

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

# A Bill

HOUSE BILL 1661

5 By: Representative Gonzales  
6 By: Senator T. Garner  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING THE ARKANSAS STATE CLAIMS  
10 COMMISSION; CONCERNING CLAIMS MADE OR ACTIONS AGAINST  
11 THE STATE; CONCERNING CLAIM AND ACTION PROCEDURES;  
12 CONCERNING JURISDICTION OF THE ARKANSAS STATE CLAIMS  
13 COMMISSION; AND FOR OTHER PURPOSES.  
14  
15

## Subtitle

17 CONCERNING THE ARKANSAS STATE CLAIMS  
18 COMMISSION; CONCERNING CLAIMS MADE OR  
19 ACTIONS AGAINST THE STATE; CONCERNING  
20 CLAIM AND ACTION PROCEDURES; CONCERNING  
21 JURISDICTION OF THE ARKANSAS STATE CLAIMS  
22 COMMISSION.  
23  
24

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

27 SECTION 1. Arkansas Code Title 19, Chapter 10, Subchapter 1, is  
28 amended to read as follows:  
29

### Subchapter 1 – General Provisions

30 19-10-101. Investigatory powers.

31  
32 (a)(1) ~~The Director of the Department of Finance and Administration,~~  
33 ~~as soon as the director learns of facts from which he or she concludes that a~~  
34 ~~claim, other than for personal injury or death of a state employee, may be~~  
35 ~~filed under this chapter against the state or any of its agencies,~~  
36



1 ~~departments, or institutions, whether or not the claim has already been~~  
 2 ~~filed, is authorized and directed to investigate and take evidence concerning~~  
 3 ~~the claim~~ As soon as the Director of the Department of Finance and  
 4 Administration learns of facts from which the director concludes that a claim  
 5 may be filed under this chapter against the state or a state agency, the  
 6 director shall investigate and take evidence concerning the claim.

7 (2) The director's duty under subdivision (a)(1) of this section  
 8 applies whether or not the claim has already been filed at the time the  
 9 director learns the relevant facts upon which the director bases his or her  
 10 conclusion.

11 (3) Subdivision (a)(1) of this section does not apply to a claim  
 12 for personal injury or death of a state employee.

13 ~~(b) The director is, for this purpose, authorized to~~ To carry out his  
 14 or her duties under this section, the director may exercise all necessary  
 15 investigatory powers conferred upon him or her by this chapter.

16 (c) All information acquired by the director under this section shall  
 17 be made available to the Arkansas State Claims Commission ~~prior to~~ before the  
 18 hearing and determination ~~thereof~~ of the claim.

19  
 20 19-10-102. Legal representative for state agencies.

21 ~~(a)(1) The attorneys of any~~ An attorney for a state agency,  
 22 ~~department, or institution~~ against which a claim is filed shall represent  
 23 ~~their respective agencies~~ his or her respective state agency before the  
 24 Arkansas State Claims Commission.

25 (2) The Attorney General shall represent all ~~agencies,~~  
 26 ~~departments, and institutions which~~ state agencies that have no special legal  
 27 representatives before the Arkansas State Claims Commission.

28 (b) Legal representation for a public employer before the Workers'  
 29 Compensation Commission shall be in the manner prescribed in § 21-5-606.

30  
 31 19-10-103. State employee not to represent claimant.

32 ~~No full-time employee of the State of Arkansas or of its agencies, nor~~  
 33 ~~a member of any agency, shall appear before either the Arkansas State Claims~~  
 34 ~~Commission or the Workers' Compensation Commission as attorney or~~  
 35 ~~representative for any claimant in the presentation or prosecution of any~~  
 36 ~~claim filed under this chapter~~ The following shall not appear before the

1 Arkansas State Claims Commission or the Workers' Compensation Commission as  
 2 an attorney or representative for a claimant in the presentation or  
 3 prosecution of a claim filed under this chapter:

- 4 (1) A full-time employee of:
  - 5 (A) The State of Arkansas; or
  - 6 (B) A state agency; or
- 7 (2) A member of a state agency.

8  
 9 19-10-104. Claims for late or lost warrants.

10 ~~The Arkansas State Claims Commission, before~~ Before approving a claim  
 11 for reissuance of a state warrant ~~for purchase of commodities delivered or~~  
 12 ~~services performed~~ that has been lost or presented for payment after  
 13 expiration of the legal date for redemption, the Arkansas State Claims  
 14 Commission shall request proof from the Auditor of State that:

- 15 (1) ~~the~~ The original warrant was legally ~~cancelled~~ canceled  
 16 because of late redemption presentation; ~~or, in~~
- 17 (2) In the case of a lost warrant, an official warrant  
 18 cancellation procedure has been exercised.

19  
 20 19-10-105. Definitions.

21 As used in this chapter:

- 22 (1) "Insurer" means a person engaged as indemnitor, surety, or  
 23 contractor in the business of entering into contracts of insurance;
- 24 (2) "State agency" means a department, office, board,  
 25 commission, or institution of this state, including a state-supported  
 26 institution of higher education; and
- 27 (3) "Subrogation claim" means a claim filed with the Arkansas  
 28 State Claims Commission by an insurer or by its insured, or both, to recover  
 29 money paid or owed by an insurer to an individual under a contract of  
 30 insurance.

31  
 32 SECTION 2. Arkansas Code Title 19, Chapter 10, Subchapter 2, is  
 33 amended to read as follows:

34  
 35 Subchapter 2 – Arkansas State Claims Commission  
 36

1 19-10-201. Creation of commission – Members – Salary and expense  
2 reimbursement.

3 (a)(1)(A) There is created a commission to be known as the “Arkansas  
4 State Claims Commission”.

5 (B) ~~It~~ The commission shall consist of five (5) members to  
6 be known as “commissioners”.

7 (C) ~~Two (2) members shall be attorneys and one (1) member~~  
8 All commissioners shall be a public-spirited ~~person~~ persons of recognized  
9 standing, and at least two (2) commissioners shall be attorneys licensed to  
10 practice law in the state of Arkansas.

11 (2)(A)(i) The commissioners shall be appointed by the Governor  
12 and confirmed by the Senate.

13 (ii) ~~They~~ The commissioners shall serve for terms of  
14 five (5) years and thereafter until a successor has been appointed and  
15 qualified.

16 (iii) A vacancy in the office of commissioner shall  
17 be filled by the Governor, and that appointee shall hold office during the  
18 unexpired portion of the term in which the vacancy occurred.

19 (B) ~~Members of the commission~~ Commissioners may be  
20 appointed to and may serve successive terms.

21 (b) Before entering upon the duties of his or her office, each  
22 commissioner shall take the constitutional oath of office.

23 (c)(1) A commissioner shall not hear or participate in the  
24 consideration of ~~any~~ a claim in which he or she is interested personally,  
25 either directly or indirectly.

26 (2) If for ~~reasons of conflicts~~ reason of conflict of interest a  
27 commissioner disqualifies himself or herself or is absent for any reason from  
28 hearing a particular claim, and if there are no other commissioners available  
29 to hear the claim or action, the interested parties may request that a ~~third~~  
30 special commissioner be appointed by the Governor to hear a the specific  
31 claim or action.

32 (d) The commission shall elect from its membership a chair or two (2)  
33 cochairs.

