

1 State of Arkansas *As Engrossed: S3/9/17 S3/13/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

SENATE BILL 589

4

5 By: Senator E. Williams

6 By: Representative Davis

7

8

For An Act To Be Entitled

9

AN ACT TO CHANGE THE NAME OF THE ARKANSAS STATE

10

HIGHWAY AND TRANSPORTATION DEPARTMENT; AND FOR OTHER

11

PURPOSES.

12

13

14

Subtitle

15

TO CHANGE THE NAME OF THE ARKANSAS STATE

16

HIGHWAY AND TRANSPORTATION DEPARTMENT.

17

18

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

20

21 SECTION 1. Arkansas Code § 3-7-106, concerning shipping permits for
22 spirituous liquors, vinous liquors, wines other than Arkansas wines, beer or
23 malt beverages, is amended to read as follows:

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(2) ~~No~~ A railroad company, express company, or bonded truck
company or truck line operating under a certificate or permit issued by the
Arkansas ~~State Highway and Transportation~~ Department of Transportation, ~~nor~~
~~any~~ or a river transportation company shall not receive for shipment or ship
into this state any package or receptacle containing distilled spirits unless
a copy of the permit showing that payment of the taxes ~~as are~~ required by law
~~has~~ have been made ~~shall~~ accompany the shipment.

32

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34

SECTION 2. Arkansas Code § 3-7-106(b)(2), concerning shipping permits
required for spirituous liquors, vinous liquors, wines other than Arkansas
wines, beer or malt beverages, is amended to read as follows:

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(2) However, spirits may be transported by truck or wagon from
and to freight or express depots, to and from the place or places of business



1 of the permittees and upon the premises of the permittees, from and to one
2 (1) place of business to another place of business of the permittee, provided
3 that the owner of trucks or wagons transporting distilled liquor as
4 aforesaid, excepting trucks and wagons owned and operated by a railroad or
5 express company, or bonded truck company or truck line operating under a
6 certificate or permit issued by the Arkansas ~~State Highway and Transportation~~
7 Department of Transportation, or a river transportation company, or by the
8 person permitted by law to manufacture, sell, or transport spirituous
9 liquors, vinous liquors, wines other than Arkansas wines, or beer or malt
10 beverages shall procure a permit to engage in transportation and shall
11 execute a bond satisfactory in amount, form, and as to surety, to be approved
12 by the director, conditioned upon the lawful transportation of spirituous
13 liquors, vinous liquors, wines other than Arkansas wines, or beer or malt
14 beverages.

15
16 SECTION 3. Arkansas Code § 5-64-412(a)(1), concerning enhanced
17 penalties for public officials or law enforcement officers in violation of
18 the controlled substances, is amended to read as follows:

19 (1) "Law enforcement officer" means any member of the Department
20 of Arkansas State Police or the Arkansas Highway Police Division of the
21 Arkansas ~~State Highway and Transportation~~ Department of Transportation and
22 any other certified law enforcement officer employed full time by the State
23 of Arkansas or any political subdivision of the State of Arkansas or court
24 personnel in Arkansas; and

25
26 SECTION 4. Arkansas Code § 5-64-505(h)(1)(A)(iii)(a), concerning
27 property subject to forfeiture, is amended to read as follows:

28 (iii)(a) A drug task force may use forfeited
29 property or money if the circuit court's order specifies that the forfeited
30 property or money is forfeited to the prosecuting attorney, sheriff, chief of
31 police, Department of Arkansas State Police, or Arkansas Highway Police
32 Division of the Arkansas ~~State Highway and Transportation~~ Department of
33 Transportation.

34
35 SECTION 5. Arkansas Code § 5-73-306(2) and (3), concerning the places
36 where it is prohibited to carry a concealed weapon, are amended to read as

1 follows:

2 (2) ~~Any An~~ Arkansas Highway Police Division of the Arkansas
3 ~~State Highway and Transportation~~ Department of Transportation facility;

4 (3)(A) ~~Any A~~ building of the Arkansas ~~State Highway and~~
5 ~~Transportation~~ Department of Transportation or onto grounds adjacent to ~~any a~~
6 building of the Arkansas ~~State Highway and Transportation~~ Department of
7 Transportation.

8 (B) However, subdivision (3)(A) of this section does not
9 apply to:

10 (i) A rest area or weigh station of the Arkansas
11 ~~State Highway and Transportation~~ Department of Transportation; or

12 (ii) A publicly owned and maintained parking lot
13 that is a publicly accessible parking lot if the licensee is carrying a
14 concealed handgun in his or her motor vehicle or has left the concealed
15 handgun in his or her locked and unattended motor vehicle in the publicly
16 owned and maintained parking lot;

17
18 SECTION 6. Arkansas Code § 6-60-213(a)(1)(A), concerning reduced
19 tuition for certain police officers, is amended to read as follows:

20 (1)(A) "Covered police officer" means:

21 (i) ~~Any An~~ employee of the Department of Arkansas
22 State Police who:

23 (a) Holds the rank of state trooper or a
24 higher rank; and

25 (b) Has been an employee of the ~~department~~
26 Department of Arkansas State Police for ten (10) or more years;

27 (ii) ~~Any A~~ highway police officer who has been an
28 employee of the Arkansas Highway Police Division of the Arkansas ~~State~~
29 ~~Highway and Transportation~~ Department of Transportation for ten (10) or more
30 years;

31 (iii) ~~Any An~~ officer of the State Capitol Police who
32 has been an employee of the State Capitol Police for ten (10) or more years;
33 or

34 (iv) ~~Any A~~ wildlife officer who has been an employee
35 of the Arkansas State Game and Fish Commission for ten (10) or more years.
36

