adopt rules ~~and regulations~~ for the government of its own
34 proceedings and for the administration of the system.

35
36 SECTION 2895. Arkansas Code § 24-10-206(b) and (c), concerning the

1 Arkansas Local Police and Fire Retirement System and federal taxation, are
2 amended to read as follows:

3 (b) Notwithstanding any language to the contrary under this chapter,
4 the Board of Trustees of the Arkansas Local Police and Fire Retirement System
5 may promulgate rules ~~and regulations~~ consistent with this section.

6 (c) Any rule ~~or regulation~~ or portion of a rule ~~or regulation~~
7 promulgated under this section that is found by a court of competent
8 jurisdiction to be in conflict with an applicable provision of the Internal
9 Revenue Code of 1986, as it existed on January 1, 2011, shall be promptly
10 corrected.

11
12 SECTION 2896. Arkansas Code § 24-10-303 is amended to read as follows:

13 24-10-303. Rules ~~and regulations~~ governing participation.

14 The Board of Trustees of the Arkansas Local Police and Fire Retirement
15 System shall have the authority to promulgate such rules ~~and regulations~~ as
16 are necessary to provide for the participation of employers that are rural
17 fire protection corporations authorized under the provisions of § 4-34-101 et
18 seq. However, the board shall not admit or retain any employer whose
19 participation in the Arkansas Local Police and Fire Retirement System would
20 jeopardize the tax-qualified status of the plan under the Internal Revenue
21 Code, 26 U.S.C. § 1 et seq., or that would subject the plan to additional
22 federal requirements, or to any other consequence that the board would
23 determine to be detrimental to the system.

24
25 SECTION 2897. Arkansas Code § 24-11-104 is amended to read as follows:

26 24-11-104. Rules ~~and regulations~~.

27 The Department of Finance and Administration is authorized to
28 promulgate such reasonable rules ~~and regulations~~ as are necessary to carry
29 out the provisions of §§ 24-11-301 and 24-11-809.

30
31 SECTION 2898. Arkansas Code § 24-11-203(i), concerning the Arkansas
32 Fire and Police Pension Review Board, is amended to read as follows:

33 (i)(1) The board shall have the power to make all rules ~~and~~
34 ~~regulations~~ necessary to enforce the laws governing funding standards and
35 benefit levels for firemen's relief and pension fund and police pension and
36 relief funds. Further, the board shall have the authority to make all rules

1 ~~and regulations~~ necessary to assure continued tax qualification of each
2 firemen's relief and pension fund and policemen's pension and relief fund
3 that is subject to this subchapter.

4 (2) All rules ~~and regulations~~ must be promulgated in accordance
5 with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201
6 et seq. In addition, all rules ~~and regulations~~ relating to continued tax
7 qualification of such plans shall be specifically presented to the Joint
8 Committee on Public Retirement and Social Security Programs, or the
9 Legislative Council when the General Assembly is not in session, for review
10 prior to final adoption.

11
12 SECTION 2899. Arkansas Code § 24-11-210(g), concerning requirements
13 for qualified plans under the Internal Revenue Code, is amended to read as
14 follows:

15 (g) If the amount of any benefit is to be determined on the basis of
16 actuarial assumptions that are not otherwise specifically set forth for that
17 purpose in this subchapter, the actuarial assumptions to be used are those
18 earnings and mortality assumptions being used on the date of the
19 determination by the fund's actuary and approved by the board. The actuarial
20 assumptions being used at any particular time shall be treated for all
21 purposes as a part of the rules ~~and regulations~~ of the firemen's relief and
22 pension fund or the policeman's pension and relief fund. The actuarial
23 assumptions may be changed by the actuary if approved by the board, but a
24 change in actuarial assumptions may not result in any decrease in benefits
25 accrued as of the effective date of the change.

26
27 SECTION 2900. Arkansas Code § 24-11-421(a)(3), concerning restoration
28 of credited service under the Arkansas Local Police and Fire Retirement
29 System, is amended to read as follows:

30 (3) The repayment shall be made according to such rules ~~and~~
31 ~~regulations~~ as the board shall adopt.

32
33 SECTION 2901. Arkansas Code § 24-11-434(i), concerning the Arkansas
34 Police Officers' Deferred Retirement Option Plan, is amended to read as
35 follows:

36 (i) The Arkansas Fire and Police Pension Review Board may promulgate

1 ~~regulations~~ rules to make the plan under this section comply with the
2 requirements of this section and with the applicable portions of the Internal
3 Revenue Code, 26 U.S.C. § 1 et seq., as it existed on January 1, 2003.

4
5 SECTION 2902. Arkansas Code § 24-11-816(b)(2)(B), concerning
6 membership in the Arkansas Local Police and Fire Retirement System, is
7 amended to read as follows:

8 (B) The repayment shall be made according to such rules
9 ~~and regulations~~ as the board shall adopt from time to time.

10
11 SECTION 2903. Arkansas Code § 24-11-830(h), concerning the Arkansas
12 Fire Fighters Deferred Retirement Option Plan, is amended to read as follows:

13 (h) The Arkansas Fire and Police Pension Review Board may promulgate
14 ~~regulations~~ rules to make the plan under this section comply with the
15 requirements of this section and with the applicable portions of the Internal
16 Revenue Code, 26 U.S.C. § 1 et seq., as it existed on January 1, 2003.

17
18 SECTION 2904. Arkansas Code § 24-12-105(c)(1), concerning the board of
19 trustees of the pension and relief fund for paid nonuniformed employees, is
20 amended to read as follows:

21 (c)(1) The board shall make all necessary rules ~~and regulations~~ for
22 its government and the discharge of its duties and shall hear and decide all
23 applications for relief or pensions under this act.

24
25 SECTION 2905. Arkansas Code § 25-1-110(b)(1), concerning cost-
26 effectiveness of state-owned vehicles, is amended to read as follows:

27 (b)(1) Each agency shall determine if the purchase or continued
28 ownership of a vehicle is cost effective based upon a comparison between
29 state vehicle ownership and private car mileage reimbursement break-even
30 points, as established pursuant to ~~regulations~~ rules promulgated by the
31 Department of Finance and Administration.

32
33 SECTION 2906. Arkansas Code § 25-1-203(e)(4), concerning the
34 distribution of state publications, is amended to read as follows:

35 (4) Copies of statutes, laws, and ~~regulations~~ rules;

36

1 SECTION 2907. Arkansas Code § 25-1-205(b)(2), concerning copies of
2 state publications to be filed with the Legislative Council, is amended to
3 read as follows:

4 (2) Copies of statutes, laws, and ~~regulations~~ rules;

5
6 SECTION 2908. Arkansas Code § 25-1-205(b)(4), concerning copies of
7 state publications to be filed with the Legislative Council, is amended to
8 read as follows:

9 (4) Publications that are applications, instructions, or
10 guidelines for complying with any state or federal law, rule, regulation, or
11 policy;

12
13 SECTION 2909. Arkansas Code § 25-1-502(5), concerning the definition
14 of "public entity" used for prohibited contracts and investments, is amended
15 to read as follows:

16 (5) "Public entity" means the State of Arkansas, or a political
17 subdivision of the state, including all boards, commissions, agencies,
18 institutions, authorities, and bodies politic and corporate of the state,
19 created by or in accordance with state law or ~~regulations~~ rules, and does
20 include colleges, universities, a statewide public employee retirement
21 system, and institutions in Arkansas as well as units of local and municipal
22 government;

23
24 SECTION 2910. Arkansas Code § 25-2-104(a)(1)(B), concerning type 1
25 transfers, is amended to read as follows:

26 (B) The promulgation of rules, rates, ~~regulations~~, and
27 standards; and

28
29 SECTION 2911. Arkansas Code § 25-4-105(a)(1), concerning powers and
30 duties of the Department of Information Systems, is amended to read as
31 follows:

32 (a)(1) The Department of Information Systems shall be vested with all
33 the powers and duties necessary to administer the department and to enable it
34 to carry out fully and effectively the ~~regulations~~ rules and laws relating to
35 the department.

36

1 SECTION 2912. Arkansas Code § 25-8-102(a) and (b), concerning
2 authority of the Director of the Department of Finance and Administration,
3 are amended to read as follows:

4 (a) The Director of the Department of Finance and Administration, with
5 the approval of the Governor, may adopt reasonable rules, ~~regulations~~, and
6 procedures, not inconsistent with the law, which he or she deems desirable
7 for the effective administration of the Department of Finance and
8 Administration and any of its divisions.

9 (b) The director shall have authority to install any recordkeeping and
10 other procedures in his or her office and in other offices and departments of
11 the state which he or she shall deem necessary or advisable to carry out his
12 or her functions and duties. However, nothing in this section shall be
13 construed to grant the director any authority to establish recordkeeping or
14 other procedures, or rules ~~and regulations~~ with respect to the elected
15 constitutional officers of the state, the General Assembly and its
16 committees, or other agencies who are exempt from all or a part of the
17 procedures set forth in the Arkansas Procurement Law, § 19-11-201 et seq.,
18 and the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq.
19

20 SECTION 2913. Arkansas Code § 25-10-104(d)(1), concerning the Board of
21 Developmental Disabilities Services, is amended to read as follows:

22 (d)(1) It is the intent of this section that the administration of the
23 human development centers located at Alexander, Arkadelphia, Booneville,
24 Conway, Jonesboro, and the Southeast Human Development Center at Warren, and
25 the various facilities and services thereof, shall be under the control of
26 the Board of Developmental Disabilities Services, as provided and intended by
27 the Arkansas Constitution, Amendment 33, but the board shall exercise its
28 control in accordance with the general guidelines, policies, and ~~regulations~~
29 rules of the Department of Human Services governing divisions, offices,
30 sections, or units within the department with respect to budgets, personnel
31 and personnel policies, records, purchasing, bookkeeping, and other
32 administrative procedures prescribed by the director.
33

34 SECTION 2914. Arkansas Code § 25-10-106(b)(2), concerning division
35 heads and other personnel of the Department of Human Services, is amended to
36 read as follows:

1 (2) All personnel employed in the institutions under the
2 management and control of those boards shall be named by the directors
3 thereof, under the departmental rules ~~and regulations~~ related to personnel,
4 and all personnel records of the boards of those institutions shall be in
5 conformance with the general personnel policies promulgated by the Director
6 of the Department of Human Services for other employees of the department.
7

8 SECTION 2915. Arkansas Code § 25-10-108(4)(A) and (B), concerning the
9 coordination of programs and procedures of department and institutional
10 boards of the Department of Human Services, are amended to read as follows:

11 (4)(A) Coordinate, with each institution and its administrator
12 under the control and direction of the Department of Human Services State
13 Institutional System Board and the Board of Developmental Disabilities
14 Services within the Department of Human Services, the purchasing policies and
15 procedures of the department as promulgated by the director thereof to assure
16 that all those institutions comply with the uniform purchasing practices and
17 policies of the department and with the Arkansas Procurement Law, § 19-11-201
18 et seq., and the rules ~~and regulations~~ promulgated thereunder by the State
19 Procurement Director.

20 (B) However, each of the various institutions under the
21 control of the Department of Human Services State Institutional System Board
22 and the Board of Developmental Disabilities Services within the Department of
23 Human Services is authorized to have institutional purchasing officials who
24 shall be authorized to make purchases in behalf of those institutions which
25 are not within the exclusive jurisdiction of the State Procurement Director,
26 but all such purchases shall be made in compliance with the uniform
27 purchasing practices and policies promulgated by the Director of the
28 Department of Human Services to be applicable to all divisions, offices,
29 sections, or units of the department and shall be in conformance with the
30 Arkansas Procurement Law, § 19-11-201 et seq., and ~~regulations~~ rules
31 promulgated by the State Procurement Director; and
32

33 SECTION 2916. Arkansas Code § 25-10-116(c), concerning advisory
34 committees determined by the Director of the Department of Human Services or
35 the Governor, is amended to read as follows:

36 (c) The members of the advisory committees shall be reimbursed for

1 actual and necessary meals, lodging, and mileage for travel in accordance
2 with the procedures and standards provided by law or ~~regulation~~ rule for
3 official travel by state employees in the performance of their duties.
4 Payment shall be made from funds appropriated to the department.

5
6 SECTION 2917. Arkansas Code § 25-10-134(a), concerning community-based
7 residential programs, is amended to read as follows:

8 (a)(1) The Department of Human Services shall not contract for
9 community-based residential programs within any municipalities to house
10 unrelated juveniles who have been adjudicated delinquent for a sexual offense
11 or serious violent offense, or convicted of a sexual offense or a serious
12 violent offense, until a community-based program has complied with
13 ~~regulations~~ rules promulgated ~~within thirty (30) days of July 1, 1995,~~ by the
14 department as set out herein.

15 (2) The purpose of these ~~regulations~~ rules is to ensure public
16 notice and public safety in the department's process of contracting for
17 residential services for adjudicated or convicted juvenile sexual offenders
18 or adjudicated or convicted serious violent offenders.

19 (3) Provided further, the ~~regulations~~ rules shall be developed
20 by the department and members of a committee appointed by the Governor, to
21 include representatives of the following:

- 22 (A) The General Assembly;
23 (B) Local elected officials;
24 (C) Citizen representatives of local communities;
25 (D) Prosecuting attorneys;
26 (E) Judges of circuit court, juvenile division;
27 (F) Community-based providers;
28 (G) Law enforcement officers; and
29 (H) At least one (1) recognized mental health professional
30 who specializes in the treatment of juvenile sexual offenders and juvenile
31 serious violent offenders.

32 (4) The ~~regulations~~ rules shall include, but are not limited to,
33 the following:

- 34 (A) Definitions for the terms "sexual offense" and "sexual
35 offender" and "serious violent offense" and "serious violent offender" for
36 purposes of this section;

1 (B) Procedures for notice to residents within a specified
2 geographic area of a proposed residential program for juvenile sexual
3 offenders and juvenile serious violent offenders, as defined in the
4 ~~regulations~~ rules;

5 (C) Procedures for preplacement review of juvenile sexual
6 offenders and juvenile serious violent offenders to determine that individual
7 placements are appropriate, taking into account the location of a facility
8 and a juvenile's offense or offenses, past treatment, prognosis, and present
9 behavior;

10 (D) Procedures to determine that the level of supervision
11 in a residential program is adequate for the individuals housed in the
12 program; and

13 (E) Procedures for the department and a community-based
14 contract provider to receive and respond to complaints and questions of
15 residents of a community in which a community-based program is proposed or
16 established, including remedies for a failure to respond.

17
18 SECTION 2918. Arkansas Code § 25-10-138 is amended to read as follows:

19 25-10-138. Education requirements for certain Division of Youth
20 Services employees.

21 (a) With the assistance of the Office of Personnel Management of the
22 Division of Management Services of the Department of Finance and
23 Administration, the Division of Youth Services of the Department of Human
24 Services shall promulgate ~~regulations~~ rules to increase the education
25 requirements for youth service workers and security officers employed by the
26 Division of Youth Services. If the services are under contract with the
27 Division of Youth Services, the employees of the contractor shall meet the
28 education requirements promulgated by the Division of Youth Services.

29 (b) No ~~regulation~~ rule pertaining to education requirements for youth
30 service workers or security officers promulgated hereafter by the Division of
31 Youth Services shall be effective until reviewed by the Legislative Council,
32 the House Committee on Aging, Children and Youth, Legislative and Military
33 Affairs, and the Senate Interim Committee on Children and Youth or
34 appropriate subcommittees thereof of the General Assembly.

35
36 SECTION 2919. Arkansas Code § 25-10-139(a)(1), concerning training

1 requirements for certain Division of Youth Services employees, is amended to
2 read as follows:

3 (a)(1) The Division of Youth Services of the Department of Human
4 Services shall promulgate ~~regulations~~ rules to increase the hours of training
5 provided to youth service workers and security officers employed by the
6 division. If the services are under contract with the division, the employees
7 of the contractor shall meet the training requirements promulgated by the
8 division.

9

10 SECTION 2920. Arkansas Code § 25-10-139(b), concerning training
11 requirements for certain Division of Youth Services employees, is amended to
12 read as follows:

13 (b) No ~~regulation~~ rule pertaining to the training required of youth
14 service workers and security officers promulgated hereafter by the division
15 shall be effective until reviewed by the Legislative Council, the House
16 Committee on Aging, Children and Youth, Legislative and Military Affairs, and
17 the Senate Interim Committee on Children and Youth or appropriate
18 subcommittees thereof of the General Assembly.

19

20 SECTION 2921. Arkansas Code § 25-10-202(2), concerning the definition
21 of "visually handicapped" under the Division of State Services for the Blind,
22 is amended to read as follows:

23 (2) "Visually handicapped", as a term, shall be defined by
24 ~~regulations~~ rules of the board, and the board shall have sole and exclusive
25 authority to define and determine whether any person is "blind" or "visually
26 handicapped" for purposes of determining eligibility to participate in
27 government programs under this subchapter.

28

29 SECTION 2922. Arkansas Code § 25-10-402(b), concerning the purpose for
30 the Department of Human Services State Institutional System Board, is amended
31 to read as follows:

32 (b) The board shall perform its functions and duties in accordance
33 with the general guidelines, policies, and ~~regulations~~ rules of the
34 department governing divisions, offices, sections, or units within the
35 department with respect to budgets, personnel and personnel policies,
36 records, purchasing, bookkeeping, and other administrative procedures

1 prescribed by the Director of the Department of Human Services.

2
3 SECTION 2923. Arkansas Code § 25-16-405 is amended to read as follows:
4 25-16-405. Arkansas Ambassador's Certificate.

5 The Secretary of State shall have the authority to issue an Arkansas
6 Ambassador's Certificate, which may be given to citizens of the State of
7 Arkansas who will be traveling outside the state. The Secretary of State may
8 adopt such reasonable rules ~~and regulations~~ as may be necessary for the
9 effective implementation of this section.

10
11 SECTION 2924. Arkansas Code § 25-16-519(d), concerning the issuance of
12 duplicates of warrants by the Auditor of State, is amended to read as
13 follows:

14 (d) The Auditor of State shall review the bonding procedures for the
15 issuance of duplicate warrants and shall issue rules ~~and regulations~~ on the
16 adequate bonding of all payees on duplicate warrants to preserve and protect
17 the expenditure of state funds.

18
19 SECTION 2925. Arkansas Code § 25-17-302(b), concerning the cumulative
20 effect of regulation of state property, is amended to read as follows:

21 (b) The provisions of this subchapter shall be cumulative to any
22 remedies which each institution may possess for enforcing its rules ~~and~~
23 ~~regulations~~, including its rights to impose sanctions through fees and
24 charges and its rights to discipline, deny service, and expel.

25
26 SECTION 2926. Arkansas Code § 25-17-304(e)(2), concerning the
27 appointment and removal of institutional law enforcement officers, is amended
28 to read as follows:

29 (2) The executive head of the institution and the executive head
30 of the department or their designees shall maintain a file containing each
31 institutional law enforcement officer's authorization certificate, the
32 certificate of appointment, and all other certificates and information
33 consistent with the ~~regulations~~ rules of the Arkansas Commission on Law
34 Enforcement Standards and Training.