34 (e)(1)(A) Each commissioner shall receive ~~such~~ a salary as may be  
35 prescribed by law and appropriated by the General Assembly.

36 (B) The salary shall be paid in the manner as are salaries

1 of other state officials and employees.

2 (2) In addition to salary, each ~~member~~ commissioner may receive  
 3 expense reimbursement in accordance with § 25-16-901 et seq.

4 (f) The commission is considered an adjudicatory body when the  
 5 commission applies or interprets:

6 (1) A substantive procedural rule; or

7 (2) Case law from an appellate court with jurisdiction to a  
 8 pending claim or action.

9  
 10 19-10-202. Director – Personnel.

11 (a) The ~~Executive Secretary of the Arkansas State Claims Commission or~~  
 12 ~~Clerk~~ Director of the Arkansas State Claims Commission shall be designated by  
 13 the Arkansas State Claims Commission and shall serve as both the ~~Director of~~  
 14 ~~the Arkansas State Claims Commission~~ Executive Secretary for and the Clerk of  
 15 the Arkansas State Claims Commission.

16 (b) The commission may appoint ~~such~~ other personnel as may be  
 17 necessary to effectuate the operations of the commission and as may be  
 18 authorized by biennial appropriation of the General Assembly.

19  
 20 19-10-203. Duties of director.

21 (a)(1) The duties of the Director of the Arkansas State Claims  
 22 Commission shall ~~maintain~~ include maintaining a system of filing and  
 23 adjudicating of claims or actions against the state.

24 (2) The director shall keep a docket of all claims or actions  
 25 filed and shall present them to the Arkansas State Claims Commission in the  
 26 chronological order of filing.

27 ~~(b)(3)~~ (3) The director ~~shall be~~ is responsible for maintenance and  
 28 custody of the docket, files, and records of the commission, including the  
 29 transcripts of testimony and exhibits, with all papers and requests filed in  
 30 proceedings, the minutes of all actions taken, and all of the commission's  
 31 findings, determinations, opinions, reports, orders, and rules, ~~and~~  
 32 ~~regulations.~~

33 ~~(e)(4)~~ (4) The director shall prepare the docket of claims or  
 34 actions to be considered by the commission and shall notify all parties of  
 35 record of the time, date, and place of hearing in advance when a claim or  
 36 action will be docketed for hearing before the commission.

1           (5) The director shall be responsible for hiring personnel in  
 2 the administration of the commission.

3           ~~(d)(b) The director shall be authorized by the commission shall~~  
 4 authorize the director to sign or authenticate all orders and other actions  
 5 of the commission.

6  
 7           19-10-204. Jurisdiction.

8           ~~(a) Except as otherwise provided by law, the Arkansas State Claims~~  
 9 ~~Commission shall have exclusive jurisdiction over all claims against the~~  
 10 ~~State of Arkansas and its several agencies, departments, and institutions,~~  
 11 ~~but shall have no jurisdiction of claims against municipalities, counties,~~  
 12 ~~school districts, or any other political subdivisions of the state.~~

13           ~~(b)(1)(A)(i) The commission shall have no jurisdiction of, or~~  
 14 ~~authority with respect to, claims arising under:~~

15   ~~(a) The Workers' Compensation Law, § 11-9-101~~  
 16 ~~et seq.;~~

17   ~~(b) The Department of Workforce Services Law,~~  
 18 ~~§ 11-10-101 et seq.;~~

19   ~~(c) The Arkansas Teacher Retirement System~~  
 20 ~~Act, Acts 1973, No. 427;~~

21   ~~(d) The Arkansas Public Employees' Retirement~~  
 22 ~~System Act, Acts 1957, No. 177;~~

23   ~~(e) The State Police Retirement System Act, §~~  
 24 ~~24-6-201 et seq.; or~~

25   ~~(f) Laws providing for old age assistance~~  
 26 ~~grants, child welfare grants, blind pensions, or any laws of a similar~~  
 27 ~~nature.~~

28   ~~(ii) Additionally, the commission shall have no~~  
 29 ~~jurisdiction over claims against the state for repayment of child support,~~  
 30 ~~except in cases where the underlying support order is set aside as void ab~~  
 31 ~~initio by the court and the child support paid was retained by the state as~~  
 32 ~~reimbursement for public assistance paid on behalf of a child.~~

33   ~~(iii) The commission shall have no jurisdiction~~  
 34 ~~over:~~

35   ~~(a) A claim by a member of the uniformed armed~~  
 36 ~~services against the State Military Department, the State militia, or any~~

1 ~~subdivision thereof, if the claim arises out of the performance of the~~  
 2 ~~claimant's military duty;~~

3 ~~(b) Claims against the Department of Community~~  
 4 ~~Correction for acts committed by a person while that person is subject to~~  
 5 ~~conditions of parole or probation under Arkansas law;~~

6 ~~(c) Claims against the Department of~~  
 7 ~~Correction for acts committed by inmates while on authorized release from the~~  
 8 ~~Department of Correction; or~~

9 ~~(d) Claims against the Division of Youth~~  
 10 ~~Services of the Department of Human Services for acts committed by juveniles~~  
 11 ~~released by the division, whether or not the juvenile is subject to~~  
 12 ~~conditions of aftercare or probation.~~

13 ~~(B) Claims solely addressing the receipting, processing,~~  
 14 ~~and reissuance of child support payments through the Arkansas Child Support~~  
 15 ~~Clearinghouse shall remain within the jurisdiction of the commission.~~

16 ~~(2)(A) The commission shall have jurisdiction only over those~~  
 17 ~~claims which are barred by the doctrine of sovereign immunity from being~~  
 18 ~~litigated in a court of general jurisdiction.~~

19 ~~(B) The commission shall have no jurisdiction over claims~~  
 20 ~~for state tax refunds under § 26-18-507, claims challenging tax assessments~~  
 21 ~~under § 26-18-406, and claims challenging tax laws under Arkansas~~  
 22 ~~Constitution, Article 16, § 13.~~

23 ~~(3)(A) The commission shall make no award for any claim which,~~  
 24 ~~as a matter of law, would be dismissed from a court of law for reasons other~~  
 25 ~~than sovereign immunity.~~

26 ~~(B) Specifically, if the facts of a given claim would~~  
 27 ~~cause the claim to be dismissed as a matter of law from a court of general~~  
 28 ~~jurisdiction, then the commission shall make no award on the claim.~~

29 ~~(c) The commission shall have jurisdiction over actions to contest~~  
 30 ~~eligibility, qualification, or election to serve as a member of the House of~~  
 31 ~~Representatives for the purpose of making a nonbinding recommendation thereon~~  
 32 ~~to that chamber of the General Assembly.~~

33 ~~(d) The commission shall have jurisdiction over claims to recover~~  
 34 ~~reasonable attorney's fees and other litigation expenses reasonably incurred~~  
 35 ~~by plaintiffs who substantially prevailed in actions under § 25-19-107~~  
 36 ~~against the State of Arkansas or a department, agency, or institution of the~~

1 ~~state under the standard described in § 25-19-107(d)(1).~~

2 (a) The Arkansas State Claims Commission has jurisdiction over:

3 (1) A claim or action that is barred by the doctrine of  
 4 sovereign immunity under Arkansas Constitution, Article 5, § 20, from being  
 5 litigated in a court of general jurisdiction, except as otherwise provided by  
 6 law;

7 (2) A claim or action that solely addresses the receipting,  
 8 processing, and reissuance of child support payments through the Arkansas  
 9 Child Support Clearinghouse;

10 (3) A claim or action to contest eligibility, qualification, or  
 11 election to serve as a member of the House of Representatives for the purpose  
 12 of making a nonbinding recommendation on the claim or action to that chamber  
 13 of the General Assembly; and

14 (4) A claim or action to recover reasonable attorney's fees and  
 15 other litigation expenses reasonably incurred by a plaintiff who  
 16 substantially prevails in an action under § 25-19-107 against the State of  
 17 Arkansas or a state agency under the standard described in § 25-19-107(d)(1).