1 SECTION 7. Arkansas Code § 6-82-501(8), concerning the definitions for
2 scholarships for children of law enforcement officers, is amended to read as
3 follows:

4 (8) "State highway employee" means any employee of the Arkansas
5 ~~State Highway and Transportation~~ Department of Transportation who actively
6 engages in highway maintenance, construction, or traffic operations on the
7 roadways and bridges of the state highway system while the roadways and
8 bridges are open for use by the traveling public;

9
10 SECTION 8. Arkansas Code § 7-5-101(c)(2)(C), concerning the
11 establishment and alteration of precinct boundaries, polling sites, and vote
12 centers, is amended to read as follows:

13 (C) ~~Mapping and Graphics~~ Geographic Information Systems
14 and Mapping Section of the Transportation Planning and Policy Division of the
15 Arkansas ~~State Highway and Transportation~~ Department of Transportation; and
16

17 SECTION 9. Arkansas Code § 8-7-209(b)(1)(A), concerning the powers and
18 duties of the Arkansas Pollution Control and Ecology Commission, is amended
19 to read as follows:

20 (A) The containerization and labeling of hazardous wastes,
21 which rules, to the extent practicable, shall be consistent with those issued
22 by the United States Department of Transportation, the United States
23 Environmental Protection Agency, the State Highway Commission, and the
24 Arkansas ~~State Highway and Transportation~~ Department of Transportation;

25
26 SECTION 10. Arkansas Code § 8-7-216(a), concerning the issuance of
27 permits under the Arkansas Hazardous Waste Management Act of 1979, is amended
28 to read as follows:

29 (a) ~~Permits~~ A permit shall be issued under such terms and conditions
30 as the Arkansas Department of Environmental Quality may prescribe under ~~the~~
31 ~~provisions of~~ this subchapter and under ~~such~~ the terms and conditions ~~as~~ the
32 Arkansas ~~State Highway and Transportation~~ Department of Transportation may
33 prescribe for the transportation of hazardous wastes.
34

35 SECTION 11. Arkansas Code § 8-7-224(a), concerning the rules for
36 transporting hazardous waste, is amended to read as follows:

1 (a)(1) Following notice and public hearing, the Arkansas ~~State Highway~~
2 ~~and Transportation~~ Department of Transportation, in consultation with the
3 Arkansas Department of Environmental Quality, shall issue rules and
4 regulations for the transportation of hazardous wastes.

5 (2) The rules and regulations shall be consistent with
6 applicable rules and regulations issued by the United States Department of
7 Transportation and with any rules, regulations, and standards issued by the
8 Arkansas Department of Environmental Quality ~~pursuant to~~ under this
9 subchapter.

10
11 SECTION 12. Arkansas Code § 10-3-309(b)(2)(B), concerning the review
12 and approval of state agency rules, is amended to read as follows:

13 (B) "State agency" does not include the following unless
14 the Legislative Council adopts rules under subsection (h) of this section
15 that include one (1) or more of the following in the definition of "state
16 agency":

17 (i) The Arkansas State Game and Fish Commission, if
18 the rule is not promulgated under authority of a statute enacted by the
19 General Assembly;

20 (ii) Except as provided in §§ 10-3-3102 and 27-65-
21 107(a)(18)(A), the State Highway Commission and the Arkansas ~~State Highway~~
22 ~~and Transportation~~ Department of Transportation, if the rule is not
23 promulgated under authority of a statute enacted by the General Assembly; and

24 (iii) An institution of higher education.

25
26 SECTION 13. Arkansas Code § 11-5-301(b)(2), concerning the purpose of
27 the laws for persons engaged in work near high voltage conditions, is amended
28 to read as follows:

29 (2) ~~The provisions of this~~ This subchapter shall not apply to
30 the direct employees of the State Highway Commission or the Arkansas ~~State~~
31 ~~Highway and Transportation~~ Department of Transportation.

32
33 SECTION 14. Arkansas Code § 11-10-314(j)(5), concerning the disclosure
34 of information obtained by the Department of Workforce Services, is amended
35 to read as follows:

36 (5) The Arkansas ~~State Highway and Transportation~~ Department of

1 Transportation may be provided:

2 (A) The employer's name, the business location in
3 Arkansas, the current number of employees, and the code for each employer
4 classified by the agency in the Standard Industrial Classification Code or
5 the equivalent classification code under the North American Industry
6 Classification System; and

7 (B) Other information that is necessary for the effective
8 operation of their respective programs in order to allow cooperation between
9 the Arkansas ~~State Highway and Transportation~~ Department of Transportation
10 and the Department of Workforce Services; and

11

12 SECTION 15. Arkansas Code § 12-8-104(f)(3), concerning the director of
13 the Department of Arkansas State Police, is amended to read as follows:

14 (3)(A) Upon request of the Director of State Highways and
15 Transportation, the Director of the Department of Arkansas State Police may
16 designate certified law enforcement officers from the Arkansas Highway Police
17 Division of the Arkansas ~~State Highway and Transportation~~ Department of
18 Transportation to be trained under the terms of the memorandum of
19 understanding described in subdivision (f)(2) of this section.

20 (B) The amount spent for training certified law
21 enforcement officers from the Arkansas Highway Police Division of the
22 Arkansas ~~State Highway and Transportation~~ Department of Transportation shall
23 be ~~borne~~ paid by the Arkansas ~~State Highway and Transportation~~ Department of
24 Transportation.

25

26 SECTION 16. Arkansas Code § 12-12-1402(a), concerning the prohibition
27 of racial profiling by the Department of Arkansas State Police, is amended to
28 read as follows:

29 (a) No member of the Department of Arkansas State Police, the Arkansas
30 Highway Police Division of the Arkansas ~~State Highway and Transportation~~
31 Department of Transportation, a county sheriff's department, or a municipal
32 police department, constable, or any other law enforcement officer of this
33 state shall engage in racial profiling.