35
36 SECTION 2927. Arkansas Code § 25-17-307 is amended to read as follows:

1 25-17-307. Rules ~~and regulations~~ for motor vehicles on institutional
2 grounds.

3 (a) Each of the institutions described in § 25-17-301 is authorized to
4 promulgate rules ~~and regulations~~ and to amend or change them from time to
5 time as its governing board shall deem necessary, providing for the operation
6 and parking of motor vehicles upon the grounds, streets, drives, and alleys
7 under its control, including, but not limited to, the following ~~regulations~~
8 rules:

9 (1) Limiting the rate of speed;

10 (2)(A) Assigning parking spaces and designating parking areas
11 and their uses and collecting charges or fees as rent for those spaces.

12 (B) The charges or fees collected under subdivision
13 (a)(2)(A) of this section, other than fees for parking or parking passes for
14 athletic events or other special events, shall not be considered as payment
15 for the providing of any service of any nature to the person paying the
16 charges or fees as rent and shall be exempt from the tax levied by § 26-52-
17 301(3);

18 (3) Prohibiting parking as it deems necessary;

19 (4) Removing vehicles parked in violation of institutional rules
20 ~~and regulations~~ or city ordinances, at the expense of the violator, who shall
21 pay the expense before the vehicle is released;

22 (5) Instituting a system of motor vehicle registration for the
23 identification and regulation of vehicles regularly using institutional
24 premises, including a reasonable charge to defray the cost thereof; and

25 (6)(A) Collecting under an established system administrative
26 charges for violations of institutional rules ~~and regulations~~ governing motor
27 vehicles, their operation, and parking.

28 (B) However, an administrative finding of violation may be
29 appealed to the appropriate district court where the matter shall be heard de
30 novo.

31 (b) ~~Rules and regulations~~ Institutional rules, together with any
32 amendments thereto, which may from time to time be adopted by a state
33 institution for the regulation of operation and parking of motor vehicles
34 shall be recorded in the official minutes of the governing board having
35 supervision of the institution, shall be filed with the Secretary of State,
36 and shall be printed, with copies available at convenient locations at the

1 institution or at any separate portion thereof.

2 (c) Speed limits shall be posted at reasonable intervals, and traffic
3 and parking directions and prohibitions shall be indicated by signs.

4 (d) From and after the promulgation of the institutional rules ~~and~~
5 ~~regulations~~, it shall be unlawful for any person to operate or to park a
6 motor vehicle in violation thereof. Any person violating or refusing to
7 comply with the institutional rules ~~and regulations~~ if not otherwise provided
8 for by city ordinance shall be subjected to a reasonable administrative
9 charge stated in the promulgated institutional rules ~~and regulations~~.

10 (e)(1) Persons violating institutional rules ~~and regulations~~
11 promulgated under this section while using a motor vehicle registered with
12 the institution at the option of the institutional law enforcement officer
13 shall be charged under the institution's system of charges or summoned to
14 appear before any court of competent jurisdiction, to be dealt with according
15 to law. A person adversely affected by any administrative determination as
16 described shall have a right to appeal therefrom to the appropriate district
17 court where the matter shall be heard de novo.

18 (2) Persons violating institutional rules ~~and regulations~~ under
19 this section while using a motor vehicle not registered with the institution
20 or persons violating city ordinances shall be summoned to appear before the
21 court. Notice placed on the vehicle shall be sufficient as a summons for the
22 purposes of this section.

23
24 SECTION 2928. Arkansas Code § 25-18-604(b)(2), concerning the
25 retention requirement for public records for the Department of Finance and
26 Administration, is amended to read as follows:

27 (2) The Arkansas General Records Retention Schedule, previously
28 promulgated and adopted as Agency Policy 200.000 of the Office of Information
29 Technology, shall be an official ~~regulation~~ rule of the department subject to
30 revision under subsection (d) of this section.

31
32 SECTION 2929. Arkansas Code § 25-20-305(3), concerning the powers and
33 duties of boards of commissioners of consolidated waterways systems, is
34 amended to read as follows:

35 (3) Adopting such rules, ~~regulations~~, and bylaws as the board of
36 commissioners may deem necessary and expedient for the proper ownership and

1 operation of the consolidated waterworks system, and altering, changing, or
2 amending the rules, ~~regulations~~, and bylaws at its discretion; and

3
4 SECTION 2930. Arkansas Code § 25-20-404(b)(3), concerning the powers
5 and duties of boards of commissioners under the Arkansas Municipal Electric
6 Utility Interlocal Cooperation Act of 2003, is amended to read as follows:

7 (3) Adopting such rules, ~~regulations~~, and bylaws as the board
8 may deem necessary and expedient for the proper ownership and operation of
9 its electric projects. The rules, ~~regulations~~, and bylaws may be altered,
10 changed, or amended at the board's discretion; and

11
12 SECTION 2931. Arkansas Code § 25-28-103(e), concerning the authority
13 of the Tax Division of the Arkansas Public Service Commission, is amended to
14 read as follows:

15 (e) Any and all other prescribed powers, duties, and functions of the
16 commission regarding assessment and equalization of properties and the
17 administration of the tax laws of this state not specifically retained by the
18 commission or the Tax Division of the Arkansas Public Service Commission in
19 this chapter, including rulemaking and regulation; promulgation of rules,
20 rates, ~~regulation~~ and standards; and the rendering of findings, orders, and
21 adjudications are transferred by a type 2 transfer as provided in § 25-2-105
22 to the Director of the Assessment Coordination Department.

23
24 SECTION 2932. Arkansas Code § 25-28-105 is amended to read as follows:
25 25-28-105. Compliance with other laws.

26 Disbursement of funds authorized by this chapter shall be limited to
27 the appropriation for the agency being transferred and funds made available
28 by law for the support of such appropriations. The restrictions of the
29 Arkansas Procurement Law, § 19-11-201, the General Accounting and Budgetary
30 Procedures Law, § 19-4-101, the Revenue Stabilization Law, § 19-5-101 et
31 seq., the Regular Salary Procedures and Restrictions Act, § 21-5-101, or
32 their successors, and other fiscal control laws of this state, where
33 applicable, and ~~regulations~~ rules promulgated by the Department of Finance
34 and Administration, as authorized by law, shall be strictly complied with in
35 disbursement of those funds.

36

1 SECTION 2933. Arkansas Code § 25-29-104(3), concerning the powers and
2 duties of the Arkansas Deaf and Hearing Impaired Telecommunications Services
3 Corporation, is amended to read as follows:

4 (3) Have perpetual succession as a body politic and corporate,
5 adopt bylaws for the regulation of the affairs and the conduct of its
6 business, and prescribe rules, ~~regulations~~, and policies in connection with
7 the performance of its functions and duties;

8
9 SECTION 2934. Arkansas Code § 25-36-104(d), concerning the data
10 recording and tracking by the State Procurement Director, is amended to read
11 as follows:

12 (d) The director shall promulgate rules ~~and regulations~~ necessary for
13 the implementation of this chapter.

14
15 SECTION 2935. Arkansas Code § 26-17-302 is amended to read as follows:
16 26-17-302. Motor vehicle license fees.

17 The Director of the Department of Finance and Administration shall
18 collect the motor vehicle license fees prescribed by law, and he or she is
19 empowered to make and enforce the necessary rules ~~and regulations~~ to ensure
20 those collections.

21
22 SECTION 2936. Arkansas Code § 26-18-208(4)(A), concerning additional
23 criminal penalties and taxes, is amended to read as follows:

24 (4)(A) If any part of a deficiency in taxes is determined to be
25 due to negligence or intentional disregard of rules ~~and regulations~~
26 promulgated under the authority of this subchapter or any state tax law, then
27 the director shall add a penalty of ten percent (10%) of the total amount of
28 the deficiency in addition to any interest provided by law.

29
30 SECTION 2937. Arkansas Code § 26-18-211 is amended to read as follows:
31 26-18-211. Failure to correct noncompliance after notification.

32 If a taxpayer has been previously advised that he or she has failed to
33 comply with the provisions of the Arkansas Code or the rules ~~and regulations~~
34 as promulgated by the Director of the Department of Finance and
35 Administration by his or her failure to include all of the information
36 required to be shown on the return or the inclusion of incorrect information

1 and he or she continues to disregard those provisions, there shall be
2 assessed a penalty of fifty dollars (\$50.00) per return, unless the failure
3 is due to reasonable cause and not due to willful neglect.

4
5 SECTION 2938. Arkansas Code § 26-18-301(b), concerning the duties of
6 the Director of the Department of Finance and Administration, is amended to
7 read as follows:

8 (b) The director shall make available at cost to the general public
9 all rules ~~and regulations~~ promulgated by the director.

10
11 SECTION 2939. Arkansas Code § 26-18-303(g)(1), concerning confidential
12 and privileged records and exceptions under the Arkansas Tax Procedure Act,
13 is amended to read as follows:

14 (g)(1) The Director of the Department of Finance and Administration
15 shall promulgate such ~~regulations~~ rules as are necessary to establish a
16 reasonable procedure for making requests for and release of information under
17 subdivision (b)(11) of this section, for allowing a taxpayer reasonable
18 notice in advance of the release of the requested information, for a period
19 of time up to seven (7) days from the date a request for information is made
20 to provide notice and make necessary determinations, and to provide the
21 methods by which the Director of the Department of Finance and Administration
22 shall determine if the information requested is subject to disclosure under
23 Arkansas law.

24
25 SECTION 2940. Arkansas Code § 26-18-303(i)(3), concerning confidential
26 and privileged records and exceptions under the Arkansas Tax Procedure Act,
27 is amended to read as follows:

28 (3) The Director of the Department of Finance and Administration
29 shall promulgate such ~~regulations~~ rules as are necessary to establish a
30 reasonable procedure for making requests for and for the release of
31 information under this section.

32
33 SECTION 2941. Arkansas Code § 26-18-312(b)(1) and (2), concerning
34 signatures on electronic forms under the Arkansas Tax Procedure Act, are
35 amended to read as follows:

36 (1) Waive the requirement of a signature for a particular type

1 or class of return, declaration, statement, or other document required or
2 permitted to be made in writing under state tax laws and ~~regulations~~ rules;
3 or

4 (2) Provide for alternative methods of signing or subscribing a
5 particular type or class of return, declaration, statement, or other document
6 required or permitted to be made in writing under state tax laws and
7 ~~regulations~~ rules.

8
9 SECTION 2942. Arkansas Code § 26-18-401(a)(2), concerning the
10 assessment and collection of taxes generally, is amended to read as follows:

11 (2) The proposed assessment shall be made by recording the
12 liability of the taxpayer in the office of the director in accordance with
13 rules ~~or regulations~~ prescribed by the director.

14
15 SECTION 2943. Arkansas Code § 26-18-505(a)(4), concerning the
16 extension of time for filing returns, is amended to read as follows:

17 (4) The director may promulgate ~~regulations~~ rules to grant
18 automatic extensions of time to file income tax returns and information
19 returns without the taxpayer being required to submit a written application
20 for the extension of time to file.

21
22 SECTION 2944. Arkansas Code § 26-18-705(d), concerning the settlement
23 or compromise of liability controversies, is amended to read as follows:

24 (d) The director shall promulgate rules ~~and regulations~~ establishing
25 guidelines for determining whether a proposed offer in compromise is adequate
26 and is acceptable to resolve a tax dispute.

27
28 SECTION 2945. Arkansas Code § 26-18-808(d), concerning civil damages
29 for failure to release liens, is amended to read as follows:

30 (d) Notice of Failure to Release Lien. The director shall by
31 ~~regulation~~ rule prescribe reasonable procedures for a taxpayer to notify the
32 director of the failure to release a lien on property of the taxpayer.

33
34 SECTION 2946. Arkansas Code § 26-18-809(a), concerning civil damages
35 for certain unauthorized collection actions, is amended to read as follows:

36 (a) In General. If, in connection with any collection of state tax

1 with respect to a taxpayer, any employee of the Revenue Division of the
2 Department of Finance and Administration, recklessly or intentionally
3 disregards any provision of this title, or any ~~regulation~~ rule promulgated
4 under this title, such taxpayer may bring a civil action for damages against
5 the director. Except as provided in § 26-18-808, such civil action shall be
6 the exclusive remedy for recovering damages resulting from such actions.

7
8 SECTION 2947. Arkansas Code § 26-18-811(a), concerning the
9 administrative appeal of liens, is amended to read as follows:

10 (a) In General. In such form and at such time as the director shall
11 prescribe by ~~regulation~~ rule, any person shall be allowed to appeal to the
12 director after the filing of a notice of a lien under this subchapter on the
13 property or the rights to property of such person, for a release of such lien
14 alleging an error in the filing of the notice of such lien.

15
16 SECTION 2948. Arkansas Code § 26-19-108 is amended to read as follows:
17 26-19-108. Rules ~~and regulations~~.

18 The Director of the Department of Finance and Administration is
19 authorized to adopt rules ~~and regulations~~ which he or she deems necessary to
20 implement and enforce the provisions of this subchapter.

21
22 SECTION 2949. Arkansas Code § 26-21-115(b)(2), concerning
23 confidentiality and privacy protections with respect to model 1 sellers, is
24 amended to read as follows:

25 (2) "Confidential taxpayer information" means all information
26 that is protected under Arkansas's laws, rules, ~~regulations~~, and privileges;
27 and

28
29 SECTION 2950. Arkansas Code § 26-24-101(1)(B)(i)(a), concerning the
30 creation of the Tax Division within the Arkansas Public Service Commission,
31 is amended to read as follows:

32 (B)(i)(a) All rules, ~~regulations~~, and procedures to be
33 followed by the Tax Division in assessing public utilities shall be
34 promulgated by the Arkansas Public Service Commission, and all assessments of
35 public utilities made by the Tax Division shall be upon the approval of the
36 Arkansas Public Service Commission.

1
2 SECTION 2951. Arkansas Code § 26-24-101(1)(B)(ii)(a), concerning the
3 creation of the Tax Division within the Arkansas Public Service Commission,
4 is amended to read as follows:

5 (ii)(a) All rules, ~~regulations~~, and procedures to be
6 followed by the Tax Division in assessing public carriers shall be
7 promulgated by the Arkansas Transportation Commission [abolished], and all
8 assessments of public carriers made by the Tax Division shall be upon the
9 approval of the Arkansas Transportation Commission [abolished].

10
11 SECTION 2952. Arkansas Code § 26-24-107 is amended to read as follows:
12 26-24-107. Rules ~~and regulations~~.

13 The Arkansas Public Service Commission shall have the full power and
14 authority in the administration of the tax laws of this state to:

15 (1) Prescribe from time to time such general and uniform rules
16 ~~and regulations~~ and issue such orders and instructions, not inconsistent with
17 law, as may be deemed necessary respecting the manner of the exercise of the
18 powers and discharge of the duties of any and all taxing officials; and

19 (2) Require compliance with the commission's forms, rules,
20 ~~regulations~~, orders, and instructions.

21
22 SECTION 2953. Arkansas Code § 26-26-304(d)(3)(B) and (C), concerning
23 the reimbursement for travel expenses for training county assessors, are
24 amended to read as follows:

25 (B) The total expenses incurred, other than for
26 transportation, for travel within the county shall not exceed one-half ($\frac{1}{2}$)
27 the daily maximum amount authorized for travel of state employees within the
28 state, and, for travel outside the county, the amount shall not exceed the
29 daily maximum amount authorized for travel of state employees within the
30 state, in accordance with state travel laws and ~~regulations~~ rules.

31 (C) The transportation expenses shall not exceed the
32 actual amount paid, except that the reimbursement for use of a private
33 automobile shall be at the same rate per mile as is allowed in the
34 reimbursement of state employees under the state travel laws and ~~regulations~~
35 rules for transportation expenses for each mile actually and necessarily
36 traveled by the automobile, within and without the county.

1
2 SECTION 2954. Arkansas Code § 26-26-308 is amended to read as follows:
3 26-26-308. Rules ~~and regulations~~.

4 The Assessment Coordination Department shall promulgate appropriate
5 rules ~~and regulations~~ to carry out the provisions of §§ 26-26-306 and 26-26-
6 307 and this section.

7
8 SECTION 2955. Arkansas Code § 26-26-402(a)(1), concerning the
9 procedure for adjustment of taxes after reappraisal or reassessment of
10 property, is amended to read as follows:

11 (a)(1) Whenever a countywide reappraisal or reassessment of property
12 subject to ad valorem taxes, made in accordance with procedures established
13 in this subchapter and with ~~regulations~~ rules of the Assessment Coordination
14 Department, or its successor agency, adopted pursuant to the authority
15 granted in this section shall result in an increase in the aggregate value of
16 taxable real and personal property in any taxing unit in this state of ten
17 percent (10%) or more over the previous year, the rate of city or town,
18 county, school district, and community college district taxes levied against
19 the taxable real and personal property of each taxing unit shall, upon
20 completion of the reappraisal or reassessment, be adjusted or rolled back by
21 the governing body of the taxing unit for the year for which levied as
22 provided.

23
24 SECTION 2956. Arkansas Code § 26-26-1113(c)(1), concerning property
25 used for purposes other than church purposes, is amended to read as follows:

26 (c)(1) The Assessment Coordination Department shall promulgate
27 reasonable rules ~~and regulations~~ to effectuate the provisions of this
28 chapter.

29
30 SECTION 2957. Arkansas Code § 26-26-1114(c), concerning the assessment
31 of personal property taxes by mail or telephone, is amended to read as
32 follows:

33 (c) The Director of the Assessment Coordination Department shall
34 promulgate ~~regulations~~ rules for the administration of this section. The
35 forms and ~~regulations~~ rules promulgated by the director shall apply to all
36 counties in the state.

1
2 SECTION 2958. Arkansas Code § 26-26-1803 is amended to read as
3 follows:

4 26-26-1803. Rules ~~and regulations~~.

5 The Tax Division of the Arkansas Public Service Commission shall adopt
6 such rules ~~and regulations~~ as are necessary in order to make original
7 assessments of all property, both real and personal, used by cable television
8 systems in this state.

9
10 SECTION 2959. Arkansas Code § 26-26-1911 is amended to read as
11 follows:

12 26-26-1911. Department authority.

13 The Assessment Coordination Department shall promulgate ~~regulations~~
14 rules for the implementation of this subchapter.

15
16 SECTION 2960. Arkansas Code § 26-35-606(d), concerning collection of
17 real and personal property taxes, is amended to read as follows:

18 (d) As used in this section, "financial institution" means any
19 organization or enterprise which receives deposits and forwards checks,
20 drafts, or orders for collection and which is subject to state rules or
21 federal regulation.

22
23 SECTION 2961. Arkansas Code § 26-51-202(e)(3)(B), concerning taxes
24 paid by nonresidents, is amended to read as follows:

25 (B) Likewise, the provisions of subdivision (e)(1) of this
26 section shall not apply to corporate partners of an investment partnership
27 except as provided by ~~regulations~~ rules adopted by the Director of the
28 Department of Finance and Administration.

29
30 SECTION 2962. Arkansas Code § 26-51-206(c), concerning exemptions
31 related to commercial ventures by churches, is amended to read as follows:

32 (c) The Director of the Department of Finance and Administration is
33 authorized to promulgate reasonable rules ~~and regulations~~ to carry out the
34 provisions of this section.