18 (b) The commission has no jurisdiction over a claim or action:

19 (1) Against a municipality, county, school district, or any  
 20 other political subdivision of the state;

21 (2) Arising under:

22 (A) The Workers' Compensation Law, § 11-9-101 et seq.;

23 (B) The Department of Workforce Services Law, § 11-10-101  
 24 et seq.;

25 (C) The Arkansas Teacher Retirement System Act, Acts 1973,  
 26 No. 427;

27 (D) The Arkansas Public Employees' Retirement System Act,  
 28 Acts 1957, No. 177;

29 (E) The State Police Retirement System Act, § 24-6-201 et  
 30 seq.; or

31 (F) Laws providing for old age assistance grants, child  
 32 welfare grants, blind pensions, or any laws of a similar nature;

33 (3) Against the state for repayment of child support, except in  
 34 cases in which the underlying support order is set aside as void ab initio by  
 35 the court and the child support paid was retained by the state as  
 36 reimbursement for public assistance paid on behalf of a child;



1           (4) Brought by a member of the uniformed armed services against  
 2 the State Military Department, the State Militia, or any subdivision of the  
 3 State Militia, if the claim or action arises out of the performance of the  
 4 claimant's military duty;

5           (5) Brought against the Department of Community Correction for  
 6 acts committed by a person while that person is subject to conditions of  
 7 parole or probation under Arkansas law;

8           (6) Brought against the Department of Correction for acts  
 9 committed by inmates while on authorized release from the Department of  
 10 Correction;

11           (7) Brought against the Division of Youth Services of the  
 12 Department of Human Services for acts committed by juveniles released by the  
 13 division, whether or not the juvenile is subject to conditions of aftercare  
 14 or probation; or

15           (8) For state tax refunds under § 26-18-507, a claim or action  
 16 challenging tax assessments under § 26-18-406, or a claim or action  
 17 challenging tax laws under Arkansas Constitution, Article 16, § 13.

18           (c)(1) The commission shall not make an award for a claim or action  
 19 that, as a matter of law, would be dismissed from a court of law for reasons  
 20 other than sovereign immunity.

21           (2) Specifically, if the facts of a given claim or action would  
 22 cause the claim or action to be dismissed as a matter of law from a court of  
 23 general jurisdiction, then the commission shall not make an award on the  
 24 claim or action.

25  
 26           19-10-205. ~~Rules and regulations~~ Rulemaking authority.

27           The Arkansas State Claims Commission ~~shall have the power to~~ may make  
 28 and alter or amend all rules ~~and regulations~~ governing the procedure before  
 29 ~~it which the commission that~~ may be deemed necessary and expedient for the  
 30 orderly discharge of ~~its~~ the commission's duties and ~~which shall not be that~~  
 31 are not inconsistent with ~~any of the provisions of~~ this subchapter or other  
 32 laws.

33  
 34           19-10-206. Meetings.

35           (a)(1) The Arkansas State Claims Commission shall meet at ~~such the~~ the  
 36 time and place ~~as may be~~ designated by the Chair of the Arkansas State Claims

1 Commission, the cochairs of the Arkansas State Claims Commission, or the  
2 Director of the Arkansas State Claims Commission.

3 (2) General meetings of the commission for the purpose of  
4 hearing testimony and taking evidence ~~will~~ shall be held each month unless  
5 scheduled differently by the chair, the cochairs, or the director.

6 (b) The commission may, ~~at its discretion,~~ hold a special ~~meetings~~  
7 meeting of the commission upon request by the interested parties.

8 (c) The commission shall ~~traditionally~~ meet in Little Rock ~~at the~~  
9 ~~State Capitol,~~ but may conduct hearings elsewhere in the state if the  
10 commission ~~deems~~ determines that a hearing is ~~relative~~ relevant to business  
11 before the commission.

12 (d)(1) A majority of the commissioners shall constitute a quorum, and  
13 the concurrence of two (2) members of the commission shall be necessary for  
14 the allowance or disallowance of any claims.

15 (2) A vacancy ~~shall~~ does not impair the right of the remaining  
16 two (2) ~~members~~ commissioners assigned to a particular hearing to exercise  
17 all powers of the full commission.

18  
19 19-10-207. Power to examine.

20 (a) The Director of the Arkansas State Claims Commission or ~~any member~~  
21 a commissioner of the Arkansas State Claims Commission ~~shall have~~ has the  
22 authority to administer oaths, to subpoena witnesses, to examine any books,  
23 documents, or records that may be relevant to any proceeding before the  
24 commission, and to require the production of any such materials.

25 (b) In ~~actions~~ an action to contest the election of a member of the  
26 House of Representatives, the commission's general authority to subpoena  
27 witnesses and documents shall specifically include the authority to subpoena  
28 election officers and to subpoena any ~~and all~~ ballots cast or other election  
29 records in the election at issue.

30 (c) If ~~any~~ a claimant or witness to whom an oath has been administered  
31 as provided ~~in~~ under this section ~~shall swear~~ swears falsely to ~~any~~ a fact  
32 material to the investigation of a claim, ~~such~~ the false swearing shall  
33 constitute perjury, and the ~~guilty party~~ person swearing falsely shall be  
34 subject to prosecution ~~therefor~~.

35 (d)(1)(A) If ~~any~~ a person or entity ~~shall fail or refuse~~ fails or  
36 refuses to obey ~~any~~ a commission subpoena or order or ~~shall refuse~~ refuses to

1 testify or produce any books, papers, or other documents, the commission may  
2 present its petition setting forth the facts to any court of record.

3 ~~(B) Thereupon, in a proper case, After being presented~~  
4 with a petition under this subsection, the court of record shall issue its  
5 subpoena to the person or entity, requiring his or her or its attendance  
6 before the court of record to testify or produce ~~such the~~ books, papers, ~~and~~  
7 or documents as may be deemed necessary and pertinent.

8 ~~(C) Any A~~ person or entity failing or refusing to obey the  
9 subpoena or order of the court of record may be proceeded against in the same  
10 manner as for refusal to obey any other subpoena, as provided by the Arkansas  
11 Rules of Civil Procedure.

12 (2) The commission ~~shall be entitled to the services of~~ may use  
13 the Attorney General and the services of the prosecuting attorneys for the  
14 county and district in which the enforcement of a subpoena under this  
15 subsection is required.

16  
17 19-10-208. Complaints.

18 (a)(1) ~~All proceedings to enforce claims~~ A proceeding under this  
19 subchapter shall be commenced by a verified complaint, of which the original  
20 and three (3) copies shall be filed with the Director of the Arkansas State  
21 Claims Commission.