34

35 SECTION 17. The introductory language of Arkansas Code § 12-12-
36 1403(a), concerning the written policy on racial profiling, is amended to

1 read as follows:

2 (a) The Department of Arkansas State Police, the Arkansas Highway
3 Police Division of the Arkansas ~~State Highway and Transportation~~ Department
4 of Transportation, all county sheriffs' departments, municipal police
5 departments, constables, and all other law enforcement agencies of this state
6 shall adopt a written policy that:

7

8 SECTION 18. Arkansas Code § 12-12-1803(b)(4)(A), concerning
9 restrictions on the use of an automatic license plate reader system, is
10 amended to read as follows:

11 (4)(A) By the Arkansas Highway Police Division of the Arkansas
12 ~~State Highway and Transportation~~ Department of Transportation for the
13 electronic verification of registration, logs, and other compliance data to
14 provide more efficient movement of commercial vehicles on a state highway.

15

16 SECTION 19. Arkansas Code § 12-14-104(a)(1), concerning the territory
17 of the State Capitol Police, is amended to read as follows:

18 (a)(1) This chapter shall apply to and encompass all lands, buildings,
19 and improvements that are commonly referred to as the State Capitol grounds
20 and additional areas set out in this section and that are bounded as follows:
21 Beginning at the point where the centerline of Tenth Street intersects the
22 eastern edge of the right-of-way of the Missouri Pacific and Rock Island
23 Railroad Line, then northeast along the southern boundary of that right-of-
24 way to the point where the centerline of Cross Street, extended northeast,
25 intersects that right-of-way, then south along the centerline of Cross Street
26 to the point where that line intersects the northern edge of the Wilbur Mills
27 Freeway, also known as I-630, surveyed by the Arkansas ~~State Highway and~~
28 ~~Transportation~~ Department of Transportation, to the point of the beginning.

29

30 SECTION 20. Arkansas Code § 12-19-102(c)(3), concerning the required
31 posting of information about the National Human Trafficking Resource Center,
32 is amended to read as follows:

33 (3) The Arkansas ~~State Highway and Transportation~~ Department of
34 Transportation.

35

36 SECTION 21. Arkansas Code § 12-75-132(b)(9), concerning the creation

1 of the Arkansas Homeland Security Advisory Group, is amended to read as
2 follows:

3 (9) Arkansas Highway Police Division of the Arkansas ~~State~~
4 ~~Highway and Transportation~~ Department of Transportation;

5

6 SECTION 22. Arkansas Code § 12-82-104(a)(1)(A), concerning the State
7 Emergency Response Commission is amended to read as follows:

8 (A) The directors of the Department of Health, the
9 Arkansas Department of Environmental Quality, the Department of Arkansas
10 State Police, the Arkansas Department of Emergency Management, the Department
11 of Labor, the Arkansas Fire Training Academy, and the Arkansas ~~State Highway~~
12 ~~and Transportation~~ Department of Transportation, and the Adjutant General, or
13 their designated representatives;

14

15 SECTION 23. Arkansas Code § 13-14-105(a), concerning studies of
16 prospective heritage trails, is amended to read as follows:

17 (a) The Department of Parks and Tourism, in consultation with the
18 Arkansas State Archives, the Arkansas Historic Preservation Program, and the
19 Arkansas ~~State Highway and Transportation~~ Department of Transportation, shall
20 conduct studies to determine the feasibility of designating additional trails
21 as heritage trails.

22

23 SECTION 24. Arkansas Code § 14-86-604(a), concerning a public
24 property tax exemption for property owned by the State Highway Commission and
25 Arkansas State Highway and Transportation Department, is amended to read as
26 follows:

27 (a) It is ~~hereby~~ found and determined by the Seventy-eighth General
28 Assembly that all property owned by the State Highway Commission or the
29 Arkansas ~~State Highway and Transportation~~ Department of Transportation is
30 public property used exclusively for public purposes.

31

32 SECTION 25. Arkansas Code § 14-92-236(b)(2), concerning public
33 contributions to roads or street improvement districts, is amended to read as
34 follows:

35 (2) The board of commissioners of the district and the Arkansas
36 ~~State Highway and Transportation~~ Department of Transportation are authorized

1 and directed to take such action as may be necessary to secure any of these
2 funds for these districts as an improvement of a part of the public roads of
3 the state in which the state has an interest.

4
5 SECTION 26. Arkansas Code § 14-186-210(b)(1), concerning municipal
6 port authorities and the acquisition of rights-of-way property, is amended to
7 read as follows:

8 (b)(1) Should ~~it~~ a municipal port authority elect to exercise the
9 right of eminent domain, condemnation proceedings shall be maintained by and
10 in the name of the authority, and it may proceed ~~in the manner~~ as provided by
11 the general laws of the State of Arkansas for the procedure by any county,
12 municipality, or authority organized under the laws of this state, or by the
13 ~~State Highway and Transportation Department~~ Arkansas Department of
14 Transportation, or by railroad corporations, or in any other manner provided
15 by law, as the authority may, in its discretion, elect.

16
17 SECTION 27. Arkansas Code § 14-271-104(f), concerning underground
18 facilities damage prevention penalties and civil liability, is amended to
19 read as follows:

20 (f) ~~Neither the State Highway Commission, nor the Arkansas State~~
21 ~~Highway and Transportation Department, nor their officers or employees, nor~~
22 ~~the county judges or their road departments are subject to the provisions of~~
23 ~~this section.~~

24 This section shall not apply to:

- 25 (1) The State Highway Commission;
26 (2) The Arkansas Department of Transportation;
27 (3) An officer or employee of the commission or Arkansas
28 Department of Transportation;
29 (4) A county judge; or
30 (5) A county road department.