35
36 SECTION 2963. Arkansas Code § 26-51-412(c), concerning the

1 determination of gain or loss when exchanging property, is amended to read as
2 follows:

3 (c) When, in connection with the reorganization, merger, or
4 consolidation of a corporation, a taxpayer receives, in place of stock or
5 securities owned by him or her, new stock or securities, then the basis of
6 computing the gain or loss, if there is any, in a case where the stock or
7 securities owned were acquired before January 1, 1928, shall be the fair
8 market price or value thereof as of that date if such price or value exceeds
9 the original cost, and in all other cases the cost thereof, under ~~regulations~~
10 rules to be promulgated by the Director of the Department of Finance and
11 Administration.
12

13 SECTION 2964. Arkansas Code § 26-51-418(c), concerning state income
14 tax deductions for disabled children, is amended to read as follows:

15 (c) The Director of the Department of Finance and Administration may
16 adopt appropriate rules ~~and regulations~~ to carry out the purpose and intent
17 of this section and to prevent abuse of the deduction provided for in this
18 section.
19

20 SECTION 2965. Arkansas Code § 26-51-450(d), concerning small business
21 guaranty fee deductions, is amended to read as follows:

22 (d) The Revenue Division of the Department of Finance and
23 Administration may promulgate ~~regulations~~ rules as necessary to administer
24 this section.
25

26 SECTION 2966. Arkansas Code § 26-51-504(b), concerning income from
27 sources outside of Arkansas, is amended to read as follows:

28 (b) Before a resident of Arkansas may claim the credit allowed under
29 this section, he or she shall file with his or her income tax return any such
30 additional information as the Director of the State Income Tax Division or
31 the Director of the Department of Finance and Administration may by
32 ~~regulation~~ rule require showing in detail the amount of gross and net income
33 derived from property owned or business transacted without this state,
34 together with the amount of tax actually owed on the income to another state
35 or territory.
36

1 SECTION 2967. Arkansas Code § 26-51-505(e), concerning the
2 establishment or expansion of a manufacturing enterprise, is amended to read
3 as follows:

4 (e)(1) The Revenue Division of the Department of Finance and
5 Administration shall promulgate such rules ~~and regulations~~ as may be deemed
6 necessary to carry out the purposes of this section.

7 (2) The division shall consult with the Department of Workforce
8 Services and the Arkansas Economic Development Council during the
9 promulgation of the rules ~~and regulations~~.

10
11 SECTION 2968. Arkansas Code § 26-51-506(k)(1), concerning a tax credit
12 for waste reduction, reuse, or recycling equipment, is amended to read as
13 follows:

14 (k)(1)(A) The Arkansas Department of Environmental Quality and the
15 division shall promulgate rules ~~or regulations~~ as are necessary to administer
16 this section.

17 (B) These rules ~~or regulations~~ may include, but are not
18 limited to, the establishment of technical specifications and of requirements
19 for information and documentation for taxpayers seeking a credit under this
20 section and shall encourage, but not require, the use of Arkansas contractors
21 and post-consumer waste generated in Arkansas in recycling projects which
22 qualify for credits provided by this section.

23
24 SECTION 2969. Arkansas Code § 26-51-511(d)(3)(C), concerning coal
25 mining, producing, and extracting, is amended to read as follows:

26 (C)(i) The Department of Finance and Administration shall
27 promulgate rules ~~and regulations~~ to permit the verification of the validity
28 and timeliness of a claimed tax credit that has been transferred under this
29 subsection.

30 (ii) The rules ~~and regulations~~ shall not unduly
31 restrict or hinder the transfers of credits under this section.

32
33 SECTION 2970. Arkansas Code § 26-51-807(d), concerning an automatic
34 extension of time for filing a federal income tax return and the
35 corresponding state tax return, is amended to read as follows:

36 (d) The director may promulgate ~~regulations~~ rules granting automatic

1 extensions of time to file income tax returns and information returns without
2 the taxpayer being required to submit a written application, a copy of the
3 federal request for extension, or a copy of the document granting the federal
4 extension if the director determines that such requirements are unnecessary
5 for the administration of the income tax laws.

6
7 SECTION 2971. Arkansas Code § 26-51-811(a)(1), concerning information
8 as to recipients of income for tax purposes, is amended to read as follows:

9 (a)(1) Every individual, partnership, limited liability company,
10 corporation, joint-stock company or association, or insurance company, being
11 a resident or having a place of business in this state; members of a
12 partnership or employees in whatever capacity acting, including lessees or
13 mortgagees, of real or personal property; members or managers of limited
14 liability companies or employees in whatever capacity acting; fiduciaries;
15 employers and all officers and employees of this state, or of any political
16 subdivision of this state, having the control, receipt, custody, disposal, or
17 payment of interest, rent, salaries, wages, premiums, annuities,
18 compensations, remunerations, emoluments, or other fixed or determinable
19 annual or periodical gains, profits, and income amounting to two thousand
20 five hundred dollars (\$2,500) or over, paid or payable during any year to any
21 taxpayer shall make complete returns under oath to the Director of the
22 Department of Finance and Administration, under such ~~regulations~~ rules and in
23 such form and manner and to such extent as may be prescribed by the director
24 with the approval of the Governor.

25
26 SECTION 2972. Arkansas Code § 26-51-812(a), concerning the withholding
27 of taxes at the source, is amended to read as follows:

28 (a) The Director of the Department of Finance and Administration,
29 whenever he or she deems it necessary to ensure compliance with the
30 provisions of the Income Tax Act of 1929, may, under rules ~~and regulations~~
31 prescribed by him or her, require any individual, partnership, limited
32 liability company, corporation, joint-stock company, or association,
33 including lessees or mortgagors and employees of the state or of any
34 political subdivision of the state having control, receipt, custody,
35 disposal, or payment of interest, other than interest coupons payable to
36 bearer, rent, salaries, wages, premiums, compensation, remunerations,

1 emoluments, or other fixed or determinable annual or periodical gains,
2 profits, and income paid or payable to any taxpayer, to deduct and withhold
3 the tax due from the taxpayer and make return thereof and pay the tax to the
4 director.

5
6 SECTION 2973. Arkansas Code § 26-51-816(d), concerning the signature
7 document required for Arkansas income tax returns, is amended to read as
8 follows:

9 (d) The director may promulgate rules ~~and regulations~~ for the proper
10 enforcement of this section.

11
12 SECTION 2974. Arkansas Code § 26-51-904 is amended to read as follows:
13 26-51-904. Rules ~~and regulations~~ - Forms.

14 The Director of the Department of Finance and Administration shall make
15 and prescribe such rules, ~~regulations~~, and forms as he or she shall deem
16 necessary to carry out the purposes of this subchapter.

17
18 SECTION 2975. Arkansas Code § 26-51-908(a)(3), concerning an
19 employer's return and payment of taxes withheld, is amended to read as
20 follows:

21 (3) However, the director may provide by ~~regulation~~ rule that
22 every such employer shall on or before the fifteenth day of each month pay
23 over to the director or a depository designated by the director the amount
24 required to be deducted and withheld by the employer for the preceding month
25 if the amount is one hundred dollars (\$100) or more.

26
27 SECTION 2976. Arkansas Code § 26-51-909(c)(5), concerning an
28 employer's annual withholding statement, is amended to read as follows:

29 (5) Such other information as the director shall require by rule
30 ~~or regulation~~.

31
32 SECTION 2977. Arkansas Code § 26-51-911(f), concerning a declaration
33 of estimated tax, is amended to read as follows:

34 (f) A taxpayer may file amendments to a declaration at such times,
35 under such rules ~~and regulations~~, and in such form as the director shall
36 prescribe.

1
2 SECTION 2978. Arkansas Code § 26-51-1010(a)(1), concerning the
3 application and approval procedure for projects by the Arkansas Natural
4 Resources Commission, is amended to read as follows:

5 (a)(1) The Arkansas Natural Resources Commission shall promulgate such
6 rules ~~and regulations~~ as may be deemed necessary in administering projects
7 submitted with the intent of qualifying for the tax incentives provided for
8 in this subchapter.

9
10 SECTION 2979. Arkansas Code § 26-51-1101(3), concerning the definition
11 of "machinery and equipment" under the laws addressing the donation or sale
12 or equipment to educational institutions, is amended to read as follows:

13 (3) "Machinery and equipment" means tangible personal property
14 used in connection with a qualified education program or a qualified research
15 program that has been approved for a tax credit under rules ~~and regulations~~
16 prescribed by the Department of Finance and Administration;

17
18
19 SECTION 2980. Arkansas Code § 26-51-1307(c)(5), concerning an annual
20 statement of withholding for racing winnings, is amended to read as follows:

21 (5) Such other information as the director shall require by rule
22 ~~or regulation~~.

23
24 SECTION 2981. Arkansas Code § 26-51-1505(e), concerning the wetland
25 and riparian zone creation and restoration tax credit, is amended to read as
26 follows:

27 (e) The division shall promulgate such rules ~~and regulations~~ as may be
28 deemed necessary to carry out the tax credit provisions of this subchapter.

29
30 SECTION 2982. Arkansas Code § 26-51-1704(b) and (c), concerning the
31 sale, assignment, and transfer of tax credits, are amended to read as
32 follows:

33 (b) An owner or transferee desiring to make a transfer, sale, or
34 assignment as described in subsection (a) of this section shall submit to the
35 Director of the Department of Finance and Administration a statement which
36 describes the amount of Arkansas low income housing tax credit for which

1 transfer, sale, or assignment of Arkansas low income housing tax credit is
2 eligible. The owner shall provide to the director such information as is
3 specified by the Department of Finance and Administration in ~~regulations~~
4 rules so that the Arkansas low income housing tax credit may be properly
5 allocated.

6 (c) In the event that recapture of Arkansas low income housing tax
7 credit is required pursuant to § 26-51-1703(b) of this subchapter, the
8 statements submitted to the director as provided in this section shall
9 include the proportion of the Arkansas low income housing tax credit required
10 to be recaptured, the identity of each transferee subject to recapture, and
11 the amount of Arkansas low income housing tax credit previously transferred
12 to such transferee and such other information as is specified by the
13 department in ~~regulations~~ rules.

14
15 SECTION 2983. Arkansas Code § 26-51-1705 is amended to read as
16 follows:

17 26-51-1705. Rules ~~and regulations~~.

18 The Director of the Department of Finance and Administration and the
19 Arkansas Development Finance Authority shall promulgate rules ~~and regulations~~
20 necessary to administer the provisions of this subchapter. No rule or portion
21 of a rule promulgated under the authority of this section shall become
22 effective until it has been approved by the director in accordance with the
23 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

24
25 SECTION 2984. Arkansas Code § 26-51-2006(c), concerning the
26 administration of the Arkansas Tax Procedure Act, is amended to read as
27 follows:

28 (c) The Director of the Arkansas Economic Development Commission may
29 promulgate such rules ~~and regulations~~ as are necessary to carry out the
30 intent and purposes of this subchapter.

31
32 SECTION 2985. Arkansas Code § 26-51-2303(b), concerning the
33 administration of the Arkansas Tax Procedure Act, is amended to read as
34 follows:

35 (b) The Director of the Department of Finance and Administration shall
36 make and prescribe such rules, ~~regulations~~, and forms as he or she deems

1 necessary to administer this subchapter.

2
3 SECTION 2986. Arkansas Code § 26-51-2502(c), concerning the Arkansas
4 Disaster Relief Income Tax Check-Off Program, is amended to read as follows:

5 (c) The Director of the Department of Finance and Administration shall
6 have the authority to promulgate all rules ~~and regulations~~ and all income tax
7 forms, returns, and schedules necessary to carry out this program.

8
9 SECTION 2987. Arkansas Code § 26-51-2503(a)(3), concerning
10 contributions to the Arkansas School for the Blind and the Arkansas School
11 for the Deaf, is amended to read as follows:

12 (3) The Director of the Department of Finance and Administration
13 may promulgate all rules ~~and regulations~~ and all income tax forms, returns,
14 and schedules necessary to implement this section.

15
16 SECTION 2988. Arkansas Code § 26-51-2504(f), concerning the Baby
17 Sharon Act and the Baby Sharon's Children's Catastrophic Illness Grant
18 Program, is amended to read as follows:

19 (f) The director shall promulgate all rules ~~and regulations~~ and all
20 income tax forms, returns, and schedules necessary to carry out the revenue-
21 producing provisions of this section.

22
23 SECTION 2989. Arkansas Code § 26-51-2505(c), concerning voluntary
24 contributions to the Organ Donor Awareness Education Trust Fund, is amended
25 to read as follows:

26 (c) The Director of the Department of Finance and Administration shall
27 promulgate all rules ~~and regulations~~ and all income tax forms, returns,
28 schedules, or other materials necessary to carry out the provisions of this
29 section.

30
31 SECTION 2990. Arkansas Code § 26-52-105 is amended to read as follows:
32 26-52-105. Administration – Rules ~~and regulations~~.

33 (a) The administration of this chapter is vested in and shall be
34 exercised by the Director of the Department of Finance and Administration.

35 (b) The director shall promulgate rules ~~and regulations~~ and prescribe
36 forms for the proper enforcement of this chapter.

1
2 SECTION 2991. Arkansas Code § 26-52-402(a)(3), concerning tax-exempted
3 machinery and equipment, is amended to read as follows:

4 (3)(A) Gross receipts or gross proceeds derived from the sale of
5 tangible personal property consisting of machinery and equipment required by
6 state or federal law, rules, or regulations to be installed and utilized by
7 manufacturing and processing plants or facilities, cities, or towns in this
8 state to prevent or reduce air or water pollution or contamination that might
9 otherwise result from the operation of the plant, facility, city, or town.

10 (B) As used in this subdivision (a)(3), "machinery and
11 equipment required by state or federal law, rules, or regulations to be
12 installed and utilized by manufacturing and processing plants or facilities"
13 includes:

14 (i) Machinery and equipment required by state or
15 federal law, rules, or regulations to be used in the refining of petroleum-
16 based products to remove sulfur pollutants from the refined product; and

17 (ii) Any repair parts and repair labor for machinery
18 or equipment required by state or federal law, rules, or regulations to be
19 used in the refining of petroleum-based products to remove sulfur pollutants
20 from the refined product.

21
22 SECTION 2992. Arkansas Code § 26-52-402(d), concerning tax-exempt
23 machinery and equipment, is amended to read as follows:

24 (d) The Director of the Department of Finance and Administration may
25 promulgate rules ~~and regulations~~ for the orderly and efficient administration
26 of this section.

27
28 SECTION 2993. Arkansas Code § 26-52-406(b), concerning the tax
29 exemption for prescription drugs and oxygen, is amended to read as follows:

30 (b) The Director of the Department of Finance and Administration shall
31 adopt such appropriate rules ~~and regulations~~ as the director deems necessary
32 to assume the effective and efficient administration of the exemption
33 provided for in this section and to prevent abuse thereof.

34
35 SECTION 2994. Arkansas Code § 26-52-501(j), concerning preparation of
36 returns and payment of tax, is amended to read as follows:

1 (j) The director may establish by ~~regulation~~ rule separate
2 requirements for filing reports and returns and paying the tax levied under
3 this chapter for taxpayers whose principal line of business does not include
4 the retail selling of tangible personal property, specified digital products,
5 or a digital code or performing taxable services.

6
7 SECTION 2995. Arkansas Code § 26-52-502(b), concerning tax returns on
8 the basis of cash actually received, is amended to read as follows:

9 (b) The application shall be granted by the director under such rules
10 ~~and regulations~~ as the director may prescribe.

11
12 SECTION 2996. Arkansas Code § 26-52-510(c), concerning the direct
13 payment of tax by a consumer on new and used motor vehicles, trailers, or
14 semitrailers, is amended to read as follows:

15 (c) All parts and accessories purchased by motor vehicle sellers for
16 resale or used by them for the reconditioning or rebuilding of used motor
17 vehicles intended for resale are exempt from gross receipts tax, provided
18 that the motor vehicle seller meets the requirements of § 26-52-401(12)(A)
19 and applicable ~~regulations~~ rules promulgated by the director.

20
21 SECTION 2997. Arkansas Code § 26-52-518(a)(3)(C), concerning special
22 event taxes, is amended to read as follows:

23 (C) The special events shall not include any county,
24 district, or state fair or the four states livestock show that has been
25 approved, pursuant to the rules ~~and regulations~~ of the Arkansas Livestock and
26 Poultry Commission, to receive state funds; and

27
28 SECTION 2998. Arkansas Code § 26-53-104 is amended to read as follows:

29 26-53-104. Rules ~~and regulations~~ - Forms.

30 (a) The Director of the Department of Finance and Administration shall
31 promulgate rules ~~and regulations~~ and prescribe forms for the proper
32 enforcement of this subchapter.

33 (b)(1) The rules, ~~regulations~~, and forms shall be dated and issued
34 under a systematic method of numbering, and copies shall be made available to
35 any person requesting them.

36 (2) A complete file of all the rules, ~~regulations~~, and forms

1 shall be kept in the office of the director.

2
3 SECTION 2999. Arkansas Code § 26-53-114(a)(3), concerning exemptions
4 for certain machinery and equipment, is amended to read as follows:

5 (3)(A) Machinery and equipment required by state or federal law,
6 rules, or regulations to be installed and utilized by manufacturing or
7 processing plants or facilities, cities, or towns in this state to prevent or
8 reduce air or water pollution or contamination that might otherwise result
9 from the operation of the plant, facility, city, or town.

10 (B) As used in this subdivision (a)(3), “machinery and
11 equipment required by state or federal law, rules, or regulations to be
12 installed and utilized by manufacturing and processing plants or facilities”
13 includes:

14 (i) Machinery and equipment required by state or
15 federal law, rules, or regulations to be used in the refining of petroleum-
16 based products to remove sulfur pollutants from the refined product; and

17 (ii) Any repair parts and repair labor for machinery
18 or equipment required by state or federal law, rules, or regulations to be
19 used in the refining of petroleum-based products to remove sulfur pollutants
20 from the refined product.

21
22 SECTION 3000. Arkansas Code § 26-53-114(d), concerning exemptions for
23 certain machinery and equipment, is amended to read as follows:

24 (d) The Director of the Department of Finance and Administration may
25 promulgate rules ~~and regulations~~ for the orderly and efficient administration
26 of this section.

27
28 SECTION 3001. Arkansas Code § 26-53-123(b), concerning liability for
29 personal property taxes, is amended to read as follows:

30 (b) However, a receipt from a vendor authorized by the Director of the
31 Department of Finance and Administration under such rules ~~and regulations~~ as
32 he or she may prescribe to collect the tax imposed given to the purchaser in
33 accordance with the provisions of §§ 26-53-121 and 26-53-122 shall be
34 sufficient to relieve the purchaser from further liability for the tax to
35 which the receipt may refer.