22 (2) The party filing the claim ~~should~~ or action shall be  
23 designated as the claimant, and the State of Arkansas, state agency, or  
24 applicable agent of the state shall be designated as the respondent.

25 (b) ~~The~~ Unless otherwise provided for under this section, the  
26 complaint shall state concisely the facts upon which the claim or action is  
27 based and shall set forth:

28 (1) The address of the claimant and the claimant's attorney, if  
29 any;

30 (2) The time and place of the circumstances giving rise to the  
31 claim or action;

32 (3) The state ~~department, agency, or institution in which the~~  
33 ~~claim originated~~ whose action or inaction led to the origination of the claim  
34 or action;

35 (4) The amount claimed or relief sought; and

36 (5) All averments of fact necessary to state a cause of action

1 against a ~~private person or corporation~~ the state under this subchapter.

2 (c) If the claim or action is based upon a contract or other  
3 instrument in writing, a copy of the contract or instrument in writing shall  
4 be attached to the complaint and the copies filed with the director.

5 (d)(1) ~~In the complaint the~~ The claimant shall state in the complaint  
6 ~~whether his or her claim has been presented to any state department, or~~  
7 ~~officer thereof, and if so, when presented, to whom, and what action was~~  
8 ~~taken thereon.~~

9 ~~(2) The claimant shall further state whether he or she has~~  
10 ~~received any payment on account of such~~ the claim or action and, if so, the  
11 amount received.

12 ~~(3)(A)(2)(A)~~ The claimant also shall state whether any other  
13 another person or corporation business entity has ~~any~~ an absolute or  
14 contingent interest in his or her claim or action.

15 (B) If ~~any~~ a person or corporation is interested in the  
16 claim, the claimant shall state the name and address of that person or  
17 corporation having the interest, the nature of the interest, and how and when  
18 it was acquired.

19 (e) If the claimant is an executor, administrator, guardian, or other  
20 representative acting under judicial appointment, a duly certified copy of  
21 the record of appointment shall be filed with the complaint.

22 (f)(1) A claimant who is an inmate in the Department of Correction or  
23 the Department of Community Correction at the time the claim or action is  
24 filed is limited to no more than:

25 (A) Five (5) pages of written factual allegations and  
26 legal argument in his or her complaint; and

27 (B) Five (5) additional pages of exhibits to accompany his  
28 or her complaint.

29 (2)(A) An inmate filing a claim or action may file a motion to  
30 allow him or her to file additional pages of factual allegations, argument,  
31 or exhibits in excess of the limitations under subdivision (f)(1) of this  
32 section.

33 (B) A motion filed under this subdivision (f)(2) may be  
34 granted only if the commissioners of the Arkansas State Claims Commission  
35 find that the inmate needs the additional pages to fully explain his or her  
36 claim or action or if the claim or action is sufficiently complex to warrant

1 additional pages.

2 (3)(A) If an inmate files a claim or action that exceeds the  
 3 page limitations under this subsection, the commission shall:

4 (i) Assign the inmate's claim a docket number; and  
 5 (ii) Consider the inmate's claim filed, but mail the  
 6 inmate's complaint and any attached exhibits back to him or her and give the  
 7 inmate forty-five (45) days to:

8 (a) Resubmit his or her complaint and any  
 9 attached exhibits in compliance with this subsection; or

10 (b) File a motion requesting permission to  
 11 file a complaint and accompanying exhibits that exceed the page limitations  
 12 under this subsection.

13 (B) The forty-five-day time period under this subsection  
 14 is excludable time in calculating the statute of limitations for the inmate's  
 15 claim or action.

16 (C) The commission may dismiss an inmate's complaint  
 17 without prejudice if the inmate fails to:

18 (i) Resubmit a complaint and attached exhibits that  
 19 meet the page limitation requirements of this subsection; or

20 (ii) File a motion requesting permission to file a  
 21 complaint and attached exhibits that exceed the page limitation requirements  
 22 of this subsection.

23 (D)(i) If the commission grants a motion for a complaint  
 24 and accompanying exhibits that exceed the page limitation requirements of  
 25 this subsection, the commission shall set out in the order granting the  
 26 motion the revised timeline for the inmate to file his or her complaint and  
 27 accompanying exhibits.

28 (ii) The commission may set a revised limit on the  
 29 number of pages an inmate's complaint and accompanying exhibits may be.

30  
 31 19-10-209. Time for filing.

32 ~~No claim may be considered and allowed by the~~ The Arkansas State Claims  
 33 Commission shall not consider or allow a claim or action unless ~~it~~ the claim  
 34 or action has been filed with the Director of the Arkansas State Claims  
 35 Commission as provided by this subchapter within the period allowed by law  
 36 for the commencement of an action for the enforcement of the same type of

1 claim ~~against a private person or action.~~

2  
3 19-10-210. Notice and hearings.

4 (a)(1) The Director of the Arkansas State Claims Commission shall  
5 notify each claimant and also the head of each state agency, ~~department, or~~  
6 ~~institution~~ against which a claim or action is filed of the time and place  
7 set for ~~the a hearing thereof~~ on the claim or action, if a hearing on the  
8 matter is set by the Arkansas State Claims Commission.

9 (2) A party to a claim or action is not entitled to a hearing as  
10 a matter of law but may request a hearing before the commission.

11 (b)(1) ~~In conducting hearings, the Arkansas State Claims Commission~~  
12 ~~shall not be~~ The commission is not bound by the formal rules of evidence and  
13 shall conduct all hearings publicly and in a fair and impartial manner,  
14 giving the parties full opportunity for presentation of evidence, cross-  
15 examination of witnesses, and argument.

16 (2) To the extent practicable, the commission shall adopt the  
17 procedure used by the circuit courts, and ~~its a hearing~~ before the commission  
18 shall be conducted in a judicial manner.

19 (c) Hearings on a motion filed by a party shall be set:

20 (1) Upon request of one (1) of the parties; and

21 (2) If the commission finds that oral argument or witness  
22 testimony, or both, will benefit the commission in deciding on the motion.

23  
24 19-10-211. Appeals of decisions - Jurisdiction - Time periods to file.

25 (a)(1) ~~A decision of the Arkansas State Claims Commission may be~~  
26 ~~appealed only to the General Assembly.~~

27 (b) ~~When any party to a claim before the commission is aggrieved by~~  
28 ~~the decision of the commission concerning such claim, the aggrieved party~~  
29 ~~may, on a form designed by the commission:~~

30 (1) ~~Within forty (40) days after the decision is rendered, file~~  
31 ~~with the commission a notice of appeal of the decision to the General~~  
32 ~~Assembly; or~~

33 (2) ~~Within forty (40) days after the decision is rendered, file~~  
34 ~~with the commission a motion for reconsideration requesting the commission to~~  
35 ~~reconsider its decision; and~~

36 (3) ~~Within twenty (20) days after commission reconsideration or~~

1 ~~denial of the motion for reconsideration, file with the commission a notice~~  
 2 ~~of appeal of the decision to the General Assembly. Within forty (40) days~~  
 3 ~~after the Arkansas State Claims Commission issues a final order on a claim or~~  
 4 ~~action before the commission, a party to the claim or action may file with~~  
 5 ~~the commission a:~~

6 (A) Notice of appeal of the final order to the General  
 7 Assembly; or

8 (B)(i) Motion requesting that the commission reconsider  
 9 its final order.