31
32 SECTION 28. Arkansas Code § 14-316-106(1), concerning the cancellation
33 of an assessment lien when a road is taken by the state or no bond was
34 issued, is amended to read as follows:

35 (1) There is of record ~~any~~ an unsatisfied lien by virtue of ~~any~~
36 an assessment, pledge, or mortgage, delinquent record, or decree of

1 foreclosure made or created under ~~authority of any a~~ general or special law
2 relating to a road improvement district of this state or bridge improvement
3 district of which all bonds and other obligations of the district have been
4 paid, and the district has been completely absorbed or taken over by the
5 state or by the Arkansas ~~State Highway and Transportation~~ Department of of
6 Transportation; or
7

8 SECTION 29. Arkansas Code § 14-317-133(c), concerning the disposition
9 of funds to a rural road improvement district, is amended to read as follows:

10 (c) The commissioners of the district and the Arkansas ~~State Highway~~
11 ~~and Transportation~~ Department of Transportation ~~are authorized and directed~~
12 ~~to take such action as may be necessary to~~ secure any of the federal funds
13 for the districts as an improvement of a part of the public roads of the
14 state in which this state has an interest.
15

16 SECTION 30. Arkansas Code § 14-319-104(a), concerning unencumbered
17 bridges, is amended to read as follows:

18 (a) All bridges in districts where there has been sufficient money
19 collected to pay all outstanding lawful indebtedness of the district are
20 declared free, and they shall become the sole property of the State of
21 Arkansas and shall be maintained by the Arkansas ~~State Highway and~~
22 ~~Transportation~~ Department of Transportation as is now provided by law.
23

24 SECTION 31. Arkansas Code § 14-319-105(b), concerning the title to
25 bridges and property of bridge improvement districts to the State Highway
26 Commission, is amended to read as follows:

27 (b) All funds on hand with the districts shall be ~~promptly~~ paid over
28 to the Treasurer of State for deposit as a nonrevenue receipt in the fund
29 from which the Arkansas ~~State Highway and Transportation~~ Department of of
30 Transportation is maintained, and there used for the same purposes for which
31 other moneys in the fund may be used.
32

33 SECTION 32. Arkansas Code § 14-334-108(5), concerning the powers of a
34 board of authority, is amended to read as follows:

35 (5) To apply for, receive, and use grants-in-aid, appropriated
36 funds, donations, and contributions from any source including, ~~but not~~

1 ~~limited to,~~ without limitation the federal government and any agency thereof,
2 and the Arkansas ~~State Highway and Transportation~~ Department of of
3 Transportation, the State of Arkansas and any agency thereof, and to accept
4 and use bequests, devises, gifts, and donations from any person, firm, or
5 corporation;

6
7 SECTION 33. Arkansas Code § 15-10-304(b)(4), concerning requirement
8 that state agencies study the need for changes in law pertaining to nuclear
9 power, is amended to read as follows:

10 (4) The Arkansas ~~State Highway and Transportation~~ Department of of
11 Transportation, particularly as to the transportation of special nuclear
12 material and by-product material on highways of the state;

13
14 SECTION 34. Arkansas Code § 15-21-202(b)(4), concerning the creation
15 and members of the Land Survey Advisory Board, is amended to read as follows:

16 (4) One (1) person who is a registered professional engineer and
17 registered professional surveyor with the Arkansas ~~State Highway and~~
18 ~~Transportation~~ Department of of Transportation designated by the State Highway
19 Commission;

20
21 SECTION 35. Arkansas Code § 15-22-1003(7), concerning the definitions
22 used in the Arkansas Wetlands Mitigation Bank Act, is amended to read as
23 follows:

24 (7) "Wetlands Technical Advisory Committee" is a committee made
25 up of the directors or their designees of:

- 26 (A) The Arkansas Forestry Commission;
- 27 (B) The Arkansas State Game and Fish Commission;
- 28 (C) The Arkansas ~~State Highway and Transportation~~
29 Department of of Transportation;
- 30 (D) The Department of Arkansas Heritage;
- 31 (E) The Arkansas Department of Environmental Quality; and
- 32 (F) Two (2) public members with expertise in aquatic
33 resources ecology appointed by the commission.

34
35 SECTION 36. Arkansas Code § 15-24-107(c)(1), concerning the Arkansas
36 National Resources Commission's right of eminent domain, is amended to read

1 as follows:

2 (c)(1) The commission shall also have the right to condemn for the use
3 of any project any land or property necessary for the purpose of this chapter
4 and appropriate the land or property in the same manner as lands, rights-of-
5 way, and easements are acquired by the Arkansas ~~State Highway and~~
6 ~~Transportation~~ Department of Transportation.

7
8 SECTION 37. Arkansas Code § 15-57-310(c), concerning the permit
9 necessary to engage in open-cut mining, is amended to read as follows:

10 (c)(1) Notwithstanding the provisions of this section, the Arkansas
11 ~~State Highway and Transportation~~ Department of Transportation or its
12 contractor shall not be required to obtain a permit for an open-cut mine
13 ~~where~~ when the material is used exclusively in the construction,
14 reconstruction, improvement, or maintenance of roadways.

15 (2) Reclamation of the area shall conform to ~~the provisions of~~
16 the standard specifications for highway construction upon discontinuation of
17 use of the pit for the above listed purposes.

18 (3) The occasional sale of material to the Arkansas ~~State~~
19 ~~Highway and Transportation~~ Department of Transportation by an ~~open-cut mine~~
20 operator does not exempt the operator from complying with his or her permit
21 requirements or of the requirements of this subchapter.