36

1 SECTION 3002. Arkansas Code § 26-53-131(a)(1)(A)(ii), concerning
2 credit for tax paid in another state, is amended to read as follows:

3 (ii) Proof of payment of the tax shall be made
4 according to the rules ~~and regulations~~ promulgated by the Director of the
5 Department of Finance and Administration.
6

7 SECTION 3003. Arkansas Code § 26-53-203(c)(1), concerning tangible
8 personal property, specified digital products, or digital code for which tax
9 in another state has been paid, is amended to read as follows:

10 (c)(1) This subchapter does not apply in respect to the use,
11 consumption, distribution, or storage of tangible personal property,
12 specified digital products, or digital code as defined in this chapter for
13 use or consumption in this state upon which a like tax equal to or greater
14 than the amount imposed by this subchapter has been paid in another state,
15 the proof of payment of the tax to be according to rules ~~and regulations~~ made
16 by the director.
17

18 SECTION 3004. Arkansas Code § 26-55-101(b), concerning tax exemption
19 refunds for United States Government vehicles, is amended to read as follows:

20 (b) When motor vehicle fuel upon which the tax has been paid is sold
21 to any agent or employee of the United States Government for use in a motor
22 vehicle belonging to the United States Government, and is used in its
23 business exclusively, the wholesaler or dealer may not charge the consumer
24 with the amount of the tax but may claim the refund of the tax under such
25 ~~regulations~~ rules as the Director of the Department of Finance and
26 Administration may prescribe.
27

28 SECTION 3005. Arkansas Code § 26-55-202(1)(F), concerning the
29 definition of "bill of lading" under the Motor Fuel Tax Law, is amended to
30 read as follows:

31 (F) Such other information or forms as the Director of the
32 Department of Finance and Administration by ~~regulation~~ rule may adopt or
33 require to implement the intent of this subchapter;
34

35 SECTION 3006. Arkansas Code § 26-55-204 is amended to read as follows:
36 26-55-204. Rules ~~and regulations~~.

1 The Director of the Department of Finance and Administration shall
2 prescribe and publish such rules ~~and regulations~~ as may be necessary for the
3 enforcement of this subchapter.

4
5 SECTION 3007. Arkansas Code § 26-55-230(c), concerning the computation
6 and payment of tax, is amended to read as follows:

7 (c) The director by ~~regulation~~ rule shall provide for the payment and
8 collection of the motor fuel tax when it is due but which under the terms of
9 this subchapter is not required to be remitted by a distributor.

10
11 SECTION 3008. Arkansas Code § 26-55-247(b), concerning confiscation
12 and sale of equipment of persons transporting motor fuel unlawfully, is
13 amended to read as follows:

14 (b) Unless the operator or owner of the tank truck or vehicle can
15 prove to the satisfaction of the director at a hearing for that purpose
16 within ten (10) days that the motor fuel was being transported, transferred,
17 or delivered in accordance with this subchapter or any other act affecting
18 the transportation of motor fuel, and in accordance with any ~~regulations~~
19 rules issued pursuant to this subchapter or any other act, the tank truck or
20 vehicle and the contents therein shall be sold by the director at auction
21 without any recourse or liability on the director or any of the director's
22 agents or the State of Arkansas.

23
24 SECTION 3009. Arkansas Code § 26-55-403 is amended to read as follows:
25 26-55-403. Director's powers.

26 The Director of the Department of Finance and Administration shall have
27 the authority to make, amend, and enforce ~~regulations~~ rules, to subpoena
28 witnesses and documents, to administer oaths, and to do and perform all other
29 acts the director shall deem necessary to carry out the purpose and intent of
30 this subchapter.

31
32 SECTION 3010. Arkansas Code § 26-55-604 is amended to read as follows:
33 26-55-604. Rules ~~and regulations~~ - Audit assistance.

34 The Director of State Highways and Transportation shall prescribe and
35 promulgate rules ~~and regulations~~ necessary for the proper enforcement of this
36 subchapter with the advice of the Legislative Council, and in any audits

1 conducted by the Arkansas Department of Transportation relating to the Motor
2 Fuel Tax Law, § 26-55-201 et seq., or the Special Motor Fuels Tax Law, § 26-
3 56-101 et seq., or this subchapter or other pertinent laws, may call upon the
4 Director of the Department of Finance and Administration for assistance.
5

6 SECTION 3011. Arkansas Code § 26-55-605(c)(3), concerning exceptions
7 to import and export load permit requirements, is amended to read as follows:

8 (3)(A) The Director of State Highways and Transportation shall
9 prescribe and publish such rules ~~and regulations~~ as may be necessary for the
10 enforcement of this subchapter.

11 (B) The ~~regulations~~ rules shall provide that a licensed
12 supplier or distributor upon demand may obtain a supply of prenumbered
13 permits for use as required under this subchapter so long as the supplier or
14 distributor has not been found in violation of this subchapter. However, each
15 permit used must be accompanied by the relevant bill of lading when filed
16 with the Director of State Highways and Transportation.
17

18 SECTION 3012. Arkansas Code § 26-55-606(a)(6), concerning the
19 requirements of bills of lading, is amended to read as follows:

20 (6) Such other information or forms as the Director of State
21 Highways and Transportation by ~~regulation~~ rule may adopt or require to
22 implement the intent of this subchapter.
23

24 SECTION 3013. Arkansas Code § 26-55-705(c), concerning the requirement
25 for a license for importing gasoline, is amended to read as follows:

26 (c) The applications must also contain, as a condition to the issuance
27 of the license, an agreement by the applicant to comply with the requirements
28 of the subchapter and the lawful rules ~~and regulations~~ of the director.
29

30 SECTION 3014. Arkansas Code § 26-55-706(a), concerning the bond of an
31 applicant for the import of fuel in supply tanks, is amended to read as
32 follows:

33 (a) Before any license application shall be approved by the Director
34 of the Department of Finance and Administration, the applicant shall file a
35 bond, with surety satisfactory to the director, payable to the State of
36 Arkansas and conditioned upon the applicant's compliance with the provisions

1 of this subchapter and the rules ~~and regulations~~ of the director.

2
3 SECTION 3015. Arkansas Code § 26-55-710(h), concerning tax computation
4 for quarterly mileage reports, is amended to read as follows:

5 (h) The director shall prescribe the appropriate forms necessary for
6 the administration of this subchapter. The director may make appropriate
7 rules ~~and regulations~~ necessary to ensure the accurate reporting of mileage
8 traveled and gallons used and purchased by the licensed interstate users.

9
10 SECTION 3016. Arkansas Code § 26-55-714(d), concerning the tax refund
11 procedure for interstate users, is amended to read as follows:

12 (d) The director is authorized to promulgate rules ~~and regulations~~ and
13 to prescribe the necessary forms required for the administration of claims
14 for tax refunds from interstate users of motor fuels in this state as
15 authorized by law, which rules ~~and regulations~~ shall be in conformance with
16 the following requirements:

17 (1) The director shall first determine with respect to each
18 refund claim filed that the bond of the interstate user is adequate to
19 compensate the State of Arkansas for any losses with respect to the recovery
20 of any refunds illegally claimed by the interstate user, and the director may
21 require the increase of the bond if the director determines it to be
22 inadequate before approving any claim for refund;

23 (2) Each interstate user of motor fuels claiming refunds shall
24 maintain adequate records to substantiate each claim for refund, and the
25 director may reject any claim for refund if the director determines the
26 applicant has not maintained adequate records or has not conformed to the
27 rules ~~and regulations~~ of the department in filing the claim;

28 (3) Each claim for refund shall be upon the request of the
29 interstate user, which shall be verified by the interstate user as to its
30 accuracy and validity; and

31 (4)(A) Each quarterly report filed by a licensed interstate user
32 of motor fuels with the department, shall reflect thereon the amount of motor
33 fuels purchased for use in Arkansas during the quarter, the number of gallons
34 of motor fuels upon which taxes are due the State of Arkansas for the
35 quarter, and the excess gallonage upon which the interstate user is entitled
36 to refunds.

1 (B) At the end of each calendar quarter, the licensed
2 interstate user may make application for refund with respect to the number of
3 gallons of motor fuels upon which the motor fuels taxes have been paid during
4 the calendar quarter for which the interstate user is entitled to refund.

5
6 SECTION 3017. Arkansas Code § 26-55-901(1)(B), concerning the
7 definition of "compartment" under the laws concerning vehicle tank
8 inspections, is amended to read as follows:

9 (B) Otherwise, "compartment" means any one (1) of those
10 subdivisions of a tank designed to hold petroleum products, unless otherwise
11 provided by the Director of the Department of Finance and Administration by
12 ~~regulations~~ rules adopted pursuant to § 26-55-903.

13
14 SECTION 3018. The introductory language of Arkansas Code § 26-55-
15 902(a)(1), concerning penalties for violations of the laws concerning vehicle
16 tank inspections, is amended to read as follows:

17 (a)(1) Any person who violates the provisions of this subchapter or
18 the rules ~~or regulations~~ issued under this subchapter shall be guilty of a
19 misdemeanor and for a:

20
21 SECTION 3019. Arkansas Code § 26-55-903(a)-(c), concerning the rules
22 of the State Plant Board, are amended to read as follows:

23 (a) The Director of the State Plant Board shall have the power to
24 adopt and, from time to time, to change by addition, amendment, or repeal
25 reasonable rules ~~and regulations~~ consistent with law, for the enforcement of
26 the provisions of this subchapter.

27 (b) The rules ~~and regulations~~ to the extent practicable shall be
28 consistent with pertinent nationally recognized standards, methods, and
29 tolerances.

30 (c) The ~~regulations~~ rules shall be applicable only to the extent that
31 they are not in conflict with regulations or orders issued by an agency of
32 the United States and shall be drawn with due consideration for the
33 desirability of uniformity of the laws of the several states and the United
34 States.

35
36 SECTION 3020. Arkansas Code § 26-55-1308 is amended to read as

1 follows:

2 26-55-1308. Director's powers.

3 The Director of the Department of Finance and Administration may make,
4 amend, and enforce ~~regulations~~ rules, subpoena witnesses and documents,
5 administer oaths, and do and perform all other acts necessary to carry out
6 the purpose and intent of this subchapter.

7

8 SECTION 3021. Arkansas Code § 26-56-102(1)(F), concerning the
9 definition of "bill of lading" under the Special Motor Fuels Tax Law, is
10 amended to read as follows:

11 (F) Such other information or forms as the Director of the
12 Department of Finance and Administration by ~~regulation~~ rule may adopt or
13 require to implement the intent of this subchapter;

14

15 SECTION 3022. Arkansas Code § 26-56-104 is amended to read as follows:
16 26-56-104. Rules ~~and regulations~~.

17 The Director of the Department of Finance and Administration is
18 authorized and empowered to promulgate such rules ~~and regulations~~, not
19 inconsistent with this chapter, as the director shall deem necessary and
20 desirable to facilitate the collection of the taxes levied in this chapter
21 and to otherwise effectuate the purposes of this chapter, and these rules ~~and~~
22 ~~regulations~~ shall have the same effect as if specifically set forth in this
23 chapter.

24

25 SECTION 3023. Arkansas Code § 26-56-204(a)(1)(B)(iii), concerning
26 licenses and bonds for suppliers and users, is amended to read as follows:

27 (iii) The director may promulgate such forms and
28 ~~regulations~~ rules as may be necessary to ensure uniformity with federal usage
29 of exemption certificates issued for nonhighway diesel purchases.

30

31 SECTION 3024. Arkansas Code § 26-56-214(i)(2), concerning reports of
32 computation of tax and refunds for interstate users, is amended to read as
33 follows:

34 (2) The director may make appropriate rules ~~and regulations~~
35 necessary to ensure the accurate reporting of the special motor fuel tax.

36

1 SECTION 3025. Arkansas Code § 26-56-215(d), concerning interstate
2 users and tax refund procedures, is amended to read as follows:

3 (d) The director is authorized to promulgate rules ~~and regulations~~ and
4 to prescribe the necessary forms required for the administration of claims
5 for tax refunds from interstate users of special motor fuels in this state as
6 authorized by law, which rules ~~and regulations~~ shall be in conformance with
7 the following requirements:

8 (1) The director shall first determine, with respect to each
9 refund claim filed, that the bond of the interstate user is adequate to
10 compensate the State of Arkansas for any losses with respect to the recovery
11 of any refunds illegally claimed by the interstate user, and the director may
12 require the increase of the bond if the director determines it to be
13 inadequate before approving any claim for refund;

14 (2) Each interstate user of motor fuels and special motor fuels
15 claiming refunds shall maintain adequate records to substantiate each claim
16 for refund, and the director may reject any claim for refund if the director
17 determines the applicant has not maintained adequate records or has not
18 conformed to the rules ~~and regulations~~ of the department in filing the claim
19 therefor;

20 (3) Each claim for refund shall be upon the request of the
21 interstate user, which shall be verified by the interstate user as to its
22 accuracy and validity; and

23 (4)(A) Each quarterly report filed by a licensed interstate user
24 of special motor fuels with the department shall reflect thereon the amount
25 of special motor fuels purchased for use in Arkansas during the quarter, the
26 number of gallons of special motor fuels upon which taxes are due the State
27 of Arkansas for the quarter, and the excess gallonage upon which the
28 interstate user is entitled to refunds.

29 (B) At the end of each calendar quarter, the licensed
30 interstate user may make application for refund with respect to the number of
31 gallons of special motor fuels upon which the special motor fuels taxes have
32 been paid during the calendar quarter for which the interstate user is
33 entitled to refund.

34
35 SECTION 3026. Arkansas Code § 26-56-217(b)(2)(D), concerning separate
36 storage tanks for taxable distillate special fuel and for tax-free storage,

1 is amended to read as follows:

2 (D) The director may promulgate ~~regulations~~ rules to
3 establish a system to periodically reconcile the taxable distillate special
4 fuel purchased and actual taxable distillate special fuel used by the city or
5 county.

6
7 SECTION 3027. Arkansas Code § 26-56-231 is amended to read as follows:
8 26-56-231. Rules ~~and regulations~~.

9 (a) The Director of the Department of Finance and Administration, in
10 consultation with the Director of State Highways and Transportation, shall
11 have the authority to make and promulgate rules ~~and regulations~~ to fully
12 implement and enforce the provisions of §§ 26-56-223 – 26-56-230.

13 (b) Provisions shall be included in the rules ~~and regulations~~ to allow
14 any user enumerated in § 26-56-225, upon proper notice and certification to
15 the Director of the Department of Finance and Administration that dyed
16 distillate special fuel is unavailable to that user at that time, to utilize
17 untaxed, undyed distillate special fuel in motor vehicles belonging to the
18 users.

19
20 SECTION 3028. Arkansas Code § 26-56-232(b), concerning electronic
21 reports and electronic funds transfer, is amended to read as follows:

22 (b) The director shall also make and promulgate rules ~~and regulations~~
23 to ensure that the distributors, suppliers, and alternative fuel suppliers,
24 beginning July 1, 1997, and thereafter, or beginning before that date, if
25 possible, remit all taxes due the state pursuant to those tax laws by
26 electronic funds transfer.

27
28 SECTION 3029. Arkansas Code § 26-56-303(b)(2), concerning licenses and
29 bonds for liquefied gas special fuels suppliers and dealers, is amended to
30 read as follows:

31 (2) The application must also contain as a condition to the
32 issuance of the license an agreement under oath by the applicant to comply
33 with the requirements of this subchapter and the rules ~~and regulations~~ of the
34 director.

35
36 SECTION 3030. Arkansas Code § 26-56-303(c)(1), concerning licenses and

1 bonds for liquefied gas special fuels suppliers and dealers, is amended to
2 read as follows:

3 (c)(1) Before an application may be approved by the director, the
4 applicant shall file a bond with surety satisfactory to the director, payable
5 to the State of Arkansas, and conditioned upon the applicant's compliance
6 with the provisions of this subchapter and the rules ~~and regulations~~ of the
7 director.

8

9 SECTION 3031. Arkansas Code § 26-56-304(d)(3), concerning liquefied
10 gas special fuels users' permits, is amended to read as follows:

11 (3) The director shall establish ~~regulations~~ rules for computing
12 the fees and for the enforcement of the collection thereof.

13

14 SECTION 3032. Arkansas Code § 26-56-308(a)(6), concerning reports and
15 payment of tax by suppliers of liquefied gas special fuels sold or delivered,
16 is amended to read as follows:

17 (6) Such other information as the director may require by
18 ~~regulation~~ rule.

19

20 SECTION 3033. Arkansas Code § 26-56-708 is amended to read as follows:

21 26-56-708. Director's powers.

22 The Director of the Department of Finance and Administration may make,
23 amend, and enforce ~~regulations~~ rules, subpoena witnesses and documents,
24 administer oaths, and do and perform all other acts necessary to carry out
25 the purpose and intent of this subchapter.

26

27 SECTION 3034. Arkansas Code § 26-57-224(b), concerning a vendor's
28 bond, is amended to read as follows:

29 (b) The bond shall be conditioned upon the faithful performance of the
30 duties and obligations imposed by this subchapter and the ~~regulations~~ rules
31 promulgated by the Director of the Department of Finance and Administration.

32

33 SECTION 3035. Arkansas Code § 26-57-257(b), concerning the Director of
34 Arkansas Tobacco Control, is amended to read as follows:

35 (b) The Director of Arkansas Tobacco Control shall present all
36 evidence tending to prove violations of law, rules, or regulations at

1 hearings held by the Arkansas Tobacco Control Board.

2
3 SECTION 3036. Arkansas Code § 26-57-260(10)(B), concerning the
4 definition of "units sold" under the Arkansas Tobacco Products Tax Act of
5 1977, is amended to read as follows:

6 (B) The Department of Finance and Administration shall
7 promulgate such ~~regulations~~ rules as are necessary to ascertain the amount of
8 state excise tax paid on the cigarettes of the tobacco product manufacturer
9 for each year.

10
11 SECTION 3037. Arkansas Code § 26-57-801(d), concerning excise taxes
12 under the Arkansas Tobacco Products Tax Act of 1977, is amended to read as
13 follows:

14 (d) The director shall promulgate such ~~regulations~~ rules as the
15 director deems necessary for the implementation of this section.

16
17 SECTION 3038. Arkansas Code § 26-57-1107 is amended to read as
18 follows:

19 26-57-1107. ~~Regulations~~ Rules.

20 The Department of Finance and Administration is hereby authorized to
21 promulgate ~~regulations~~ rules as necessary to implement the tax provisions of
22 this subchapter.

23
24 SECTION 3039. Arkansas Code § 26-57-1204(d)(1), concerning the
25 application, issuance, and display of decals under the Vending Devices Decal
26 Act of 1997, is amended to read as follows:

27 (d)(1) The annual or special vending device decals and the application
28 provided for herein shall be in such form as prescribed by the director.
29 These decals and applications shall contain on their faces such information
30 and descriptions as shall be required by ~~regulations~~ rules adopted by the
31 director to properly and reasonably implement the provisions of this
32 subchapter.