10 (ii)(a) If a motion for reconsideration is denied, a  
 11 party may file with the commission a notice of appeal of the claim to the  
 12 General Assembly within twenty (20) days of entry of the order denying the  
 13 motion for reconsideration.

14 (b) Subdivision (a)(1)(B)(ii)(a) of this  
 15 section applies only if the commission's reconsideration constitutes a final  
 16 order.

17 (2) The commission shall advise parties of the right of appeal  
 18 under this section when the commission notifies the parties of the  
 19 commission's final order.

20 (3) The General Assembly has exclusive jurisdiction to hear  
 21 appeals under this section.

22 ~~(e)(b)(1) The commission shall, in a timely manner, timely~~ notify the  
 23 ~~Legislative Council or the appropriate committee of the~~ General Assembly and  
 24 all parties to the claim or action when ~~any~~ a notice of appeal to the General  
 25 Assembly is filed with the commission.

26 ~~(d) When the commission notifies parties of a decision of the~~  
 27 ~~commission, it shall advise the parties of the right of appeal.~~

28 (2)(A) Notice provided to the General Assembly under subdivision  
 29 (b)(1) of this section terminates the commission's jurisdiction over the  
 30 claim or action.

31 (B) Unless ordered to do so by the General Assembly, the  
 32 commission is prohibited from doing anything further on the claim or action  
 33 aside from ordinary ministerial duties.

34 (3) The commission shall regain jurisdiction over the claim or  
 35 action if, in consideration of an appeal of a final order, the General  
 36 Assembly sends the claim or action back to the commission:

- 1                   (A) For further proceedings; or
- 2                   (B) To notify the claimant that the award has been upheld,
- 3 reversed, or amended.

4           (c) The General Assembly shall not overturn:

5                   (1) A factual finding or determination of law absent evidence

6 that the commission’s finding or determination is clearly erroneous;

7                   (2) A nonnegotiated monetary award of damages by the commission

8 unless the commission’s award is unsupported by a preponderance of the

9 evidence; or

10                  (3) An award of damages that was negotiated by the parties and

11 approved by the commission unless the award of damages is clearly inequitable

12 considering the:

13                   (A) Alleged facts of the claim or action;

14                   (B) Available defenses to the claim or action;

15                   (C) Complexity of the claim or action;

16                   (D) Costs of litigation for the claim or action for all

17 parties; and

18                   (E) Difficulty of any party in proving or defending the

19 claim or action.

20

21           19-10-212. Reports of state agency liability —~~Definition.~~

22           ~~(a)(1) As used in this section, “state agency” means a department,~~

23 ~~office, board, commission, or institution of this state, including a state-~~

24 ~~supported institution of higher education.~~

25           ~~(2)~~ When a state agency admits liability to a claim filed with

26 the Arkansas State Claims Commission, the state agency shall file a written

27 report of the claim with the Litigation Reports Oversight Subcommittee of the

28 Legislative Council if the claim:

29                   ~~(A)(1)~~ Involves a contract with the state agency; or

30                   ~~(B)(2)~~ Exceeds fifteen thousand dollars (\$15,000).

31           ~~(3)(b)~~ The state agency shall include in its report a concise

32 statement of facts with an explanation of the state agency’s liability.

33           ~~(4)(c)~~ The state agency shall file its report within thirty (30) days

34 after the claim or action has been adjudicated and a final order has been

35 issued by the ~~Arkansas State Claims Commission~~ commission.

36           ~~(b) The Office of the Arkansas Lottery shall file its report under~~



1 ~~subsection (a) of this section with the Legislative Council.~~

2  
3 19-10-213. ~~Agency~~ State agency to pay claim.

4 ~~(a) In the event that any claim authorized herein~~ When a claim or  
5 action is determined to be a valid claim or action against the state under  
6 this chapter and the claim or action is to be paid from funds not in the  
7 State Treasury, the ~~Clerk~~ Director of the Arkansas State Claims Commission  
8 shall notify the state agency against which the claim or action is to be  
9 charged of the amount of ~~such claims~~ the claim or action.

10 ~~(b) Upon receipt of such~~ the notification under subsection (a) of this  
11 section, the state agency shall ~~forthwith~~ deliver a check to the ~~clerk~~  
12 director who shall deposit the ~~same~~ funds as a nonrevenue receipt into the  
13 Miscellaneous Revolving Fund from which ~~he or she~~ the director shall disburse  
14 the amount of the claim or action to the claimant.

15  
16 19-10-214. Effect on liens.

17 (a) Arkansas State Claims Commission awards are state property and  
18 therefore:

19 ~~(1) liens may~~ Liens do not attach to commission awards; ~~and~~

20 ~~(2) nor may an award be assigned~~ A commission award is not  
21 assignable.

22 ~~(b)(1) If the commission and the General Assembly approve appeals or~~  
23 claims or actions above ~~seven thousand five hundred dollars (\$7,500)~~ fifteen  
24 thousand dollars (\$15,000) and name as payees, in addition to the claimant,  
25 other individuals or entities who would normally have liens in a court of  
26 law, other than insurance company ~~claims for~~ subrogation claims, then the  
27 commission may deposit the amount approved ~~in~~ into the registry of the  
28 Pulaski County Circuit Court.

29 ~~(2) After reasonable notice to the claimant and any named~~  
30 payees, the court shall establish the validity and priority to the moneys  
31 upon petition of the claimant or any named payee.

32  
33 19-10-215. Restrictions on awards.

34 (a) With the exception of death and disability benefit claims paid  
35 under § 21-5-701 et seq., ~~no award may be paid~~ the Arkansas State Claims  
36 Commission shall not pay an award in excess of fifteen thousand dollars

1 (\$15,000).

2 (b) If ~~the~~ an award is greater than fifteen thousand dollars  
 3 (\$15,000), ~~the claim shall be referred~~ the commission shall refer the claim  
 4 or action to the General Assembly for approval and, if approved, an  
 5 appropriation.

6  
 7 19-10-216. ~~Commission decisions~~ Final orders – Findings of fact and  
 8 conclusions of law required.

9 (a)(1) When the Arkansas State Claims Commission dismisses a claim or  
 10 action with a final order or issues a final ~~adjudication~~ order of a claim or  
 11 action on the merits, the commission shall set forth specific findings of  
 12 fact and conclusions of law to support its decision.

13 (2) Citations to a party’s motion or argument do not fulfill the  
 14 requirements of this subsection unless otherwise supported by an explanation,  
 15 with particularity, as to why the party’s motion or argument is determinative  
 16 to the outcome of the claim or action.

17 (3) When the commission bases its decision on a specific rule of  
 18 civil procedure, rule of evidence, statute, or controlling appellate court  
 19 decision, the commission shall cite the rule, statute, or appellate court  
 20 decision.

21 (4) ~~A claim will not be accepted by the~~ The General Assembly  
 22 shall not accept a claim or action on appeal ~~that~~ when the claim or action  
 23 has as its final adjudication findings of fact and conclusions of law that do  
 24 not comply with this section.