22 (4) ~~Where~~ When reclamation requirements of the operator will
23 interfere with a contractual agreement with the Arkansas ~~State Highway and~~
24 ~~Transportation~~ Department of Transportation, the operator shall be allowed to
25 revise ~~his or her~~ the operator's reclamation plan and schedule of completion
26 accordingly and in keeping with the declaration of policy of this subchapter.

27
28 SECTION 38. Arkansas Code § 16-46-213 is amended to read as follows:

29 16-46-213. Records of ~~Interstate Commerce Commission~~ United States
30 Surface Transportation Board and Arkansas ~~State Highway and Transportation~~
31 Department of Transportation.

32 Printed copies of schedules, classifications, and tariffs of rates,
33 fares, and charges, and supplements ~~thereto~~ to the printed copies, of all
34 common carriers and contract carriers by railroad, motor vehicle, or
35 otherwise, ~~filed on file~~ with the ~~Interstate Commerce Commission~~ United
36 States Surface Transportation Board or the Arkansas ~~State Highway and~~

1 ~~Transportation~~ Department of Transportation and which reflect ~~thereon~~ an
2 ~~Interstate Commerce Commission~~ United State Surface Transportation Board
3 number and an effective date, or which reflect ~~thereon~~ an Arkansas State
4 Highway and Transportation Department or Arkansas Department of
5 Transportation number and an effective date, may be received in evidence in
6 any proceeding before the courts or administrative agencies of this state,
7 without certification or authentication, and shall be presumed to be correct
8 copies of the original schedules, classifications, tariffs, and supplements
9 on file with the ~~Interstate Commerce Commission~~ United States Surface
10 Transportation Board or on file with the Arkansas ~~State Highway and~~
11 ~~Transportation~~ Department of Transportation.

12

13 SECTION 39. Arkansas Code § 18-15-407(c)(1), concerning the authority
14 to flood a state or county road, is amended to read as follows:

15 (c)(1) The Arkansas ~~State Highway and Transportation~~ Department of
16 Transportation, hereinafter called "state", shall make all necessary
17 determinations for the state highways.

18

19 SECTION 40. Arkansas Code § 18-44-502 is amended to read as follows:
20 18-44-502. Exemption.

21 This subchapter shall not apply to any contract executed by the
22 Arkansas ~~State Highway and Transportation~~ Department of Transportation.

23

24 SECTION 41. Arkansas Code § 19-4-201(b)(2), concerning the authority
25 of the Governor in the execution of the state budget, is amended to read as
26 follows:

27 (2) Budget requests for administration and operation of the
28 legislative branch, the judicial branch, the elective constitutional offices,
29 the Arkansas ~~State Highway and Transportation~~ Department of Transportation,
30 the Office of the Arkansas Lottery, and the Arkansas State Game and Fish
31 Commission shall be submitted directly to the Legislative Council without any
32 recommendation by the Governor.

33

34 SECTION 42. Arkansas Code § 19-4-305(1), concerning the preliminary
35 budget report prepared by the Chief Fiscal Officer of the State, is amended
36 to read as follows:

1 (1) The budget requests as submitted by the legislative branch, the
2 judicial branch, the elective constitutional officers, the Arkansas ~~State~~
3 ~~Highway and Transportation~~ Department of Transportation, and the Arkansas
4 State Game and Fish Commission;

5
6 SECTION 43. Arkansas Code § 19-4-607(a), concerning the review and
7 approval of a state agency's annual operations plans, is amended to read as
8 follows:

9 (a) Each state agency other than the elected constitutional officers,
10 the legislative branch and its staff offices, the judicial branch and its
11 staff offices, the Arkansas ~~State Highway and Transportation~~ Department of
12 Transportation, the Office of the Arkansas Lottery, the state-supported
13 institutions of higher education, and the Arkansas State Game and Fish
14 Commission shall prepare an annual operations plan for the operation of each
15 of its assigned programs for submission to the Chief Fiscal Officer of the
16 State.

17
18 SECTION 44. Arkansas Code § 19-4-801(2)(B)(xi), concerning the
19 definitions used for the expenditure of cash funds by state agencies, is
20 amended to read as follows:

21 (xi) Arkansas ~~State Highway and Transportation~~
22 Department of Transportation;

23
24 SECTION 45. Arkansas Code § 19-4-906(a)(050)-(052), concerning motor
25 vehicle restrictions and authorizations, are amended to read as follows:

26 (050) Arkansas ~~State Highway and Transportation~~ Department of Transportation

27 43

28 (051) Arkansas ~~State Highway and Transportation~~ Department of Transportation

29 2,300

30 (052) Arkansas ~~State Highway and Transportation~~ Department of Transportation-

31 (NOAA) 0

32
33 SECTION 46. Arkansas Code § 19-4-1303 is amended to read as follows:

34 19-4-1303. Exemptions.

35 Funds disbursed by the Arkansas ~~State Highway and Transportation~~
36 Department of Transportation, the Arkansas State Game and Fish Commission,

1 and the Office of the Arkansas Lottery and the funds appropriated in the
2 general appropriation bill provided for in Arkansas Constitution, Article 5,
3 § 30, shall be exempt from this subchapter.

4
5 SECTION 47. Arkansas Code § 19-4-1403 is amended to read as follows:
6 19-4-1403. Agencies exempted.

7 The provisions of this subchapter shall not be applicable to the State
8 Highway Commission and the Arkansas ~~State Highway and Transportation~~
9 Department of Transportation.

10
11 SECTION 48. Arkansas Code § 19-4-1612 is amended to read as follows:
12 19-4-1612. Overtime pay.