33
34 SECTION 3040. Arkansas Code § 26-57-1206(e)(2), concerning the annual
35 decal fee or special decal in lieu of sales tax under the Vending Devices
36 Decal Act of 1997, is amended to read as follows:

1 (2) By reasonable ~~regulations~~ rules the director shall establish
2 the amount to be charged for an identifying decal, and the amount shall not
3 exceed the cost of producing the identifying decals.
4

5 SECTION 3041. Arkansas Code § 26-57-1306(a)(3), concerning penalties
6 and other remedies for violations of the tobacco Master Settlement Agreement,
7 is amended to read as follows:

8 (3) For each violation, the board may also impose a civil
9 penalty in an amount not to exceed the greater of five hundred percent (500%)
10 of the retail value of the cigarettes or five thousand dollars (\$5,000) upon
11 a determination of a violation of § 26-57-1303(b) or of any ~~regulations~~ rules
12 adopted under this subchapter.
13

14 SECTION 3042. Arkansas Code § 26-57-1307(d), concerning miscellaneous
15 provisions under the tobacco Master Settlement Agreement, is amended to read
16 as follows:

17 (d) Promulgation of ~~Regulations~~ Rules. The Attorney General, the
18 Arkansas Tobacco Control Board, and the Department of Finance and
19 Administration may promulgate ~~regulations~~ rules necessary to effect the
20 purposes of this subchapter.
21

22 SECTION 3043. Arkansas Code § 26-58-105 is amended to read as follows:

23 26-58-105. ~~Regulations~~ Rules and forms regarding severance taxes on
24 timber.

25 The Director of the Department of Finance and Administration with the
26 advice and approval of the Arkansas Forestry Commission shall develop and
27 adopt appropriate ~~regulations~~ rules and forms to carry out the intent and
28 purposes of this subchapter with respect to severance taxes on timber.
29

30 SECTION 3044. Arkansas Code § 26-58-111(6)(C), concerning the
31 severance tax rate of minerals, is amended to read as follows:

32 (C) The Director of the Department of Finance and
33 Administration shall have the power to promulgate such reasonable rules ~~and~~
34 ~~regulations~~ as shall be necessary to effectively enforce the foregoing
35 provisions;
36

1 SECTION 3045. Arkansas Code § 26-58-301(b)(2), concerning the tax levy
2 for the benefit of the Arkansas Museum of Natural Resources Fund, is amended
3 to read as follows:

4 (2) The taxes levied in this subsection shall be reported and
5 remitted monthly to the Director of the Department of Finance and
6 Administration on such forms and in such manner as the director shall
7 prescribe by ~~regulations~~ rule.

8
9 SECTION 3046. Arkansas Code § 26-59-110 is amended to read as follows:
10 26-59-110. Estate tax returns – Contents.

11 The executor at such times and in such manner as may be required by
12 ~~regulations~~ rules made pursuant to law shall also file with the Director of
13 the Department of Finance and Administration a return under oath, setting
14 forth:

15 (1) A description and the value of the gross estate of the
16 decedent at the time of the decedent's death, as defined in the applicable
17 federal revenue act, or in case of the estate of a decedent who at the time
18 of death was not domiciled in the United States, of that part of the
19 decedent's gross estate situated in the United States;

20 (2) The deductions allowable under this chapter;

21 (3) The value of the net estate of the decedent as defined in
22 this chapter;

23 (4) A description and the value of such part of the real
24 property and tangible personal property of the gross estate of a decedent who
25 at the time of the decedent's death was a resident of the State of Arkansas
26 as shall be located or situate, at the time of the decedent's death, without
27 the State of Arkansas;

28 (5) A description and the value of such part of the real
29 property and tangible personal property of the gross estate of a decedent who
30 at the time of the decedent's death was a nonresident of the State of
31 Arkansas but a resident of the United States as shall be located or situate,
32 at the time of the decedent's death, within the State of Arkansas;

33 (6) A description and the value of real property situate and
34 personal property having an actual situs in this state and intangible
35 personal property physically present within this state of the estate of a
36 decedent who at the time of the decedent's death was not a resident of the

1 United States; and

2 (7) The tax paid or payable thereon and the manner of computing
3 the tax, or such part of such information as may at the time be ascertainable
4 and such supplemental data as may be necessary to determine and establish the
5 correct tax.

6

7 SECTION 3047. Arkansas Code § 26-59-112 is amended to read as follows:
8 26-59-112. Director to make return when no return filed.

9 If any executor, administrator, fiduciary, trustee, person,
10 corporation, company, or association fails to make and file a return or list
11 at the time prescribed by law or by ~~regulation~~ rule made under authority of
12 law, or makes, willfully or otherwise, a false or fraudulent return or list,
13 the Director of the Department of Finance and Administration shall make the
14 return or list from the director's own knowledge and from such information as
15 the director can obtain through testimony or otherwise. Any return or list so
16 made by the director shall be prima facie good and sufficient for all legal
17 purposes.

18

19 SECTION 3048. Arkansas Code § 26-60-103 is amended to read as follows:
20 26-60-103. Enforcement and ~~regulations~~ rule by Director of the
21 Department of Finance and Administration.

22 The enforcement of the provisions of this chapter shall be the
23 responsibility of the Director of the Department of Finance and
24 Administration under ~~regulations~~ rules to be promulgated by the director.

25

26 SECTION 3049. Arkansas Code § 26-60-104 is amended to read as follows:
27 26-60-104. Rules ~~and regulations~~.

28 The Director of the Department of Finance and Administration is
29 authorized to promulgate rules ~~and regulations~~ to carry out the purposes of
30 this chapter which shall be submitted to the:

31 (1) House Interim Committee on City, County, and Local Affairs
32 and the Senate Interim Committee on City, County, and Local Affairs; or

33 (2) House Committee on City, County, and Local Affairs and the
34 Senate Committee on City, County, and Local Affairs.

35

36 SECTION 3050. Arkansas Code § 26-62-104 is amended to read as follows:

1 26-62-104. Rules ~~and regulations~~.

2 The Director of the Department of Finance and Administration is
3 authorized and empowered in consultation with the Director of State Highways
4 and Transportation of the Arkansas Department of Transportation to make and
5 promulgate such rules ~~and regulations~~ not inconsistent with this chapter as
6 they shall deem necessary and desirable to facilitate the collection of the
7 taxes levied in this chapter and to otherwise effectuate the purposes of this
8 chapter, and these rules ~~and regulations~~ shall have the same effect as if
9 specifically set forth in this chapter.

10
11 SECTION 3051. Arkansas Code § 26-62-202(a)(3), concerning the
12 collection and payment of tax paid by alternative fuels suppliers, is amended
13 to read as follows:

14 (3) Used in any motor vehicle owned or operated by that
15 alternative fuels supplier. The Director of the Department of Finance and
16 Administration shall make and promulgate rules ~~and regulations~~ for a system
17 for recordkeeping requirements to be kept by such suppliers in fulfilling
18 this subdivision (a)(3).

19
20 SECTION 3052. Arkansas Code § 26-62-203(c)(2)(E), concerning separate
21 meters for taxable natural gas fuels and residential or other tax-free
22 natural gas, is amended to read as follows:

23 (E) Any other information required by the director
24 pursuant to rules ~~and regulations~~ of the director.

25
26 SECTION 3053. Arkansas Code § 26-62-205(e)(1), concerning sales
27 tickets for alternative fuels suppliers, is amended to read as follows:

28 (e)(1) The Director of the Department of Finance and Administration,
29 in consultation with the Director of State Highways and Transportation shall
30 promulgate rules ~~and regulations~~ regarding an alternative to the required
31 usage of sales tickets for all sales of natural gas fuels made by alternative
32 fuels suppliers by separate meter as provided in § 26-62-203.

33
34 SECTION 3054. Arkansas Code § 26-62-207(e), concerning records
35 required, invoices, and falsification of records under the Arkansas Tax
36 Procedure Act, is amended to read as follows:

1 (e) All sales to users made pursuant to § 26-62-203 shall not require
2 the carriage of an invoice by the user, provided that the director shall
3 provide by ~~regulation~~ rule another means of providing an indication that the
4 tax on the fuel being utilized to propel the motor vehicle will ultimately be
5 paid by the user to the alternative fuels supplier, who is required to remit
6 such tax to the director.

7
8 SECTION 3055. Arkansas Code § 26-62-209(i), concerning interstate
9 users' and IFTA carrier users' computation of tax and refunds, is amended to
10 read as follows:

11 (i) The director shall prescribe the appropriate
12 forms necessary for the administration of this chapter. The director may make
13 appropriate rules ~~and regulations~~ necessary to ensure the accurate reporting
14 of the alternative fuels tax.

15
16 SECTION 3056. Arkansas Code § 26-62-210(d), concerning the tax refund
17 procedure for Interstate users and IFTA carrier users, is amended to read as
18 follows:

19 (d) The Director of the Department of Finance and Administration in
20 consultation with the Director of State Highways and Transportation is
21 authorized to promulgate rules ~~and regulations~~ and to prescribe the necessary
22 forms required for the administration of claims for tax refunds from licensed
23 interstate users or licensed IFTA carrier users of alternative fuels in this
24 state as authorized by law, which rules ~~and regulations~~ shall be in
25 conformance with the following requirements:

26 (1) The Director of the Department of Finance and Administration
27 shall first determine with respect to each refund claim filed that the bond
28 of the interstate user or IFTA carrier user is adequate to compensate the
29 State of Arkansas for any losses with respect to the recovery of any refunds
30 illegally claimed by such user, and the Director of the Department of Finance
31 and Administration may require the increase of the bond if the Director of
32 the Department of Finance and Administration determines it to be inadequate
33 before approving any such claim for refund;

34 (2) Each licensed interstate user or licensed IFTA carrier user
35 of alternative fuels claiming refunds shall maintain adequate records to
36 substantiate each claim for refund, and the Director of the Department of

1 Finance and Administration may reject any claim for refund if the Director of
2 the Department of Finance and Administration determines the applicant has not
3 maintained adequate records or has not conformed to the rules ~~and regulations~~
4 of the Department of Finance and Administration in filing the claim therefor;

5 (3) Each claim for refund must be upon the request of the
6 licensed interstate user or licensed IFTA carrier user, which shall be
7 verified by such user as to its accuracy and validity;

8 (4)(A) Each quarterly report filed by a licensed interstate user
9 or licensed IFTA carrier user of alternative fuels with the Department of
10 Finance and Administration shall reflect thereon the amount of alternative
11 fuels purchased for use in Arkansas during the quarter, the number of
12 equivalent gallons of alternative fuels upon which taxes are due the State of
13 Arkansas for the quarter, and the excess equivalent gallons upon which such
14 user is entitled to refunds.

15 (B) At the end of each calendar quarter, the licensed
16 interstate user or licensed IFTA carrier user may apply for a refund with
17 respect to the number of equivalent gallons of alternative fuels upon which
18 the alternative fuels taxes have been paid during the calendar quarter for
19 which the licensed interstate user or licensed IFTA carrier user is entitled
20 to a refund; and

21 (5) The Director of the Department of Finance and Administration
22 is authorized to promulgate any such rules ~~or regulations~~ the Director of the
23 Department of Finance and Administration deems desirable in consultation with
24 the Director of State Highways and Transportation regarding refunds to
25 licensed interstate users and IFTA carrier users.

26
27 SECTION 3057. Arkansas Code § 26-62-212(a), concerning the power to
28 stop, investigate, and impound vehicles, is amended to read as follows:

29 (a) In order to enforce the provisions of this chapter, the Director
30 of the Department of Finance and Administration or his or her authorized
31 representative is empowered to stop any motor vehicle which appears to be
32 operating with alternative fuels for the purpose of examining the invoices or
33 other documents required by this chapter, or by ~~regulation~~ rule, and for such
34 other investigative purposes reasonably necessary to determine whether the
35 taxes imposed by this chapter have been paid or whether the vehicle is being
36 operated in compliance with the provisions of this chapter.

1
2 SECTION 3058. Arkansas Code § 26-62-214(b), concerning the conversion
3 of vehicles for use of alternative fuels, is amended to read as follows:

4 (b) The converting or equipping of a vehicle for natural gas
5 propulsion shall be in compliance with rules ~~and regulations~~ to be made and
6 promulgated by the director.

7
8 SECTION 3059. Arkansas Code § 26-63-104(c), concerning administration
9 by the Director of the Department of Finance and Administration, is amended
10 to read as follows:

11 (c) Except as otherwise provided in this chapter, any law, or rule, ~~or~~
12 ~~regulation~~ relating to the administration, enforcement, or collection of a
13 tax levied under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et
14 seq., applies to this chapter if it is applicable.

15
16 SECTION 3060. Arkansas Code § 26-73-107 is amended to read as follows:
17 26-73-107. Rules ~~and regulations~~.

18 The Director of the Department of Finance and Administration shall
19 promulgate reasonable rules ~~and regulations~~ not inconsistent with the
20 provisions of this subchapter to implement the enforcement, administration,
21 and collection of the taxes authorized in this subchapter.

22
23 SECTION 3061. Arkansas Code § 26-74-215 is amended to read as follows:
24 26-74-215. Rules ~~and regulations~~.

25 The Director of the Department of Finance and Administration may
26 promulgate reasonable rules ~~and regulations~~ not inconsistent with the
27 provisions of this subchapter to implement the administration, collection,
28 enforcement, and operation of the taxes authorized in this subchapter.

29
30 SECTION 3062. Arkansas Code § 26-74-312(c)(1), concerning the
31 administration and collection of a tax, is amended to read as follows:

32 (c)(1) The tax imposed under this subchapter and the tax imposed under
33 the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., shall be
34 collected together and reported upon such forms and under such administrative
35 rules ~~and regulations~~ as may be prescribed by the director not inconsistent
36 with the provisions of this subchapter.

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SECTION 3063. Arkansas Code § 26-74-314 is amended to read as follows:
26-74-314. Rules ~~and regulations~~.

The Director 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 3064. Arkansas Code § 26-74-410 is amended to read as follows:
26-74-410. Rules ~~and regulations~~.

The Director 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 3065. Arkansas Code § 26-74-503(b)(2), concerning payment and collection by an advertising and promotion commission, is amended to read as follows:

(2) The rules, ~~regulations~~, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., so far as practicable shall be applicable with respect to the enforcement and collection of the tax levied pursuant to the authority of this subchapter. However, the administration and enforcement and all actions shall be by and in the name of the advertising and promotion commission through the proper advertising and promotion commission officials or agents.

SECTION 3066. Arkansas Code § 26-74-610 is amended to read as follows:
26-74-610. Rules ~~and regulations~~.

The Director 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 3067. Arkansas Code § 26-75-214(c)(1), concerning the administration and collection of a tax, is amended to read as follows:

1 (c)(1) The tax imposed under this subchapter and the tax imposed under
2 the gross receipts tax and compensating tax shall be collected together and
3 reported upon such forms and under such administrative rules ~~and regulations~~
4 as may be prescribed by the director not inconsistent with the provisions of
5 this subchapter.

6
7 SECTION 3068. Arkansas Code § 26-75-218 is amended to read as follows:
8 26-75-218. Rules ~~and regulations~~.

9 The Director of the Department of Finance and Administration may
10 promulgate reasonable rules ~~and regulations~~ not inconsistent with the
11 provisions of this subchapter to implement the enforcement, administration,
12 and collection of the taxes authorized in this subchapter.

13
14 SECTION 3069. Arkansas Code § 26-75-314 is amended to read as follows:
15 26-75-314. Rules ~~and regulations~~.

16 The Director of the Department of Finance and Administration may
17 promulgate reasonable rules ~~and regulations~~ not inconsistent with the
18 provisions of this subchapter to implement the enforcement, administration,
19 and collection of the taxes authorized in this subchapter.

20
21 SECTION 3070. Arkansas Code § 26-75-316(b) and (c), concerning the
22 excise tax on storage, use, or other consumption, are amended to read as
23 follows:

24 (b) The use tax portion of the local sales and use tax shall be
25 collected according to the terms, procedures, and ~~regulations~~ rules of the
26 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., except as
27 otherwise provided.

28 (c) The tax imposed under this subchapter and the tax imposed under
29 the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. and Arkansas
30 Compensating Tax Act of 1949 § 26-53-101 et seq., shall be collected together
31 and reported upon such forms and under such administrative rules ~~and~~
32 ~~regulations~~ as may be prescribed by the Director of the Department of Finance
33 and Administration not inconsistent with the provisions of this subchapter.

34
35 SECTION 3071. Arkansas Code § 26-75-410 is amended to read as follows:
36 26-75-410. Rules ~~and regulations~~.

1 The Director of the Department of Finance and Administration shall
2 adopt appropriate rules ~~and regulations~~ not inconsistent with the provisions
3 of this subchapter to implement the enforcement, administration, and
4 collection of the taxes authorized in this subchapter.

5
6 SECTION 3072. Arkansas Code § 26-75-502(b), concerning the authority
7 to levy a tax, is amended to read as follows:

8 (b) Rules ~~and regulations~~ promulgated by the Director of the
9 Department of Finance and Administration for the State of Arkansas in
10 connection with the collection and administration of the state gross receipts
11 tax shall be equally applicable with respect to any tax levied under this
12 subchapter.

13
14 SECTION 3073. Arkansas Code § 26-75-603(b)(1), concerning the
15 collection of a tax levied by the Arkansas Gross Receipts Act of 1941, is
16 amended to read as follows:

17 (b)(1) The person paying the tax shall report and remit it upon forms
18 provided by the commission and as directed by the commission. The rules,
19 ~~regulations,~~ forms of notice, assessment procedures, and the enforcement and
20 collection of the tax under the Arkansas Gross Receipts Act of 1941, § 26-52-
21 101 et seq. and the Arkansas Tax Procedure Act, § 26-18-101 et seq., so far
22 as practicable shall be applicable with respect to the enforcement and
23 collection of the tax levied pursuant to the authority of this subchapter.

24
25 SECTION 3074. Arkansas Code § 26-75-704(b), concerning the collection
26 and administration of taxes, is amended to read as follows:

27 (b) The person paying the tax shall report and remit the tax upon
28 forms provided by the city, and as directed by the city, and the rules,
29 ~~regulations,~~ forms of notice, assessment procedures, and the enforcement and
30 collection of the tax under the Arkansas Gross Receipts Act of 1941, § 26-52-
31 101 et seq., so far as practicable shall be applicable with respect to the
32 enforcement and collection of the tax levied pursuant to the authority of
33 this subchapter. However, the administration and enforcement and all actions
34 shall be by and in the name of the city through the proper city officials.

35
36 SECTION 3075. Arkansas Code § 26-81-109 is amended to read as follows:

1 26-81-109. Rules ~~and regulations~~.

2 The Director of the Department of Finance and Administration may
3 promulgate reasonable rules ~~and regulations~~ not inconsistent with the
4 provisions of this chapter to implement the administration, collection,
5 enforcement, and operation of the taxes authorized in this chapter.

6
7 SECTION 3076. Arkansas Code § 27-1-107 is amended to read as follows:
8 27-1-107. Rules ~~and regulations~~ – Reorganization.

9 The Arkansas Department of Transportation shall adopt and promulgate
10 reasonable rules ~~and regulations~~ and reorganize as necessary to carry out the
11 responsibilities delegated to it under this chapter.