25 (b) Failure to comply with this section shall result in the General  
 26 Assembly’s sending the claim or action back to the commission for  
 27 ~~reconsideration~~ further action until the requirements of subsection (a) of  
 28 this section are met.

29 (c) A claim or action filed by a person who at the time of filing is  
 30 an inmate of the Department of Correction is exempted from the requirements  
 31 of this section.

32 (d) The findings of fact and conclusions of law contained in a final  
 33 order under this section are presumed to be correct for the purposes of  
 34 review by or appeal to the General Assembly.

35  
 36 19-10-217. Motions – Grounds required to preserve for appeal.

1       (a) If the Arkansas State Claims Commission denies a motion, the party  
2 whose interests were adversely affected by the commission's denial may appeal  
3 the denial under § 19-10-211 so long as the legal issue or factual issue in  
4 dispute was preserved for appeal with a specific ruling, in writing, by the  
5 commission.

6       (b)(1)(A) It is the responsibility of the party whose interests were  
7 adversely affected by the commission's ruling on the motion to ask the  
8 commission to file a written order denying the motion if the commission had  
9 previously denied the motion and has not already filed a written order on the  
10 motion before the commission issues its final order.

11       (B) If a party requests that the commission file a written  
12 order denying a motion under this subsection, the commission shall do so  
13 before issuing a final order.

14       (2) If the basis of a ground for appeal by a party is that a  
15 motion was erroneously granted, a filed written order by the commission is  
16 not necessary.

17  
18       19-10-218. Interlocutory appeals prohibited.

19       (a) A party shall not file, and the Arkansas State Claims Commission  
20 shall not entertain, an interlocutory appeal of a legal issue.

21       (b)(1) The Director of the Arkansas State Claims Commission shall  
22 reject an interlocutory motion.

23       (2) An interlocutory motion shall not be included in the record  
24 of the case.

25       (c)(1) All legal issues or factual issues in dispute that have been  
26 raised and addressed by the commission may be included in a party's appeal of  
27 the commission's final order.

28       (2) The General Assembly shall not consider on appeal a legal  
29 issue or a factual issue in dispute that has not been raised and addressed by  
30 the commission or otherwise preserved for appeal.

31  
32       19-10-219. Small claims adjudication.

33       (a)(1) The Arkansas State Claims Commission may establish a small  
34 claims adjudication process for claims or actions seeking one thousand  
35 dollars (\$1,000) or less.

36       (2) The small claims adjudication process shall provide that

1 claims or actions be given docket priority, and the use of informal  
2 discovery, hearings utilizing teleconferencing or other off-site  
3 communications technology, and relaxed procedural rules are encouraged to  
4 facilitate efficient and timely resolution.

5 (b)(1) A claim or action seeking one thousand dollars (\$1,000) or less  
6 may be:

7 (A) Assigned to be heard by one (1) commissioner of the  
8 commission; and

9 (B) Decided by the commissioner on the basis of the  
10 pleadings alone.

11 (2) If a claimant objects to having the claim or action heard as  
12 a small claims adjudication under this section, the claimant may request that  
13 the claim or action be heard in the usual manner for similar claims or  
14 actions.

15 (c) Before a proposed written final order of a small claims  
16 adjudication under this section is considered final for the purposes of award  
17 or appeal, the proposed written final order shall be reviewed by a panel  
18 consisting of:

19 (1) The commissioner of the commission assigned to the claim or  
20 action; and

21 (2) Two (2) other commissioners of the commission.

22  
23 19-10-220. Special masters authorized.

24 (a) The Arkansas State Claims Commission may appoint a special master  
25 with specialized knowledge and skill to assist the commission in achieving a  
26 more timely resolution of complex litigation arising from a claim or action.

27 (b)(1) All or part of a special master's findings may be included as  
28 part of or in addition to a commission's final order.

29 (2) The special master's findings, if disputed by a party, may  
30 be raised on appeal.

31  
32 19-10-221. Abuse of process by litigants.

33 An inmate in the Department of Correction or the Department of  
34 Community Correction who has filed more than three (3) unsuccessful claims or  
35 actions under this subchapter within a period of two (2) years may have his  
36 or her subsequent claims or motions dismissed by the Arkansas State Claims

1 Commission upon receipt as abuse of process.

2  
3 19-10-222. Corporate or business entity to be represented by attorney.  
4 A corporate or business entity created under the laws of this state or  
5 another state shall be represented at all times in a claim or action under  
6 this subchapter by an attorney licensed to practice law in this state.

7  
8 19-10-223. Failure to exhaust available state or administrative  
9 remedy.

10 The Arkansas State Claims Commission may dismiss a claim or action  
11 without prejudice on the commission's own motion if the claimant has failed  
12 to submit with the claimant's initial complaint or claim filing documentation  
13 that the claimant has exhausted all available state or administrative  
14 remedies.

15  
16 SECTION 3. Arkansas Code § 21-5-704 is amended to read as follows:

17 21-5-704. Payment of claim to covered public employees, their  
18 designated beneficiaries, or their survivors – Funds.

19 (a)(1)(A) ~~The state shall pay to the designated beneficiary or, if~~  
20 ~~there is no designated beneficiary, then to the surviving spouse or surviving~~  
21 ~~children under twenty-two (22) years of age or, if there is no surviving~~  
22 ~~spouse or surviving children under twenty-two (22) years of age, then to the~~  
23 ~~surviving children twenty-two (22) years of age or older or to the surviving~~  
24 ~~parents~~ beneficiaries of any covered public employee who is killed in the  
25 official line of duty, the sum of fifty thousand dollars (\$50,000) with the  
26 following requirements for distribution of the award:

27 (i) If the covered public employee has a designated  
28 beneficiary or beneficiaries, the designated beneficiary or beneficiaries are  
29 entitled to the award, in whatever percentage indicated by the covered public  
30 employee;

31 (ii) Subject to subdivision (a)(1)(A)(iii) of this  
32 section, if the covered public employee has no designated beneficiary or  
33 beneficiaries, the award shall go to the covered public employee's surviving  
34 spouse;

35 (iii) If the covered public employee has a surviving  
36 spouse and surviving dependent children, the surviving spouse is entitled to

1 fifty percent (50%) of the award, and the surviving dependent children are  
2 entitled to the other fifty percent (50%) of the award in equal shares; or

3 (iv) If the covered public employee is unmarried at  
4 the date of his or her death:

5 (a) The covered public employee's surviving  
6 dependent children split the award in equal shares;

7 (b) The covered public employee's children  
8 split the award in equal shares if there are no surviving dependent children;  
9 or

10 (c) The covered public employee's surviving  
11 parents split the award in equal shares if there are no surviving children.