13 (a) It is the policy of the State of Arkansas that overtime pay for
14 state employees is the least desirable method of compensation for overtime
15 work.

16 (b)(1) All state departments, agencies, boards, commissions, and
17 institutions may pay overtime to its employees, under the rules and
18 regulations set out by the federal Fair Labor Standards Act of 1938.

19 (2)(A) The Chief Fiscal Officer of the State will specify those
20 specific employees or groups of employees other than employees of the
21 Arkansas ~~State Highway and Transportation~~ Department of Transportation
22 eligible to receive overtime compensation, the circumstances under which
23 overtime pay is to be allowed, and ~~such~~ other matters ~~which~~ the Chief Fiscal
24 Officer of the State ~~may deem~~ finds appropriate and necessary to comply with
25 the federal Fair Labor Standards Act of 1938 as regards the payment of
26 overtime compensation.

27 (B) The Director of State Highways and Transportation
28 shall make these determinations as to employees of the Arkansas ~~State Highway~~
29 ~~and Transportation~~ Department of Transportation.

30 (c) The rules ~~and regulations~~ authorized by this section shall not go
31 into effect until the Chief Fiscal Officer of the State, or the Arkansas
32 ~~State Highway and Transportation~~ Department of Transportation as to its
33 employees, has sought the advice of the Legislative Council.

34 (d) In the event that the federal Fair Labor Standards Act of 1938 is
35 held, for whatever reason, to be nonapplicable to state employment, then any
36 state department, agency, board, commission, or institution may pay overtime

1 to its employees only if the General Assembly has given authorization by an
2 appropriation.

3

4 SECTION 49. Arkansas Code § 19-5-302(9)(C), concerning the State
5 General Government Fund, is amended to read as follows:

6 (C) If there are not sufficient funds available in the
7 Miscellaneous Agencies Fund Account to support the amounts appropriated from
8 the Miscellaneous Agencies Fund Account, the Chief Fiscal Officer of the
9 State shall determine the amount of moneys to be made available for each of
10 the appropriations made from the Miscellaneous Agencies Fund Account, after
11 having first provided full funding for all national and regional association
12 dues and ensured that the appropriations made for the Arkansas ~~State Highway~~
13 ~~and Transportation~~ Department of Transportation for road and bridge repair
14 and maintenance are funded ~~pursuant to~~ under the maximum funding allocation
15 provided by law;

16

17 SECTION 50. Arkansas Code § 19-5-1009(b)(4), concerning the creation
18 of the Miscellaneous Revolving Fund, is amended to read as follows:

19 (4) Claims awarded to ~~widows~~ surviving spouses or dependent
20 children of deceased police officers, firefighters, and Arkansas ~~State~~
21 ~~Highway and Transportation~~ Department of Transportation employees killed in
22 performing their official duties;

23

24 SECTION 51. Arkansas Code § 19-5-1009(c), concerning the State General
25 Government Fund, is amended to read as follows:

26 (c)(1) Excepting disbursement for livestock and poultry indemnities,
27 claims awarded to ~~widows~~ surviving spouses or dependent children of deceased
28 police officers, firefighters, and highway employees, college scholarships to
29 surviving children of law enforcement officers and firefighters killed in the
30 official line of duty, and workers' compensation claims for municipal and
31 county employees, the various funds shall reimburse the Miscellaneous
32 Revolving Fund for expenditures made for which the Miscellaneous Revolving
33 Fund is the beneficiary upon request by the Chief Fiscal Officer of the
34 State.

35

36 (2) This reimbursement shall be done after determining that it
will not jeopardize the then-current fiscal year's operation of the affected

1 state agency or State Treasury fund from which the agency is being supported.

2 (3) The reimbursements shall be made to reimburse the Budget
3 Stabilization Trust Fund.

4
5 SECTION 52. Arkansas Code § 19-5-1126(c), concerning the creation of
6 the Arkansas Public Transit Trust Fund, is amended to read as follows:

7 (c) The fund shall be used by the Arkansas ~~State Highway and~~
8 ~~Transportation~~ Department of Transportation for:

9 (1) The purpose of acquiring federal matching funds for the
10 purchase of public transportation vehicles;

11 (2) Public transit equipment or facilities; and

12 (3) The operation of the United States Department of
13 Transportation Federal Transit Administration assistance programs.

14
15 SECTION 53. Arkansas Code § 19-6-201(37), concerning the general
16 revenues of the state, is amended to read as follows:

17 (37) Arkansas ~~State Highway and Transportation~~ Department of
18 Transportation miscellaneous fees, permits, penalties, and fines, as enacted
19 by Acts 1955, No. 397, known as the "Arkansas Motor Carrier Act, 1955", and
20 all laws amendatory thereto, § 23-13-201 et seq.;

21
22 SECTION 54. Arkansas Code § 19-6-405(8), concerning the State Highway
23 and Transportation Department Fund, is amended to read as follows:

24 (8) Any federal funds ~~which~~ that may become available,
25 there to be used for the maintenance, operation, and improvement required by
26 the Arkansas ~~State Highway and Transportation~~ Department of Transportation in
27 carrying out the functions, powers, and duties as set out in Arkansas
28 Constitution, Amendment 42, and §§ 27-65-102 – 27-65-107, 27-65-110, 27-65-
29 122, and 27-65-124, and the other laws of this state prescribing the powers
30 and duties of the department and the State Highway Commission.

31
32 SECTION 55. Arkansas Code § 19-6-824(c), concerning the Commercial
33 Truck Safety and Education Fund, is amended to read as follows:

34 (c) The fund shall be used by the Arkansas ~~State Highway and~~
35 ~~Transportation~~ Department of Transportation to improve the safety of the
36 commercial truck industry through cooperative public-private programs that

1 focus on increased enforcement, regulatory compliance, industry training, and
2 educational programs to ensure the safe movement of goods on state highways.