12
13 SECTION 3077. Arkansas Code § 27-2-102(1)(B) and (C), concerning the
14 definition of "a label which provides an adequate warning" under the
15 Hazardous Materials Transportation Act of 1977, are amended to read as
16 follows:

17 (B) Standards established by the Arkansas Pesticide
18 Control Act, § 2-16-401 et seq., and ~~regulations~~ rules adopted pursuant to it
19 affirmatively requiring the use of a label on containers of hazardous
20 materials;

21 (C) Standards established by the Arkansas Department of
22 Transportation, by ~~regulation~~ rule, with reference to labeling of containers
23 of hazardous materials; or

24
25 SECTION 3078. Arkansas Code § 27-2-102(2)(E), concerning the
26 definition of "adequate emergency equipment" under the Hazardous Materials
27 Transportation Act of 1977, is amended to read as follows:

28 (E) Otherwise required, by ~~regulation~~ rule, by the
29 department;

30
31 SECTION 3079. Arkansas Code § 27-2-102(3), concerning the definition
32 of "adequate immediate container" under the Hazardous Materials
33 Transportation Act of 1977, is amended to read as follows:

34 (3) "Adequate immediate container" means an immediate container
35 which meets all applicable standards established by the laws of the United
36 States, or by any agency of the United States by regulation in effect on

1 March 15, 1977, or by the department, by ~~regulation~~ rule, with reference to
2 the adequacy of such a container to contain the materials within it. In the
3 absence of applicable standards, an "adequate immediate container" means a
4 container designed and constructed so as to contain the items or substances
5 within it without escape during any customary or reasonably foreseeable
6 handling or use during transportation;

7
8 SECTION 3080. Arkansas Code § 27-2-102(6)(A)(viii), concerning the
9 definition of "hazardous material" under the Hazardous Materials
10 Transportation Act of 1977, is amended to read as follows:

11 (viii) Has been defined as such by the department,
12 by ~~regulation~~ rule.

13
14 SECTION 3081. Arkansas Code § 27-2-103(a)(6), concerning prohibited
15 acts and exceptions under the Hazardous Materials Transportation Act of 1977,
16 is amended to read as follows:

17 (6) Violate any ~~regulation~~ rule promulgated by the State Highway
18 Commission pursuant to this chapter.

19
20 SECTION 3082. Arkansas Code § 27-2-106(a), concerning additional rules
21 authority under the Hazardous Materials Transportation Act of 1977, is
22 amended to read as follows:

23 (a)(1) In addition to the specific authority granted to the Arkansas
24 Department of Transportation by this chapter to define terms and impose
25 additional requirements, by ~~regulation~~ rule, the department shall have the
26 authority to promulgate additional ~~regulations~~ rules, in the manner provided
27 by law, in furtherance of this chapter.

28 (2) These ~~regulations~~ rules may include, but are not limited to,
29 the establishment of reasonable safeguards in the transportation of hazardous
30 materials, including, as the department finds appropriate, the use of escort
31 vehicles and the temporary prohibition of transportation of hazardous
32 materials during unsafe conditions, the establishment of a system requiring
33 notification of public authorities prior to transportation of hazardous
34 materials, the adoption by reference of laws or regulations of the United
35 States, and the maintenance of records.

36

1 SECTION 3083. Arkansas Code § 27-2-106(c), concerning additional rules
2 authority under the Hazardous Materials Transportation Act of 1977, is
3 amended to read as follows:

4 (c) All portions of this chapter, except this section, shall be fully
5 operable and effective without the enactment of ~~regulations~~ rules by the
6 department.

7
8 SECTION 3084. Arkansas Code § 27-2-108 is amended to read as follows:

9 27-2-108. Conformity with Arkansas Administrative Procedure Act.

10 All rules ~~and regulations~~ proposed and adopted by the Arkansas
11 Department of Transportation under this chapter and all other actions of the
12 department taken under the authority and responsibility prescribed in this
13 chapter shall be in conformity with the provisions of the Arkansas
14 Administrative Procedure Act, § 25-15-201 et seq.

15
16 SECTION 3085. Arkansas Code § 27-3-103(d), concerning the powers of
17 the Arkansas Public Transportation Coordination Council, is amended to read
18 as follows:

19 (d) The Arkansas Public Transportation Coordination Council shall have
20 the power to prescribe and issue, pursuant to the Arkansas Administrative
21 Procedure Act, § 25-15-201 et seq., such reasonable rules ~~and regulations~~ as
22 may be necessary to carry out the provisions of this chapter.

23
24 SECTION 3086. Arkansas Code § 27-14-504(c), concerning the
25 proportionate refund of registration fees authorized, is amended to read as
26 follows:

27 (c) The director is authorized to promulgate such rules ~~and~~
28 ~~regulations~~ as may be necessary to effectuate the terms of this section.

29
30 SECTION 3087. Arkansas Code § 27-14-601(a)(3)(H)(viii), concerning
31 fees for registration and licensing of motor vehicles, is amended to read as
32 follows:

33 (viii) The director shall promulgate such rules ~~and~~
34 ~~regulations~~ as may be necessary to carry out the intent of this
35 classification and prevent abuse thereof. However, before any such rules ~~or~~
36 ~~regulations~~ shall be effective, they shall be approved by majority action of

1 the members of the State Highway Commission acting for and in behalf of the
2 Arkansas Highway Police Division of the Arkansas Department of
3 Transportation, which is the agency charged with the principal responsibility
4 of enforcing the motor vehicle license laws of this state.

5
6 SECTION 3088. Arkansas Code § 27-14-601(a)(3)(J)(i), concerning fees
7 for registration and licensing of motor vehicles, is amended to read as
8 follows:

9 (J)(i) The director shall cause to be issued special and
10 distinctive license plates for vehicles licensed under Class Two – Class
11 Seven in this section, which are utilized as wreckers or tow vehicles and
12 that hold a permit issued by the Arkansas Towing and Recovery Board under §
13 27-50-1203 and the rules ~~and regulations~~ promulgated thereunder.

14
15 SECTION 3089. Arkansas Code § 27-14-608(a), concerning payment by
16 credit card for vehicle registration, is amended to read as follows:

17 (a) The Director of the Department of Finance and Administration is
18 authorized to promulgate ~~regulations~~ rules providing for payment by credit
19 card of any fees or taxes due upon the issuance or renewal of a vehicle
20 registration, except a vehicle registration issued or renewed under the
21 provisions of § 27-14-601(a)(3)(B)-(H) or the provisions of § 27-14-
22 601(a)(3)(I)(i)(a)(2)-(4) . The director may allow the payment of these fees
23 or taxes by credit card if the director determines that payment by credit
24 card would facilitate the administration of the motor vehicle registration
25 program.

26
27 SECTION 3090. The introductory language of Arkansas Code § 27-14-
28 613(b)(1), concerning the Arkansas Motor Carrier System, is amended to read
29 as follows:

30 (b)(1) The Director of the Department of Finance and Administration
31 shall promulgate rules, ~~regulations~~, and procedures to enhance the Arkansas
32 Motor Carrier System developed by the Department of Finance and
33 Administration by allowing:

34
35 SECTION 3091. Arkansas Code § 27-14-701(b), concerning registration
36 requirements for vehicles driven on the highway, is amended to read as

1 follows:

2 (b) When an application accompanied by the proper fee has been made
3 for registration and certificate of title for a vehicle, the vehicle may be
4 operated temporarily pending complete registration upon displaying a
5 duplicate application, duly verified, or other evidence of the application or
6 otherwise under rules ~~and regulations~~ promulgated by the Director of the
7 Department of Finance and Administration.

8

9 SECTION 3092. Arkansas Code § 27-14-709 is amended to read as follows:
10 27-14-709. Half-year license.

11 Notwithstanding any provision of law to the contrary, any motor vehicle
12 for which the annual registration and licensing fee is one hundred dollars
13 (\$100) or more, for any twelve-month licensing period, may be licensed for
14 the first six (6) months of the annual licensing period, upon payment of one-
15 half ($\frac{1}{2}$) of the annual registration and licensing fee, plus an additional fee
16 of five dollars (\$5.00) to defray the administrative cost of issuing the
17 half-year license, under such ~~regulations~~ rules as the Director of the
18 Department of Finance and Administration may promulgate.

19

20 SECTION 3093. Arkansas Code § 27-14-722 is amended to read as follows:
21 27-14-722. Change of engines.

22 The Office of Motor Vehicle may adopt and enforce such registration
23 rules ~~and regulations~~ as are necessary and compatible with the public
24 interest with respect to the change or substitution of one engine in place of
25 another in any motor vehicle.

26

27 SECTION 3094. Arkansas Code § 27-14-902(a)(3)(A), concerning the
28 transfer or assignment of a registered vehicle by owner or lessee, is amended
29 to read as follows:

30 (3)(A) The owner or lessee may have the plate or plates assigned
31 to another vehicle upon payment of the fees required by law and subject to
32 the rules ~~and regulations~~ of the Office of Motor Vehicle.

33

34 SECTION 3095. Arkansas Code § 27-14-914(b), concerning the transfer of
35 license plates and registration from one vehicle to another, is amended to
36 read as follows:

1 (b) The director shall provide suitable forms to enable owners
2 electing to do so to transfer license plate or plates and registration and
3 make payment of the fee provided in this section and shall be empowered to
4 make reasonable rules ~~and regulations~~ governing these transfers.

5
6 SECTION 3096. Arkansas Code § 27-14-1002(a)(6), concerning the
7 definition of "tab or decal" under the Permanent Automobile Licensing Act of
8 1967, is amended to read as follows:

9 (6) "Tab or decal" is an attachable material of such form and
10 substance as the Director of the Department of Finance and Administration may
11 prescribe by rule ~~or regulation~~.

12
13 SECTION 3097. Arkansas Code § 27-14-1004(a), concerning penalties
14 under the Permanent Automobile Licensing Act of 1967, is amended to read as
15 follows:

16 (a) Any person failing to comply with the provisions of this
17 subchapter by operating a passenger motor vehicle, as set forth and described
18 in § 27-14-1002(a), or by operating a Class One truck, as set forth and
19 described in § 27-14-1002(a), which is subject to registration under the laws
20 of this state on any street, road, or highway in the State of Arkansas
21 without having first registered the motor vehicle with the Office of Motor
22 Vehicle, in the manner and within the period required by law or ~~regulations~~
23 rules of the Director of the Department of Finance and Administration, shall
24 be required to pay a penalty of three dollars (\$3.00) for each ten (10) days,
25 or fraction thereof, for which he or she fails properly to register the
26 vehicle until the penalty reaches the same amount as the annual license fee
27 of the vehicle to be registered.

28
29 SECTION 3098. Arkansas Code § 27-14-1009(d), concerning the issuance
30 of special personalized license plates under the Permanent Automobile
31 Licensing Act of 1967, is amended to read as follows:

32 (d) The director may adopt ~~regulations~~ rules concerning the issuance
33 of a special personalized license plate.

34
35 SECTION 3099. Arkansas Code § 27-14-1020 is amended to read as
36 follows:

1 27-14-1020. Rules ~~and regulations~~.

2 The Director of the Department of Finance and Administration shall
3 promulgate such reasonable rules ~~and regulations~~ and prescribe such forms as
4 are necessary for the proper enforcement of this subchapter.

5
6 SECTION 3100. Arkansas Code § 27-14-1104 is amended to read as
7 follows:

8 27-14-1104. Rules ~~and regulations~~.

9 (a) The Director of the Department of Finance and Administration is
10 authorized to promulgate rules ~~and regulations~~ regarding the maximum and
11 minimum number of letters, numbers, or symbols on special personalized
12 prestige license plates issued under this subchapter.

13 (b) The director may also promulgate such other rules ~~and regulations~~
14 as shall be deemed necessary or desirable for effectively carrying out the
15 intent and purposes of this subchapter and the laws of this state relative to
16 the regulation and licensing of motor vehicles.

17
18 SECTION 3101. Arkansas Code § 27-14-1202(a)(1), concerning the
19 definition of "decal" under the Permanent Trailer Licensing Act of 1979, is
20 amended to read as follows:

21 (1) "Decal" means an attachable material of such form and
22 substance as the Director of the Department of Finance and Administration may
23 prescribe by rule ~~or regulation~~;

24
25 SECTION 3102. Arkansas Code § 27-14-1218 is amended to read as
26 follows:

27 27-14-1218. Rules ~~and regulations~~.

28 The Director of the Department of Finance and Administration shall
29 promulgate such reasonable rules ~~and regulations~~ and prescribe such forms as
30 are necessary for the proper enforcement of this subchapter.

31
32 SECTION 3103. Arkansas Code § 27-14-1301(a), concerning penalties
33 regarding licensing of trucks and trailers, is amended to read as follows:

34 (a) Every person who violates or who procures, aids, or abets
35 violation of any of the provisions of this subchapter and any person who
36 refuses or fails to obey any order, decision, or rule, ~~or regulation~~ made

1 under or pursuant to this subchapter shall be deemed guilty of a misdemeanor.

2
3 SECTION 3104. Arkansas Code § 27-14-1304 is amended to read as
4 follows:

5 27-14-1304. Rules ~~and regulations~~.

6 (a)(1) The Director of the Department of Finance and Administration
7 shall promulgate rules ~~and regulations~~ and prescribe forms for the proper
8 enforcement of this subchapter.

9 (2) The rules, ~~regulations~~, and forms shall be dated and issued
10 under a systematic method of numbering.

11 (b)(1) A complete file of all rules, ~~regulations~~, and forms shall be
12 kept in the office of the director.

13 (2) Copies of the rules, ~~regulations~~, and forms shall be made
14 available to any person requesting them.

15
16 SECTION 3105. Arkansas Code § 27-14-1306(b), concerning commercial
17 vehicle temporary license plates, is amended to read as follows:

18 (b) The Chief Fiscal Officer of the State is authorized to promulgate
19 such rules ~~and regulations~~ as he or she deems necessary for the proper
20 enforcement of this section.

21
22 SECTION 3106. Arkansas Code § 27-14-1808 is amended to read as
23 follows:

24 27-14-1808. Rules ~~and regulations~~.

25 The Director of the Department of Finance and Administration is
26 authorized to promulgate such rules ~~and regulations~~ as he or she deems
27 necessary for the proper enforcement of this subchapter.

28
29 SECTION 3107. Arkansas Code § 27-14-1905 is amended to read as
30 follows:

31 27-14-1905. Rules ~~and regulations~~.

32 The Director of the Department of Finance and Administration is
33 authorized to promulgate rules ~~and regulations~~ consistent with the provisions
34 of this subchapter.

35
36 SECTION 3108. Arkansas Code § 27-14-2105 is amended to read as

1 follows:

2 27-14-2105. Rules ~~and regulations~~.

3 The Director of the Department of Finance and Administration is
4 authorized to promulgate such rules ~~and regulations~~ as he or she deems
5 necessary for the proper enforcement of this subchapter.

6

7 SECTION 3109. Arkansas Code § 27-14-2307 is amended to read as
8 follows:

9 27-14-2307. Rules ~~and regulations~~.

10 The Director of the Department of Finance and Administration shall
11 promulgate necessary rules ~~and regulations~~ for the proper enforcement and
12 administration of this subchapter.

13

14 SECTION 3110. Arkansas Code § 27-15-314(a)(2), concerning parking
15 spaces by private agencies, is amended to read as follows:

16 (2) Private businesses that provide parking access intended for
17 use by the public that are constructed after January 1, 1992, and private
18 businesses that undertake significant physical modifications or alterations
19 of their premises after January 1, 1992, shall provide parking spaces in such
20 number and otherwise in accordance with the standards set forth in
21 ~~regulations~~ rules promulgated by the Department of Finance and Administration
22 that would be consistent with Pub. L. No. 100-641 and rules issued pursuant
23 thereto by the Secretary of Transportation.

24

25 SECTION 3111. Arkansas Code § 27-15-2404 is amended to read as
26 follows:

27 27-15-2404. Rules ~~and regulations~~.

28 The Director of the Department of Finance and Administration shall make
29 such rules ~~and regulations~~ as are necessary to ascertain compliance with all
30 state license laws relating to the use and operation of motor vehicles before
31 issuing the special plates under this subchapter in lieu of the regular
32 license plates.

33

34 SECTION 3112. Arkansas Code § 27-15-3103 is amended to read as
35 follows:

36 27-15-3103. ~~Regulations~~ Rules.

1 The Department of Finance and Administration shall promulgate
2 ~~regulations~~ rules necessary to implement this subchapter.

3
4 SECTION 3113. Arkansas Code § 27-15-4908 is amended to read as
5 follows:

6 27-15-4908. Rules ~~and regulations~~.

7 The Director of the Department of Finance and Administration shall
8 promulgate reasonable rules ~~and regulations~~ and prescribe forms as the
9 director determines to be necessary for effectively and efficiently carrying
10 out the intent and purposes of this subchapter.

11
12 SECTION 3114. Arkansas Code § 27-15-5102(c), concerning the design of
13 the Arkansas State Golf Association special license plates, is amended to
14 read as follows:

15 (c) The director shall promulgate reasonable rules ~~and regulations~~ and
16 prescribe any forms as the director determines to be necessary to carry out
17 the intent and purposes of this subchapter.

18
19 SECTION 3115. Arkansas Code § 27-16-701(g), concerning application for
20 a license or instruction permit and restricted permits, is amended to read as
21 follows:

22 (g) The Department of Finance and Administration shall have the power
23 to promulgate rules ~~and regulations~~ to carry out the intent of this section
24 and shall distribute to each public, private, and parochial school and each
25 adult education program a copy of all rules ~~and regulations~~ adopted under
26 this section.

27
28 SECTION 3116. Arkansas Code § 27-16-907(g), concerning the suspension
29 or revocation of licenses, is amended to read as follows:

30 (g) The director may promulgate rules ~~and regulations~~ for the
31 administration of this section.

32
33 SECTION 3117. Arkansas Code § 27-16-909(e), concerning the suspension
34 or revocation of a license for the inability to drive, is amended to read as
35 follows:

36 (e) The director may promulgate rules ~~and regulations~~ for the orderly

1 and efficient administration of this section.

2
3 SECTION 3118. Arkansas Code § 27-18-101(a)(2), concerning establishing
4 a driver education program, is amended to read as follows:

5 (2) In connection therewith, the commission shall promulgate
6 reasonable rules ~~and regulations~~, not inconsistent with law, for furthering
7 the driver education program as authorized by this chapter.

8
9 SECTION 3119. Arkansas Code § 27-19-402 is amended to read as follows:
10 27-19-402. Rules ~~and regulations~~.

11 The Director of the Department of Finance and Administration may make
12 rules ~~and regulations~~ necessary for the administration of this chapter.

13
14 SECTION 3120. Arkansas Code § 27-20-107(d)(1)(B), concerning
15 application for and issuance of a motorcycle operator's license, is amended
16 to read as follows:

17 (B) The office shall have the authority, by ~~regulation~~
18 rule, to shorten or lengthen the term of any motorcycle operator's license
19 period, as necessary, and to make a pro rata adjustment of the fee charged.

20
21 SECTION 3121. Arkansas Code § 27-20-108(b)(1), concerning the
22 examination for a motorcycle operator's license, is amended to read as
23 follows:

24 (1) A written examination designed to determine the applicant's
25 knowledge of traffic laws, ordinances, rules, and regulations and other
26 matters necessary to determine the applicant's knowledge of the operation of
27 these motor vehicles;

28
29 SECTION 3122. Arkansas Code § 27-20-111(a), concerning the regulation
30 and operation of motorized bicycles, is amended to read as follows:

31 (a) The operators of motorized bicycles shall be subject to all state
32 and local traffic laws, ordinances, rules, and regulations.