12 (B) In addition thereto, the municipality that employed  
13 the police officer or firefighter shall, upon certification of the amount by  
14 the police or fire department, pay ~~to the designated beneficiary or, if there~~  
15 ~~is no designated beneficiary, then to the surviving spouse or surviving~~  
16 ~~children under twenty-two (22) years of age or, if there is no surviving~~  
17 ~~spouse or surviving children under twenty-two (22) years of age, then to the~~  
18 ~~surviving children twenty-two (22) years of age or older or to the surviving~~  
19 ~~parents~~ beneficiaries of the deceased police officer or firefighter an  
20 allowance for all sick leave, vacation, or other leave time accumulated to  
21 the credit of the police officer or firefighter at the time of his or her  
22 death, with the following requirements for distribution of the allowance:

23 (i) If the deceased police officer or firefighter  
24 has a designated beneficiary or beneficiaries, the designated beneficiary or  
25 beneficiaries are entitled to the allowance, in whatever percentage indicated  
26 by the covered public employee;

27 (ii) Subject to subdivision (a)(1)(B)(iii) of this  
28 section, if the deceased police officer or firefighter has no designated  
29 beneficiary or beneficiaries, the allowance shall go to the deceased police  
30 officer's or firefighter's surviving spouse;

31 (iii) If the deceased police officer or firefighter  
32 has a surviving spouse and surviving dependent children, the surviving spouse  
33 is entitled to fifty percent (50%) of the allowance and the surviving  
34 dependent children are entitled to the other fifty percent (50%) of the  
35 allowance in equal shares; or

36 (iv) If the deceased police officer or firefighter is

1 unmarried at the date of his or her death:

2 (a) The deceased police officer's or  
3 firefighter's surviving dependent children split the allowance in equal  
4 shares;

5 (b) The deceased police officer's or  
6 firefighter's children split the allowance in equal shares if there are no  
7 surviving dependent children; or

8 (c) The deceased police officer's or  
9 firefighter's surviving parents split the allowance in equal shares if there  
10 are no surviving children.

11 (2)(A) ~~In the event~~ If a covered public employee ~~shall suffer~~  
12 suffers an injury while engaged in the performance of official duties  
13 resulting in his or her total and permanent disability, the disabled covered  
14 public employee shall be entitled to the sum of ten thousand dollars  
15 (\$10,000) from the State of Arkansas upon establishing proof of the total and  
16 permanent disability.

17 (B) Proof of total and permanent disability shall be  
18 established by offering evidence that the covered public employee was unable  
19 to work in the employment position covered by this subchapter for a period of  
20 more than one (1) year or that the covered public employee received a  
21 disability rating in excess of twenty-five percent (25%) from the Workers'  
22 Compensation Commission.

23 (b)(1) All allowances as provided for in this section for the  
24 designated beneficiary, surviving spouse, surviving children, or surviving  
25 parents of covered public employees killed while performing official duties,  
26 or allowances provided covered public employees who are totally and  
27 permanently disabled while performing official duties, shall be paid totally  
28 from state funds appropriated therefor.

29 (2)(A) Except as provided in subdivision (b)(2)(B) of this  
30 section, the funds shall not be reimbursed by transfer or charging the funds  
31 against any state funds allocated for turnback to cities or counties or  
32 distributed to the State Highway and Transportation Department Fund or  
33 distributed to any Department of Correction fund account or any other state  
34 department agency fund account other than the Arkansas State Claims  
35 Commission fund accounts and the Miscellaneous Revolving Fund or state funds  
36 levied for firefighters, police officers, employees of the Arkansas

1 Department of Transportation, and employees of the Department of Correction  
2 for pension purposes.

3 (B)(i) Twenty-five thousand dollars (\$25,000) of the fifty  
4 thousand dollars (\$50,000) provided in subdivision (b)(2)(A) of this section  
5 shall be paid by the appropriate state department agency fund account.

6 (ii) The appropriate state department agency shall  
7 transfer the necessary funds to the Arkansas State Claims Commission fund  
8 accounts for payment.

9 (c) It is the intent of this subchapter that twenty-five thousand  
10 dollars (\$25,000) of the total obligation of providing the benefits provided  
11 by this subchapter, even though the funds are to be administered by the  
12 Arkansas State Claims Commission, are to be defrayed from state funds and are  
13 not to be charged against, or recovered against, any turnback moneys due the  
14 cities or counties of this state or allocated to the state highway system of  
15 this state or to the Department of Correction or any other state department  
16 agency fund account other than the Arkansas State Claims Commission fund  
17 accounts and the Miscellaneous Revolving Fund.

18 (d)(1) A person who claims a benefit under this section to which the  
19 beneficiaries of a deceased person are entitled shall submit a notarized  
20 affidavit provided by the Arkansas State Claims Commission that:

21 (A) Lists all known surviving children of the decedent,  
22 their respective ages, last known addresses, and contact information; and

23 (B) Discloses the existence of any last will and testament  
24 of the decedent.

25 (2) If a person who claims a benefit fails to list all known  
26 surviving children as required by subdivision (d)(1)(A) of this section, the  
27 Arkansas State Claims Commission may require that the person return the  
28 benefit to the Arkansas State Claims Commission for further proceedings.

29 (e) As used in this section, "surviving dependent children" means  
30 children who have not yet reached the age of majority as of the date of the  
31 award and children who have a legal incapacity that renders them dependent  
32 even after reaching the age of majority.

33  
34 SECTION 4. Arkansas Code § 21-5-705 is amended to read as follows:

35 21-5-705. Payment of claim to designated beneficiaries or survivors of  
36 certain specified public employees killed in the line of duty – Funds.



1 (a) The state shall pay the additional sum of one hundred fifty  
2 thousand dollars (\$150,000) to the ~~designated beneficiary, surviving spouse,~~  
3 ~~or surviving children under twenty-two (22) years of age~~ qualified recipient  
4 or recipients of a:

5 (1) Police officer, wildlife enforcement officer, commissioned  
6 law enforcement officer or emergency response employee of the State Parks  
7 Division of the Department of Parks and Tourism, Department of Community  
8 Correction employee, employee of the Department of Correction, jailer, or  
9 coroner whose death occurred:

10 (A) After January 1, 2003; and

11 (B) Either:

12 (i) In the official line of duty as the result of a  
13 criminal or negligent action of another person or persons or as the result of  
14 the engagement in exceptionally hazardous duty; or

15 (ii) In the line of duty while the officer or  
16 employee was performing emergency medical activities;

17 (2) Firefighter, emergency medical technician, or employee of  
18 the Arkansas Forestry Commission killed after July 1, 1987, while responding  
19 to, engaging in, or returning from a fire, a rescue incident, a hazardous  
20 material or bomb incident, an emergency medical activity, or simulated  
21 training thereof; and

22 (3)(A)(i) Firefighter killed in the line of duty after January  
23 1, 2012, including death from leukemia, lymphoma, mesothelioma, and multiple  
24 myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin,  
25 breast, cervix, thyroid, prostate, testicle, or a cancer that has been found  
26 by research and statistics to show higher instances of occurrence in  
27 firefighters than in the general population, if he or she was exposed to a  
28 known carcinogen as determined by the Department of Health with consideration  
29 to the findings of the International Agency for Research on Cancer while in  
30 the official line of duty.

31 (ii) Subdivision (a)(3)(A)(i) of this section does  
32 not include a firefighter who was diagnosed with cancer prior to the start of  
33 firefighter service.

34 (B) A death benefit under subdivision (a)(3)(A) of this  
35 section shall be limited to:

36 (i) A maximum of one hundred fifty thousand dollars

1 (\$150,000) per individual death, including educational benefits provided in §  
2 6-82-501 et seq.; and

3 (ii) A firefighter who is under sixty-eight (68)  
4 years of age.

5 (C)(i) The Firefighter Benefit Review Panel is created for  
6 the purpose of making recommendations to the Arkansas State Claims Commission  
7 regarding determinations of death benefits under subdivision (a)(3)(A) of  
8 this section for deaths associated with cancer.