3
4 SECTION 56. Arkansas Code § 19-6-829(c), concerning the Road and
5 Bridge Repair, Maintenance, and Grants Fund, is amended to read as follows:

6 (c) The fund shall be used for the maintenance, operation, and
7 improvement required by the Arkansas ~~State Highway and Transportation~~
8 Department of Transportation in carrying out the functions, powers, and
9 duties stated in Arkansas Constitution, Amendment 42, §§ 27-65-102 – 27-65-
10 107, 27-65-110, 27-65-122, and 27-65-124, and the other laws of this state
11 prescribing the powers and duties of the department and the State Highway
12 Commission.

13
14 SECTION 57. Arkansas Code § 19-6-832(b), concerning the Arkansas
15 Highway Transfer Fund, is amended to read as follows:

16 (b) The Arkansas Highway Transfer Fund shall be used to provide
17 additional funding to the Arkansas ~~State Highway and Transportation~~
18 Department of Transportation for use in constructing and maintaining the
19 highways of this state.

20
21 SECTION 58. Arkansas Code § 19-11-203(3)(B), concerning the
22 definitions used in the Arkansas Procurement Law, is amended to read as
23 follows:

24 (B) “Capital improvement” shall not include construction
25 and reconstruction of roads and bridges in the state highway system by the
26 State Highway Commission, nor shall “capital improvement” include any
27 building, facility, plant, structure, or other improvement constructed by, or
28 in behalf of, the Arkansas ~~State Highway and Transportation~~ Department of
29 Transportation or the State Highway Commission;

30
31 SECTION 59. Arkansas Code § 19-11-220(a)(1), concerning the authority
32 of a state agency to have an agency procurement official, is amended to read
33 as follows:

34 (1) Arkansas ~~State Highway and Transportation~~ Department of
35 Transportation;

36

1 SECTION 60. Arkansas Code § 19-11-1003(a), concerning the contracts
2 exempted from the requirements of professional and consultant services
3 contracts, is amended to read as follows:

4 (a) This subchapter shall not apply to the contracts of the Arkansas
5 ~~State Highway and Transportation~~ Department of Transportation that are
6 covered by the technical work requirements and administrative controls of the
7 Federal Highway Administration, nor shall the provisions of this subchapter
8 be applicable to contracts entered into by the department in which the costs
9 and fees are established by competitive bidding.

10
11 SECTION 61. Arkansas Code § 20-21-207(9), concerning the powers and
12 duties of the State Radiation Control Agency, is amended to read as follows:

13 (9)(A) Be authorized to acquire by purchase, acceptance, or
14 condemnation, for and on behalf of the State of Arkansas, any lands,
15 buildings, and grounds where radioactive by-products and wastes produced by
16 industrial, medical, agricultural, scientific, or other organizations can be
17 concentrated, stored, or otherwise disposed of in a manner consistent with
18 the public health and safety.

19 (B) The agency may exercise its power to condemn ~~in the~~
20 ~~manner as~~ prescribed by law for condemnation by the Arkansas ~~State Highway~~
21 ~~and Transportation~~ Department of Transportation in § 27-67-301 et seq.;

22
23 SECTION 62. Arkansas Code § 20-32-105(a)(1), concerning the
24 authorization to stop vehicles suspected of transporting commercial medical
25 waste, is amended to read as follows:

26 (a)(1) The Department of Arkansas State Police and the enforcement
27 officers of the Arkansas Highway Police Division of the Arkansas ~~State~~
28 ~~Highway and Transportation~~ Department of Transportation may stop vehicles
29 suspected of transporting commercial medical waste to assure that all
30 required permits for transporting the commercial medical waste have been
31 obtained and to enforce all laws and regulations relating to the
32 transportation of commercial medical waste.

33
34 SECTION 63. Arkansas Code § 20-64-1002(b)(1)(E), concerning the
35 creation of the Arkansas Alcohol and Drug Abuse Coordinating Council, is
36 amended to read as follows:

1 (E) The Director of the Arkansas ~~State Highway and~~
2 ~~Transportation~~ Department of Transportation;

3
4 SECTION 64. Arkansas Code § 20-76-102(a)(6), concerning the
5 coordination of state agency service delivery, is amended to read as follows:

6 (6) The Arkansas ~~State Highway and Transportation~~ Department of
7 Transportation;

8
9 SECTION 65. Arkansas Code § 20-76-437 is amended to read as follows:
10 20-76-437. Reporting – Transitional employment assistance.

11 The Department of Human Services, the Department of Workforce Services,
12 the Department of Health, the Department of Education, the Department of
13 Higher Education, the Department of Career Education, the Arkansas
14 Development Finance Authority, the Arkansas Economic Development Council, and
15 the Arkansas ~~State Highway and Transportation~~ Department of Transportation
16 shall report periodically to the House Committee on Public Health, Welfare,
17 and Labor and Senate Committee on Public Health, Welfare, and Labor regarding
18 the provision of services to Transitional Employment Assistance Program
19 recipients.