33
34 SECTION 3123. Arkansas Code § 27-20-114 is amended to read as follows:
35 27-20-114. Rules ~~and regulations~~.

36 The Department of Finance and Administration is authorized to adopt

1 such rules ~~and regulations~~ and practices not inconsistent with this
2 subchapter as it deems necessary or appropriate to carry out the purposes of
3 this subchapter.

4
5 SECTION 3124. Arkansas Code § 27-20-208 is amended to read as follows:
6 27-20-208. ~~Regulations~~ Rules.

7 The Director of the Department of Finance and Administration may
8 promulgate such rules ~~and regulations~~ as necessary to implement this
9 subchapter.

10
11 SECTION 3125. Arkansas Code § 27-22-107(a)(1), concerning motor
12 vehicle insurance reporting, is amended to read as follows:

13 (a)(1) Each insurance company providing motor vehicle liability
14 insurance coverage required under § 27-22-104(a), shall provide before the
15 seventh day of each calendar month to the Revenue Division of the Department
16 of Finance and Administration a record of each motor vehicle insurance policy
17 in effect as of the previous month that was issued by the insurance company.
18 The reports shall be provided to the division through any means of electronic
19 or electromagnetic medium available to and approved by the department, unless
20 the insurance company qualifies for an exception to this electronics
21 reporting requirement as a result of being a small or low-volume insurer as
22 may otherwise be provided for under ~~regulations~~ rules promulgated by the
23 Department of Finance and Administration.

24
25 SECTION 3126. Arkansas Code § 27-22-107(a)(2)(C), concerning motor
26 vehicle insurance reporting, is amended to read as follows:

27 (C) At the discretion of the department, rules ~~and~~
28 ~~regulations~~ may be established to offer insurers who write fewer policies an
29 alternative method for reporting insurance policy data.

30
31 SECTION 3127. Arkansas Code § 27-22-107(c) and (d), concerning motor
32 vehicle insurance reporting, are amended to read as follows:

33 (c) The department may, following procedures set forth in ~~regulations~~
34 rules promulgated by the department, assess a penalty against each insurance
35 company of up to two hundred fifty dollars (\$250) for each day the insurance
36 company fails to comply with this section. If an insurance company shows that

1 the failure to comply with this section was inadvertent, accidental, outside
2 of the control of the company, or the result of excusable neglect, the
3 Director of the Department of Finance and Administration may excuse the
4 penalty. The moneys collected from these penalties shall be deposited as a
5 special revenue into the State Central Services Fund, and the net amount
6 shall be credited as a direct revenue to be used by the department to offset
7 the costs of administering this section.

8 (d) The department shall promulgate necessary rules ~~and regulations~~
9 for the administration of this section.

10
11 SECTION 3128. Arkansas Code § 27-22-203(a)(2), concerning the online
12 insurance verification system, is amended to read as follows:

13 (2) Develop a guide for insurers providing data and other
14 information necessary for compliance along with other necessary ~~regulations~~
15 rules;

16
17 SECTION 3129. Arkansas Code § 27-22-206(a)(10), concerning the
18 responsibilities of the Department of Finance and Administration, is amended
19 to read as follows:

20 (10) Administer and enforce this subchapter and propose
21 reasonable rules ~~and regulations~~ concerning any matter administered in this
22 subchapter;

23
24 SECTION 3130. Arkansas Code § 27-22-207(4), concerning exemptions to
25 motor vehicle liability insurance requirements, is amended to read as
26 follows:

27 (4) Inoperable or stored motor vehicles that are not operated,
28 as defined by the rules ~~and regulations~~ of the Department of Finance and
29 Administration and not subject to the provisions of this subchapter;

30
31 SECTION 3131. Arkansas Code § 27-23-119 is amended to read as follows:
32 27-23-119. Exemption regulations.

33 In the event that it shall be determined by federal regulation that
34 certain classes of drivers shall be exempt from the application of the
35 Commercial Motor Vehicle Safety Act of 1986, Pub. L. No. 99-570, Title XII,
36 the State Highway Commission shall have the authority to and shall promulgate

1 rules ~~and regulations~~ to exempt those certain classes of drivers from the
2 application of this subchapter.

3
4 SECTION 3132. Arkansas Code § 27-23-120 is amended to read as follows:
5 27-23-120. Rulemaking authority.

6 The Office of Driver Services and the Department of Arkansas State
7 Police shall have the authority to adopt rules ~~and regulations~~ after
8 consulting with, and with the concurrence of, the State Highway Commission
9 and the Arkansas Highway Police Division of the Arkansas Department of
10 Transportation, necessary to carry out the provisions of this subchapter.

11
12 SECTION 3133. Arkansas Code § 27-24-1205(d), concerning the design and
13 approval procedure for a special license plate, is amended to read as
14 follows:

15 (d) The director shall promulgate reasonable rules ~~and regulations~~ and
16 prescribe the forms necessary for effectively carrying out the intent and
17 purposes of this subchapter.

18
19 SECTION 3134. Arkansas Code § 27-35-112(c), concerning towing vehicles
20 licensed in other states, is amended to read as follows:

21 (c) The Arkansas Towing and Recovery Board may promulgate rules ~~and~~
22 ~~regulations~~ for the enforcement of this section, including the imposition of
23 civil penalties as set forth in § 27-50-1204.

24
25 SECTION 3135. Arkansas Code § 27-35-203(g)(1)(C), concerning single
26 and tandem axle load limits, is amended to read as follows:

27 (C) Vehicles, or combinations of vehicles, used
28 exclusively for hauling solid waste, as defined by ~~regulations~~ rules
29 promulgated by the commission, shall be permitted an eight percent (8%)
30 variance above the allowable gross weight whenever the formula in subsection
31 (e) of this section is applied to the vehicle or combination of vehicles.
32 However, the maximum gross weight, including any allowable variance or
33 tolerance, shall not exceed eighty thousand pounds (80,000 lbs.).

34
35 SECTION 3136. Arkansas Code § 27-35-206(a)(2)(D)(ii), concerning the
36 width of vehicles operated on state highways, is amended to read as follows:

1 (ii) The signs or placards shall be of such a size,
2 dimension, and color that it is readily apparent to the traveling public that
3 the vehicle or combination is slow-moving and shall be in accordance with
4 rules ~~and regulations~~ to be made and promulgated by the commission.

5
6 SECTION 3137. Arkansas Code § 27-35-208(c)(1)(B), concerning the
7 length of vehicles operated on state highways, is amended to read as follows:

8 (B) The state shall not establish or enforce any
9 ~~regulation~~ rule which imposes a semitrailer or trailer length limitation of
10 less than fifty-three feet six inches (53' 6") on a semitrailer or trailer
11 unit operating in combination with a truck tractor unit.

12
13 SECTION 3138. Arkansas Code § 27-35-210(g)(2), concerning permits for
14 special cargoes, is amended to read as follows:

15 (2) To collect the fees therefor at the time of the issuance of
16 the permits, except that any applicant may furnish a corporate surety bond
17 guaranteeing the payment of fees for permits as may be issued during any
18 period of time, in accordance with the rules ~~and regulations~~ promulgated by
19 the issuing agency; and

20
21 SECTION 3139. Arkansas Code § 27-35-303 is amended to read as follows:

22 27-35-303. Rules ~~and regulations~~.

23 The Arkansas Department of Transportation shall promulgate rules ~~and~~
24 ~~regulations~~ covering the application for, and issuance of, special permits
25 for the safe movement of manufactured home units in accordance with the
26 provisions of this subchapter.

27
28 SECTION 3140. Arkansas Code § 27-35-304(b)(1), concerning the fee for
29 a special permit to move manufactured home units, is amended to read as
30 follows:

31 (b)(1) The rules ~~and regulations~~ of the State Highway Commission, with
32 respect to the movement of manufactured homes upon the highways of this state
33 shall be equally applicable to the movement of manufactured homes upon city
34 streets and county roads in this state.

35
36 SECTION 3141. Arkansas Code § 27-35-309(a), concerning transportation

1 of houses and other structures, is amended to read as follows:

2 (a) Qualified house or structural movers in this state who have met
3 the financial responsibility requirements of the laws of this state and
4 ~~regulations~~ rules of the Arkansas Department of Transportation shall be
5 authorized to move upon the public highways of this state houses and other
6 structures up to and including twenty-eight feet six inches (28' 6") in
7 width, exclusive of roof overhang, upon obtaining a permit as required by
8 law.

9

10 SECTION 3142. Arkansas Code § 27-35-309(c), concerning transportation
11 of houses and other structures, is amended to read as follows:

12 (c)(1) The State Highway Commission may issue such special ~~regulations~~
13 rules for the movement of houses and other structures on the highways as the
14 commission deems necessary for the protection of the public safety.

15 (2)(A) The rules ~~and regulations~~ of the commission, with respect
16 to the movement of overwidth, overheight, or overlength loads upon the
17 highways of this state shall be equally applicable to the movement of houses
18 and other structures upon city streets and county roads of this state.

19 (B) Municipalities and counties, respectively, may make
20 and enforce other rules and regulations regarding the movement of houses and
21 other structures on city streets and on county roads as they deem
22 appropriate.

23

24 SECTION 3143. Arkansas Code § 27-37-203 is amended to read as follows:
25 27-37-203. Vehicles transporting explosives.

26 (a) Any person operating any vehicle transporting any explosive or
27 other dangerous articles as cargo upon a highway shall at all times comply
28 with the requirements of the ~~regulations~~ rules promulgated under this
29 section.

30 (b) The State Highway Commission is authorized and directed to
31 promulgate ~~regulations~~ rules governing the transportation of explosives and
32 other dangerous articles in vehicles upon the highways as it deems advisable
33 for the protection of the public.

34

35 SECTION 3144. Arkansas Code § 27-37-701(2), concerning the definition
36 of "seat belt" under the laws governing mandatory seat belt use, is amended

1 to read as follows:

2 (2) "Seat belt" means any passenger restraint system as defined
3 by the Department of Arkansas State Police, except that, until such time as
4 the department has promulgated ~~regulations~~ rules defining "seat belt", the
5 term means any passenger restraint system which meets the federal
6 requirements contained in 49 C.F.R. § 571.208.

7

8 SECTION 3145. Arkansas Code § 27-49-114(16), concerning the definition
9 of "police officer" under the Uniform Act Regulating Traffic on Highways of
10 Arkansas, is amended to read as follows:

11 (16) "Police officer" means an officer authorized to direct or
12 regulate traffic or to make arrests for violations of traffic regulations or
13 rules;

14

15 SECTION 3146. Arkansas Code § 27-50-204(a), concerning employees of
16 the Arkansas Highway Police Division of the Arkansas Department of
17 Transportation, is amended to read as follows:

18 (a) The State Highway Commission shall establish rules ~~and regulations~~
19 governing employees of the Arkansas Highway Police Division of the Arkansas
20 Department of Transportation.

21

22 SECTION 3147. Arkansas Code § 27-50-204(c), concerning employees of
23 the Arkansas Highway Police Division of the Arkansas Department of
24 Transportation, is amended to read as follows:

25 (c) All moneys coming into the hands of the employees in the
26 enforcement of revenue laws shall be subject to ~~regulations~~ rules and
27 procedures as the Director of the Department of Finance and Administration
28 shall direct.

29

30 SECTION 3148. Arkansas Code § 27-50-805 is amended to read as follows:
31 27-50-805. Credibility as witness not affected.

32 The forfeiture of a bond or the conviction of a person upon a charge of
33 violating any provision of this act or other traffic regulation or rule less
34 than a felony shall not affect or impair the credibility of the person as a
35 witness in any civil or criminal proceeding.

36

1 SECTION 3149. Arkansas Code § 27-50-911 is amended to read as follows:
2 27-50-911. Rules ~~and regulations~~.

3 The Director of the Department of Finance and Administration may
4 promulgate rules ~~and regulations~~ necessary to carry out the provisions of
5 this subchapter.

6
7 SECTION 3150. The introductory language of Arkansas Code § 27-50-
8 1203(e)(1), concerning the creation of the Arkansas Towing and Recovery
9 Board, is amended to read as follows:

10 (e)(1) The board shall promulgate rules ~~and regulations~~ to carry out
11 the intent of this subchapter and shall regulate the towing industry and
12 vehicle immobilization service industry, including:

13
14 SECTION 3151. Arkansas Code § 27-50-1203(e)(2) and (3), concerning the
15 creation of the Arkansas Towing and Recovery Board, are amended to read as
16 follows:

17 (2) The promulgation and adoption of rules ~~and regulations~~ shall
18 in all respects be in the manner provided by the Arkansas Administrative
19 Procedure Act, § 25-15-201 et seq.

20 (3) After the promulgation and adoption of rules ~~or regulations~~,
21 any proposed change to add to, amend, repeal, or change any of the rules ~~or~~
22 ~~regulations~~ shall not have effect until reviewed and approved by the
23 Administrative Rules ~~and Regulations~~ Subcommittee of the Legislative Council
24 subsequent to the time that the General Assembly next meets in regular
25 session unless a finding exists that imminent peril to the public health,
26 safety, or welfare requires immediate adoption, amendment, or repeal of the
27 rules ~~or regulations~~.

28
29 SECTION 3152. Arkansas Code § 27-50-1203(g)(1), concerning the
30 creation of the Arkansas Towing and Recovery Board, is amended to read as
31 follows:

32 (g)(1) The board shall have the authority to employ and discharge any
33 personnel as may be necessary to administer and enforce the provisions of
34 this subchapter and the rules ~~and regulations~~ promulgated hereunder.

35
36 SECTION 3153. Arkansas Code § 27-50-1204(d), concerning liability for

1 costs of towing, recovery and storage of an abandoned vehicle, is amended to
2 read as follows:

3 (d) Any person, excluding a law enforcement officer, who is determined
4 by the board after reasonable notice and opportunity for a fair and impartial
5 hearing held in accordance with the Arkansas Administrative Procedure Act, §
6 25-15-201 et seq., to have committed an act that is in violation of this
7 subchapter or any rules ~~and regulations~~ promulgated under this subchapter is
8 subject to civil penalties prescribed by the board, including monetary
9 penalties not to exceed five thousand dollars (\$5,000) or the suspension or
10 revocation of any towing license or permit, or both.

11
12 SECTION 3154. Arkansas Code § 27-50-1218(d)(1), concerning consumer
13 complaint resolution against a towing company, is amended to read as follows:

14 (d)(1) Financial restitution to the complainant shall be considered as
15 a part of the penalty by the board when a towing company or tow owner is
16 found to have violated provisions of the rules ~~and regulations~~ promulgated by
17 the board.

18
19 SECTION 3155. Arkansas Code § 27-50-1220(a)(2)(C), concerning the
20 authority to issue citations by an investigator of the Arkansas Towing and
21 Recovery Board, is amended to read as follows:

22 (C) Operating a tow vehicle that is out of compliance with
23 the safety and operating ~~regulations~~ rules prescribed by the board;

24
25
26 SECTION 3156. Arkansas Code § 27-51-1002(c)(1)(A), concerning
27 specifications for identification and safety devices for a school bus, is
28 amended to read as follows:

29 (c)(1)(A) The board is vested with full authority and responsibility
30 to prescribe by ~~regulation~~ rule the number and location and other
31 specifications for alternating red warning lights on school buses operated in
32 this state.

33
34 SECTION 3157. Arkansas Code § 27-51-1002(c)(2), concerning
35 specifications for identification and safety devices for a school bus, is
36 amended to read as follows:

1 (2) It shall be the duty of the operator of every school bus
2 operated in this state to conduct an inspection before each trip begins to
3 see that all identification and safety devices required by this section or
4 required by ~~regulation~~ rule of the board are displayed on the vehicle in the
5 manner required, and it is unlawful for any person to operate a school bus in
6 this state unless identification and safety devices are properly displayed
7 and in proper working order.

8
9 SECTION 3158. Arkansas Code § 27-52-110(b)(1), concerning an automated
10 enforcement device operated by a county government or a department of state
11 government operating outside a municipality, is amended to read as follows:

12 (1) A violation of the traffic laws, rules, or regulations of
13 the State of Arkansas; or

14
15 SECTION 3159. Arkansas Code § 27-52-111(b)(1), concerning an automated
16 enforcement device operated by a county government or a department of state
17 government operating outside a municipality, is amended to read as follows:

18 (1) A violation of the traffic laws, rules, or regulations of
19 the State of Arkansas; or

20
21 SECTION 3160. Arkansas Code § 27-65-107(a)(13) and (14), concerning
22 the powers and duties of the State Highway Commission, are amended to read as
23 follows:

24 (13) To adopt rules ~~and regulations~~ to implement the
25 commission's powers;

26 (14) To adopt reasonable rules ~~and regulations~~ from time to time
27 for the protection of, and covering, traffic on and in the use of the state
28 highway system and in controlling use of, and access to, the highways, except
29 that no provision contained herein shall be construed as repealing the
30 existing "rules of the road";

31
32 SECTION 3161. Arkansas Code § 27-65-107(b), concerning the powers and
33 duties of the State Highway Commission, is amended to read as follows:

34 (b) The rules ~~and regulations~~, together with any additions or
35 amendments thereto, prescribed by the commission under the provisions of this
36 chapter shall have the force and effect of law. Any person, firm, or

1 corporation violating any rule ~~or regulation~~ or any addition or amendment
2 thereto shall be guilty of a misdemeanor and, upon conviction, shall be fined
3 not less than five dollars (\$5.00) nor more than one hundred dollars (\$100)
4 for each offense.

5
6 SECTION 3162. Arkansas Code § 27-65-114(b), concerning tourist
7 information bureaus, is amended to read as follows:

8 (b) The commission shall adopt and establish ~~regulations~~ rules for
9 the establishment and maintenance of the tourist information bureaus provided
10 for in this section.

11
12 SECTION 3163. Arkansas Code § 27-66-601(c)(3), concerning state
13 inmates working on roads, is amended to read as follows:

14 (3) The Arkansas Department of Transportation shall determine
15 the number of inmates needed and shall prescribe the rules ~~and regulations~~
16 under which they shall work.

17
18 SECTION 3164. Arkansas Code § 27-67-204(e)(1), concerning the
19 designation of roads in and connected to state parks, is amended to read as
20 follows:

21 (e)(1) Notwithstanding any law to the contrary the Department of Parks
22 and Tourism is permitted by ~~regulation~~ rule to authorize the use of motorized
23 scooters on roads within areas under the control and management of the
24 Department of Parks and Tourism.

25
26 SECTION 3165. The introductory language of Arkansas Code § 27-67-
27 206(j)(2)(A), concerning new road construction, is amended to read as
28 follows:

29 (A) Establish written procedures and ~~regulations~~ rules for
30 the procurement of:

31
32 SECTION 3166. Arkansas Code § 27-67-218(b)(1), concerning digging up
33 highways without authorization, is amended to read as follows:

34 (b)(1) All work shall be done in accordance with the rules ~~and~~
35 ~~regulations~~ that may be prescribed by the commission.