9 (ii) The panel shall consist of the following seven  
10 (7) individuals to be appointed by the Governor:

11 (a) One (1) licensed oncologist;

12 (b)(1) Two (2) firefighters paid by the state,  
13 a county, or a municipality.

14 (2) One (1) firefighter under  
15 subdivision (a)(3)(C)(ii)(b)(1) of this section shall be appointed from a  
16 list of names submitted by the Arkansas Professional Fire Fighters  
17 Association;

18 (c)(1) Two (2) volunteer firefighters.

19 (2) One (1) firefighter under  
20 subdivision (a)(3)(C)(ii)(c)(1) of this section shall be appointed from a  
21 list of names submitted by the Arkansas State Firefighters Association;

22 (d) One (1) fire chief who may be appointed  
23 from a list of names submitted by the Arkansas Association of Fire Chiefs;  
24 and

25 (e) One (1) citizen with experience in either  
26 cancer and healthcare professions or firefighter relations.

27 (iii)(a) Panel members shall serve a term of four  
28 (4) years.

29 (b) In the event of a vacancy in the  
30 membership of the panel, the Governor shall appoint a person meeting the  
31 applicable eligibility requirements of the vacated position to fill the  
32 vacancy for the remainder of the unexpired term.

33 (iv)(a) The panel shall hold at least one (1)  
34 regular meeting in each calendar year at a time and place determined by the  
35 panel.

36 (b) Special meetings may be called at the

1 discretion of the chair selected under subdivision (a)(3)(C)(v) of this  
2 section.

3 (v) The panel shall select a chair and vice chair  
4 during the first annual meeting of each four-year term.

5 (vi) Four (4) members of the panel ~~shall constitute~~  
6 constitute a quorum to transact business.

7 (vii) The members of the panel may receive expense  
8 reimbursement in accordance with § 25-16-901 et seq.

9 (viii) The panel shall:

10 (a) Render advisory opinions and reports  
11 concerning research and statistics that show higher instances of cancer among  
12 firefighters;

13 (b) Review claims for death benefits of  
14 firefighters who have died of cancer; and

15 (c) Make recommendations to the Arkansas State  
16 Claims Commission on death benefit awards under subdivision (a)(3)(A) of this  
17 section.

18 (D) This section:

19 (i) ~~Shall not be applied~~ Does not apply to any other  
20 benefits granted by the state, a county, a city, or a municipality; and

21 (ii) Does not grant a cause of action against the  
22 state, a county, a city, or a municipality.

23 (b) In addition to the benefits provided for in subsection (a) of this  
24 section, the state shall pay the additional sum of twenty-five thousand  
25 dollars (\$25,000) to ~~the designated beneficiary, surviving spouse, or~~  
26 ~~surviving children under twenty-two (22) years of age~~ qualified recipient of  
27 any police officer, wildlife enforcement officer of the Arkansas State Game  
28 and Fish Commission, commissioned law enforcement officer of the State Parks  
29 Division of the Department of Parks and Tourism, Department of Community  
30 Correction employee, or employee of the Department of Correction:

31 (1) Who was wearing a bulletproof vest approved by the Director  
32 of the Department of Arkansas State Police; and

33 (2) Whose death occurred:

34 (A) After July 1, 1989; and

35 (B) In the official line of duty as the result of a  
36 criminal action of another person or persons.

1 (c)(1) Except as provided in subdivision (c)(2) of this section, the  
2 benefits shall be paid totally from state funds appropriated for these  
3 benefits. The funds shall not be reimbursed by a transfer or charging the  
4 funds against any state funds allocated for turnback to cities or counties or  
5 distributed to any other state department agency fund account other than the  
6 Arkansas State Claims Commission fund accounts and the Miscellaneous  
7 Revolving Fund.

8 (2)(A) Seventy-five thousand dollars (\$75,000) of the one  
9 hundred fifty thousand dollars (\$150,000) provided in subdivision (c)(1) of  
10 this section shall be paid by the appropriate state department agency fund  
11 account.

12 (B) The appropriate state department agency shall transfer  
13 the necessary funds to the Arkansas State Claims Commission fund accounts for  
14 payment.

15 (d) The additional benefits provided in this section shall be paid to  
16 the ~~designated beneficiary, surviving spouse, surviving children, or~~  
17 ~~surviving parents~~ qualified recipient in ~~three (3)~~ four (4) equal annual  
18 payments, the first of which shall be paid immediately upon entry of the  
19 order awarding the benefits, and the next three (3) payments shall be paid in  
20 July of the next three fiscal year years after the date of the original order  
21 of the Arkansas State Claims Commission establishing entitlement to  
22 additional payments ~~and annually thereafter.~~

23 (e) Determination of eligibility for the additional payments provided  
24 in this section shall be made by the Arkansas State Claims Commission in  
25 accordance with Arkansas State Claims Commission rules and procedures.

26 (f)(1) A person who claims a benefit as a qualified recipient under  
27 this section to which the beneficiaries of a deceased person are entitled  
28 shall submit a notarized affidavit provided by the Arkansas State Claims  
29 Commission that:

30 (A) Lists all known surviving children of the decedent,  
31 their respective ages, last known addresses, and contact information; and

32 (B) Discloses the existence of any last will and testament  
33 of the decedent.

34 (2) If a person who claims a benefit as a qualified recipient  
35 fails to list all known surviving children as required by subdivision  
36 (f)(1)(A) of this section, the Arkansas State Claims Commission may require

1 that the person return the benefit to the Arkansas State Claims Commission  
2 for further proceedings.

3 (g) If a benefit under this section is payable to both the surviving  
4 spouse and other eligible persons such as surviving children, the Arkansas  
5 State Claims Commission shall hold a hearing to determine how the benefit  
6 shall be distributed among the eligible persons if those percentages are not  
7 already provided for by law.

8 (h) As used in this section:

9 (1) "Qualified recipient" means a beneficiary of an award or  
10 allowance under this section with the following priority for eligibility and  
11 distribution to a beneficiary:

12 (A) If the person has a designated beneficiary or  
13 beneficiaries, the designated beneficiary or beneficiaries are entitled to  
14 the award or allowance, in whatever percentage indicated by the covered  
15 public employee;

16 (B) Subject to subdivision (h)(1)(C) of this section, if  
17 the person has no designated beneficiary or beneficiaries, the award or  
18 allowance shall go to the person's surviving spouse;

19 (C) If the person has a surviving spouse and surviving  
20 dependent children, the surviving spouse is entitled to fifty percent (50%)  
21 of the award or allowance and the surviving dependent children are entitled  
22 to the other fifty percent (50%) of the award or allowance in equal shares;  
23 or

24 (D) If the person is unmarried at the date of his or her  
25 death:

26 (i) The person's surviving dependent children split  
27 the award or allowance in equal shares;

28 (ii) The person's children split the award or  
29 allowance in equal shares if there are no surviving dependent children; or

30 (iii) The person's surviving parents split the award  
31 or allowance in equal shares if there are no surviving children; and

32 (2) "Surviving dependent children" means children who have not  
33 yet reached the age of majority as of the date of the award and children who  
34 have a legal incapacity that renders them dependent even after reaching the  
35 age of majority.

36