36

1 SECTION 3167. Arkansas Code § 27-67-221(e), concerning the authority
2 of the Arkansas Department of Transportation to inform amateur radio
3 operators of high frequency radio repeaters, is amended to read as follows:

4 (e) The Director of State Highways and Transportation shall have the
5 authority to promulgate any necessary rules ~~and regulations~~ to implement this
6 section and establish any conditions and guidelines for participation by any
7 local amateur radio operators or clubs.

8
9 SECTION 3168. Arkansas Code § 27-74-201(a), concerning the policy
10 regarding control of outdoor advertising devices, is amended to read as
11 follows:

12 (a) The General Assembly finds and declares that the erection and
13 maintenance of outdoor advertising signs, displays, and devices in areas
14 adjacent to certain sections of the National System of Interstate and Defense
15 Highways, and federal-aid primary and other state highways designated by the
16 State Highway Commission in the Arkansas state highway system shall be
17 controlled in accordance with the terms of this chapter and ~~regulations~~
18 rules promulgated pursuant thereto, in order to protect the public interest;
19 to promote the public health, safety, and welfare; to preserve natural
20 beauty; and to promote reasonable, orderly, and effective display of outdoor
21 advertising in the State of Arkansas.

22
23 SECTION 3169. Arkansas Code § 27-74-203(b), concerning the regulation
24 of the erection and maintenance of outdoor advertising signs, displays, and
25 devices, is amended to read as follows:

26 (b) Therefore, no outdoor sign, display, or device shall be erected in
27 these areas except as hereinafter provided and in accordance with ~~regulations~~
28 rules promulgated by the commission.

29
30 SECTION 3170. Arkansas Code § 27-74-207(a), concerning the removal of
31 outdoor advertising devices and notice to the owner, is amended to read as
32 follows:

33 (a) The State Highway Commission shall give thirty (30) days' notice,
34 by certified mail, to the owner of the land on which an advertising device is
35 located to remove it if it is a prohibited device or cause it to conform to
36 ~~regulations~~ rules if it is an authorized device.

1
2 SECTION 3171. Arkansas Code § 27-74-211(b) and (c), concerning the
3 adoption and promulgation of rules governing the issuance of permits for the
4 erection and maintenance of outdoor advertising devices, are amended to read
5 as follows:

6 (b) The definition of an unzoned commercial or industrial area shall
7 be determined by agreement between the commission and the United States
8 Secretary of Transportation but shall be no more restrictive than that
9 required by Title 23 of the United States Code. The commission shall then
10 adopt and promulgate ~~regulations~~ rules governing the issuance of permits for
11 the erection and maintenance of outdoor advertising coming within the purview
12 of this chapter, consistent with the safety and welfare of the traveling
13 public, and as may be necessary to carry out the policy of the state declared
14 in this chapter consistent with customary usage, the purposes of this
15 chapter, and in agreement with the United States Secretary of Transportation.

16 (c) In the event that federal statutes, rules, or regulations conflict
17 with the provisions of §§ 27-74-210 – 27-74-212 or ~~regulations~~ rules
18 promulgated thereunder, the commission is authorized to promulgate rules ~~and~~
19 ~~regulations~~ necessary to comply with federal law after first obtaining the
20 advice of the Legislative Council thereon while pursuing, insofar as
21 possible, the legitimate objectives of those sections.

22
23 SECTION 3172. Arkansas Code § 27-74-212(b), concerning the time limit
24 for action on application for a permit for an outdoor advertising device, is
25 amended to read as follows:

26 (b) When an application is filed with the commission or the Arkansas
27 Department of Transportation under § 27-74-211 or ~~regulations~~ rules adopted
28 pursuant thereto for a permit to erect or maintain outdoor advertising, the
29 commission or the department shall either grant or deny such permit within
30 sixty (60) days from the date on which the application was filed with the
31 commission or the department.

32
33 SECTION 3173. Arkansas Code § 27-74-405(b), concerning the screening
34 requirement for junkyards, is amended to read as follows:

35 (b) The commission is authorized and directed to promulgate rules ~~and~~
36 ~~regulations~~ governing the location, planting, construction, and maintenance,

1 including materials used therein, of the screening and fencing required under
2 this chapter.

3
4 SECTION 3174. Arkansas Code § 27-74-501(b), concerning the
5 restoration, preservation, and enhancement of scenic beauty adjacent to state
6 highways, is amended to read as follows:

7 (b) Therefore, it is the duty of the State Highway Commission to
8 adopt, promulgate, and enforce reasonable ~~regulations~~ rules for landscape and
9 roadside development of the scenic values of selected areas adjacent to these
10 highways through the acquisition and development of scenic easements on and
11 improvement of strips of land necessary for the restoration, preservation,
12 and enhancement of such scenic beauty, including scenic overlooks and rest
13 and recreation areas.

14
15 SECTION 3175. Arkansas Code § 27-86-210(a), concerning the state
16 purchase of private toll bridges and construction of free bridges, is amended
17 to read as follows:

18 (a) The State Highway Commission is authorized and empowered to
19 purchase any or all of the privately owned toll bridges in the State of
20 Arkansas at prices to be fixed by the commission in accordance with rules ~~and~~
21 ~~regulations~~ to be promulgated by the commission.

22
23 SECTION 3176. Arkansas Code § 27-87-103(b), concerning public ferries
24 on private streams, is amended to read as follows:

25 (b) And when so declared by the county court, the ferry shall be and
26 remain a public ferry during the pleasure of the court and be subject to all
27 the ~~regulations~~ rules and restrictions that are made by law applicable to
28 public ferries on navigable streams.

29
30 SECTION 3177. Arkansas Code § 27-90-202(a)(6), concerning the
31 authority of State Highway Commission to undertake turnpike projects, is
32 amended to read as follows:

33 (6) Establish rules ~~and regulations~~ for the use of each turnpike
34 project;

35
36 SECTION 3178. Arkansas Code § 27-101-102(b)(1), concerning the effect

1 on ordinances for the operation of vessels on waterways, is amended to read
2 as follows:

3 (1) Prevent the adoption of any ordinance or local law relating
4 to operation and equipment of vessels, the provisions of which are identical
5 to or are not in conflict with the provisions of this subchapter, amendments
6 thereto, or ~~regulations~~ rules issued thereunder;

7
8
9 SECTION 3179. Arkansas Code § 27-101-108 is amended to read as
10 follows:

11 27-101-108. Filing and publication of rules ~~and regulations~~.

12 (a) A copy of the ~~regulations~~ rules adopted pursuant to §§ 27-101-101
13 et seq., 27-101-201 et seq., 27-101-301 et seq., 27-101-501 et seq., and 27-
14 101-601 et seq. and of any amendments of those ~~regulations~~ rules shall be
15 filed in the offices of the Arkansas State Game and Fish Commission, the
16 Secretary of State, the Arkansas State Library, and the Bureau of Legislative
17 Research where each copy shall be preserved as a public record.

18 (b) A copy of the ~~regulations~~ rules adopted under § 27-101-401 et seq.
19 and of any amendments of those ~~regulations~~ rules shall be filed in the
20 offices of the Department of Health, the Secretary of State, the Arkansas
21 State Library, and the Bureau of Legislative Research where each copy shall
22 be preserved as a public record.

23 (c) Rules ~~and regulations~~ under this section shall be published by the
24 responsible state agency in a convenient form for public use.

25
26 SECTION 3180. Arkansas Code § 27-101-203(a)(1)(E), concerning
27 equipment requirements for waterway vessels, is amended to read as follows:

28 (E) Additional equipment designed to promote the safety of
29 navigation and of persons that the Arkansas State Game and Fish Commission
30 may find to be appropriate and for which it has provided in its rules ~~and~~
31 ~~regulations~~. However, before making those rules ~~and regulations~~, or changes
32 or additions thereto, the Arkansas State Game and Fish Commission shall hold
33 public hearings, after reasonable notice thereof, of any proposed rule ~~or~~
34 ~~regulation~~ to be adopted; and

35
36 SECTION 3181. Arkansas Code § 27-101-305(a)(2), concerning the display

1 of motorboat numbers, is amended to read as follows:

2 (2) The numbers to be procured and attached shall be at least
3 three inches (3") in height and of block character, and shall be attached to
4 the forward half of each side of the vessel and clearly visible, pursuant to
5 federal law, and attached in such a manner and position on the boat as may be
6 prescribed by the rules ~~and regulations~~ of the Arkansas State Game and Fish
7 Commission in order that they may be clearly visible.

8

9 SECTION 3182. Arkansas Code § 27-101-408(b), concerning marine
10 sanitation funds, is amended to read as follows:

11 (b) Subject to rules ~~and regulations~~ that may be implemented by the
12 Chief Fiscal Officer of the State, the disbursing officer for the Department
13 of Health is authorized to transfer all unexpended funds relative to marine
14 toilets and marine sanitation systems that pertain to fees or fines
15 collected, as certified by the Chief Fiscal Officer of the State, to be
16 carried forward and made available for expenditures for the same purpose for
17 any following fiscal year.

18

19 SECTION 3183. Arkansas Code § 27-101-409(a), concerning the powers and
20 duties of the Marine Sanitation Advisory Committee, is amended to read as
21 follows:

22 (a) Review all rules and regulations relating to marine
23 toilets, marine sanitation systems, and disposal of marine sewage from boats
24 as necessary to inform marina operators and boat owners of all requirements
25 of state and federal law;

26

27 SECTION 3184. Arkansas Code § 27-101-413(1), concerning the powers and
28 duties of the Department of Health for marine toilet facilities, is amended
29 to read as follows:

30 (1) Administer and enforce all laws, rules, and regulations to
31 the extent permitted by federal law and in accordance with applicable
32 regulations that are adopted by the United States Coast Guard and the United
33 States Environmental Protection Agency and that relate to marine toilet
34 facilities, marine sanitation devices, and unlawful discharge of marine
35 sewage from vessels into waters of this state;

36

1 SECTION 3185. Arkansas Code § 27-101-413(3), concerning the powers and
2 duties of the Department of Health for marine toilet facilities, is amended
3 to read as follows:

4 (3) Adopt ~~regulations~~ rules that are consistent with applicable
5 federal law after consultation with the Marine Sanitation Advisory Committee
6 and that are deemed necessary to carry out the provisions of this subchapter;
7

8 SECTION 3186. Arkansas Code § 27-101-414(a), concerning penalties for
9 violation of marine sanitation rules, is amended to read as follows:

10 (a) Any person who violates any provision of this subchapter or any
11 ~~regulation~~ rule promulgated under this subchapter shall be guilty of a
12 misdemeanor and subject to a fine of not less than one hundred dollars (\$100)
13 and not more than one thousand dollars (\$1,000) or imprisonment not to exceed
14 three (3) months, or both.
15

16 SECTION 3187. Arkansas Code § 27-101-414(b)(1), concerning penalties
17 for violation of marine sanitation rules, is amended to read as follows:

18 (b)(1) Any person who violates any provision of this subchapter or any
19 ~~regulation~~ rule promulgated under this subchapter may be assessed an
20 administrative civil penalty not to exceed one thousand dollars (\$1,000) per
21 violation.
22

23 SECTION 3188. Arkansas Code § 27-101-502(b), concerning electronic
24 proof of boater education, is amended to read as follows:

25 (b) When any law, rule, or regulation of this state requires a person
26 to carry and display upon request a boater education certificate, an
27 electronic copy of the boater education certificate in an acceptable
28 electronic format is sufficient to establish compliance.
29

30 SECTION 3189. Arkansas Code § 27-101-604(c), concerning the regulation
31 of personal watercraft liveries, is amended to read as follows:

32 (c) A personal watercraft livery shall provide for the operator of
33 rental personal watercraft in print prior to rental the boating regulations
34 and rules peculiar to the area of rental, including, but not limited to, no-
35 entry zones, no-wake zones, channel routes and water hazards, and tidal flow,
36 where applicable.

1
2 SECTION 3190. Arkansas Code § 27-101-607 is amended to read as
3 follows:

4 27-101-607. Scope.

5 The provisions of this subchapter shall be supplemental and in addition
6 to any other laws, rules, or regulations relating to boats or other
7 watercraft.

8
9 SECTION 3191. Arkansas Code § 27-114-103 is amended to read as
10 follows:

11 27-114-103. Evidence – License number or identification mark.

12 In any proceeding for violating the provisions of this act or the rules
13 ~~and regulations~~ of the department adopted pursuant to this act, the federal
14 license number or identification mark displayed on the aircraft shall be
15 prima facie evidence that the owner of the aircraft was operating the
16 aircraft.

17
18 SECTION 3192. Arkansas Code § 27-115-106 is amended to read as
19 follows:

20 27-115-106. Administration – Promulgation of rules ~~and regulations~~.

21 The Arkansas Department of Aeronautics shall administer the provisions
22 of this chapter and § 27-116-101 et seq. and is authorized and directed to
23 promulgate ~~regulations~~ rules as necessary to execute the powers invested in
24 it by this chapter and § 27-116-101 et seq. and other applicable laws.

25
26 SECTION 3193. Arkansas Code § 27-115-108(a)(2), concerning the duties
27 of the Arkansas Department of Aeronautics, is amended to read as follows:

28 (2) Adopt rules ~~and regulations~~ for the issuance, expiration,
29 suspension, or revocation of licenses of airports, landing fields, and air
30 navigation facilities, and of other licenses or certificates that the
31 department deems necessary in administering the functions vested in the
32 department under this chapter and § 27-116-101 et seq.;

33
34 SECTION 3194. Arkansas Code § 27-115-108(a)(8), concerning the duties
35 of the Arkansas Department of Aeronautics, is amended to read as follows:

36 (8) Adopt rules ~~and regulations~~ governing instruction in flight

1 or ground school offered to student fliers or mechanics when the instruction
2 is conducted by individual flight instructors licensed under appropriate
3 Federal Aviation Administration regulations and adopt rules ~~and regulations~~
4 governing the safety, adequacy, and sufficiency of airports, landing fields,
5 and air navigation facilities and equipment used or to be used in the
6 instruction of student fliers or mechanics;

7
8 SECTION 3195. Arkansas Code § 27-115-108(a)(9), concerning the duties
9 of the Arkansas Department of Aeronautics, is amended to read as follows:

10 (9) Adopt rules ~~and regulations~~ for the marking of highways,
11 municipalities, and all other serial markings used throughout the state;

12
13 SECTION 3196. Arkansas Code § 27-115-108(a)(10), concerning the duties
14 of the Arkansas Department of Aeronautics, is amended to read as follows:

15 (10) Adopt rules ~~and regulations~~ governing the erection,
16 location, and maintenance of aerial beacon lights and other aerial night
17 lighting equipment within the state;

18
19 SECTION 3197. Arkansas Code § 27-115-108(a)(13), concerning the duties
20 of the Arkansas Department of Aeronautics, is amended to read as follows:

21 (13) Establish by ~~regulation~~ rule the minimum safe altitudes for
22 flight, including air traffic rules; and

23
24 SECTION 3198. Arkansas Code § 27-115-108(b), concerning the duties of
25 the Arkansas Department of Aeronautics, is amended to read as follows:

26 (b) All rules ~~and regulations~~ prescribed by the department under the
27 authority of this section shall be consistent with and conform to current
28 federal legislation governing aeronautics and the regulations duly
29 promulgated thereunder and rules issued from time to time pursuant thereto.
30 Nothing in this section shall confer upon the department the power to
31 determine schedules, issue stock, or determine public convenience or the
32 adequacy and sufficiency of service of common carriers engaged in commercial
33 flying within this state.

34
35 SECTION 3199. Arkansas Code § 27-116-101(6), concerning unlawful acts
36 when operating or navigating aircraft, is amended to read as follows:

1 (6) Use a false or fictitious name or give a false or fictitious
2 address in any application or form required under the provisions of § 27-115-
3 101 et seq. and this chapter, or the rules ~~and regulations~~ of the department
4 adopted pursuant to § 27-115-101 et seq. and this chapter, knowingly make any
5 false statement or report, knowingly conceal a material fact, or otherwise
6 commit a fraud in any application.

7
8 SECTION 3200. Arkansas Code § 27-116-205 is amended to read as
9 follows:

10 27-116-205. Display of licenses.

11 The certificate of the license required for the person operating
12 aircraft and the certificate of the license required for aircraft and other
13 licenses or certificates that may be issued by the Arkansas Department of
14 Aeronautics shall be kept in such places and exhibited to such persons at
15 such time and under such ~~regulations~~ rules and circumstances as shall be
16 required by the ~~regulations~~ rules of the department.

17
18 SECTION 3201. Arkansas Code § 27-116-405(a)(1), concerning presale
19 requirements for a downed aircraft transmitting device, is amended to read as
20 follows:

21 (1) The device shall meet the minimum standards for transmitting
22 devices established pursuant to this subchapter and the ~~regulations~~ rules
23 promulgated by the Arkansas Department of Aeronautics hereunder;

24
25 SECTION 3202. Arkansas Code § 28-65-212(d)(2), concerning
26 responsibility for evaluations prior to a hearing on a petition for
27 guardianship and duties of the Department of Human Services, is amended to
28 read as follows:

29 (2) The department shall issue ~~regulations~~ rules to implement
30 this provision.

31
32 SECTION 3203. Arkansas Code § 28-71-107(a) and (b), concerning limited
33 investment in private venture capital projects, are amended to read as
34 follows:

35 (a) Unless prohibited by federal law or regulations promulgated
36 thereunder, but notwithstanding any law or ~~regulation~~ rule of this state to

1 the contrary, fiduciaries and financial institutions may invest up to no more
2 than two and one-half percent (2½%) of their funds eligible for investment,
3 but not more than ten percent (10%) of their capital, including common
4 capital stock, certified surplus, capital notes, and undivided profits, in
5 Arkansas private venture capital projects without being in contravention of
6 any prudent investor rule. This limitation is applicable only at the time of
7 investment, and it shall not constitute a contravention of the prudent
8 investor rule if investments in Arkansas private venture capital projects are
9 in excess of this limitation by virtue of a reduction in the amount of funds
10 eligible for investment.

11 (b) The primary state regulators of the fiduciaries making such
12 investments under this section shall promulgate rules ~~and regulations~~ for the
13 implementation of this section.

14
15 SECTION 3204. DO NOT CODIFY.

16 (a) This act shall not invalidate or affect any rules or regulations
17 promulgated pursuant to law that are in effect on the effective date of this
18 act.

19 (b)(1) All rules and regulations shall remain valid until repealed,
20 replaced, amended, or invalidated in some other manner;

21 (2) No governmental entity shall be required to re-promulgate
22 existing regulations solely to comply with this act;

23 (3) A governmental entity shall ensure the use of the term rule
24 upon promulgation of any rule after the effective date of this act.

25 (c) The enactment and adoption of this act shall not expressly or
26 impliedly repeal an act passed during the regular session of the Ninety-
27 Second General Assembly.

28 (1) To the extent that a conflict exists between an act of the
29 regular session of the Ninety-Second General Assembly and this act:

30 (2) The act of the regular session of the Ninety-Second General
31 Assembly shall be treated as a subsequent act passed by the General Assembly
32 for the purpose of:

33 (A) Giving the act of the regular session of the Ninety-
34 Second General Assembly its full force and effect; and

35 (B) Amending or repealing the appropriate parts of the
36 Arkansas Code of 1987; and

(3) Section 1-2-107 shall not apply.

APPROVED: 3/5/19

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