20
21 SECTION 66. Arkansas Code § 21-1-701(6)(A)(iii), concerning the
22 definitions used for state employee grievances, is amended to read as
23 follows:

24 (iii) The Arkansas ~~State Highway and Transportation~~
25 Department of Transportation; and

26
27 SECTION 67. Arkansas Code § 21-4-203(14)(D), concerning the
28 definitions used in the Uniform Attendance and Leave Policy Act, is amended
29 to read as follows:

30 (D) The Arkansas ~~State Highway and Transportation~~
31 Department of Transportation; and

32
33 SECTION 68. Arkansas Code § 21-4-217(b)(1)(E), concerning the
34 definitions pertaining to shared leave under the Uniform Attendance and Leave
35 Policy Act, is amended to read as follows:

36 (E) Arkansas ~~State Highway and Transportation~~ Department

1 of Transportation;

2

3 SECTION 69. Arkansas Code § 21-4-406(a), concerning the payment of
4 accrued leave to the estate of an officer of the Arkansas Highway Police
5 Division of the Arkansas State Highway and Transportation Department, is
6 amended to read as follows:

7 (a) The State Highway Commission may pay all accrued and unused
8 annual, holiday, and sick leave to the estate of an officer of the Arkansas
9 Highway Police Division of the Arkansas ~~State Highway and Transportation~~
10 Department of Transportation who dies in the line of duty.

11

12 SECTION 70. Arkansas Code § 21-4-503(a)(2), concerning the
13 applicability of the law regarding financial incentives to decrease the use
14 of sick leave, is amended to read as follows:

15 (2) Employees of the Arkansas ~~State Highway and Transportation~~
16 Department of Transportation;

17

18 SECTION 71. Arkansas Code § 21-5-109(b)(1)(E), concerning the
19 definition of "agency", is amended to read as follows:

20 (E) The Arkansas ~~State Highway and Transportation~~
21 Department of Transportation; and

22

23 SECTION 72. Arkansas Code § 21-5-204(a)(2), concerning the exceptions
24 to the Uniform Classification and Compensation Act, is amended to read as
25 follows:

26 (2) The Arkansas ~~State Highway and Transportation~~ Department of
27 Transportation; and

28

29 SECTION 73. Arkansas Code § 21-5-701(11), concerning the definitions
30 used in relation to death benefits, is amended to read as follows:

31 (11) "State highway employee" means an employee of the Arkansas
32 ~~State Highway and Transportation~~ Department of Transportation who is
33 physically present on a roadway, bridge, or right-of-way of the state highway
34 system or other public transportation facility and who is:

35 (A) Actively engaged in highway maintenance, construction,
36 traffic operations, or the official duties of his or her employment; or

1 (B) Supervising, reviewing, evaluating, or inspecting
2 highway maintenance, construction, or traffic operations; and
3

4 SECTION 74. Arkansas Code § 21-5-704(b)(2)(A), concerning the payment
5 of a claim to covered public employees, their designated beneficiaries, or
6 their survivors, is amended to read as follows:

7 (2)(A) Except as provided in subdivision (b)(2)(B) of this
8 section, the funds shall not be reimbursed by transfer or charging the funds
9 against any state funds allocated for turnback to cities or counties or
10 distributed to the State Highway and Transportation Department Fund or
11 distributed to any Department of Correction fund account or any other state
12 department agency fund account other than the Arkansas State Claims
13 Commission fund accounts and the Miscellaneous Revolving Fund or state funds
14 levied for firefighters, police officers, employees of the Arkansas ~~State~~
15 ~~Highway and Transportation~~ Department of Transportation, and employees of the
16 Department of Correction for pension purposes.
17

18 SECTION 75. Arkansas Code § 21-5-1201(2), concerning definitions
19 applicable to the compensation of certain employees that are called to active
20 duty, is amended to read as follows:

21 (2) "State agency" includes the Arkansas ~~State Highway and~~
22 ~~Transportation~~ Department of Transportation, the Arkansas State Game and Fish
23 Commission, and the State Highway Commission.
24

25 SECTION 76. Arkansas Code § 22-2-102(1)(B), concerning the definition
26 of "capital improvement", is amended to read as follows:

27 (B) Except that "capital improvement" shall not include
28 construction and reconstruction of roads and bridges in the state highway
29 system by the State Highway Commission, nor shall the term "capital
30 improvement" include any building, facility, plant, structure, or other
31 improvement constructed by or on behalf of the Arkansas ~~State Highway and~~
32 ~~Transportation~~ Department of Transportation or the State Highway Commission,
33 nor shall the term "capital improvement" include any lands, buildings, or
34 other structures or facilities now owned or hereafter acquired by an Arkansas
35 state retirement system as an investment or as a result of the investment of
36 assets of the system;

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SECTION 77. Arkansas Code § 22-2-102(3), concerning the definition of "state agency" is amended to read as follows:

(3) "State agency" means any board or commission, agency, department, institution of higher education, including colleges, universities, and vocational-technical schools, or other state institutions. However, "state agency" shall not include any county, municipality, school district, subdivision, or unit thereof of the State of Arkansas, nor shall the term "state agency" mean or include the Arkansas ~~State Highway and Transportation~~ Department of Transportation or the State Highway Commission.

SECTION 78. Arkansas Code § 22-2-121(a)(1), concerning the real estate compilation of the Building Authority Division of the Department of Finance and Administration, is amended to read as follows:

(1) Perform a compilation of all real property owned by state agencies, including boards, commissions, and institutions of higher education, the Arkansas State Game and Fish Commission, the Arkansas ~~State Highway and Transportation~~ Department of Transportation, and the State Highway Commission;

SECTION 79. Arkansas Code § 22-3-302(a), concerning the purpose and creation of the Capitol Zoning District, is amended to read as follows:

(a) To promote the general welfare of the state with respect to the State Capitol and to promote the general welfare of the property owners of the area as described in this subchapter, an improvement and comprehensive community zoning district, to be called the "Capitol Zoning District", is created, which district shall embrace all that portion of land situated in Little Rock, Pulaski County, State of Arkansas, within the following-described boundaries: Beginning at the point where the centerline of 10th Street intersects the eastern edge of the right-of-way of the Missouri Pacific and Rock Island Railroad Line, thence northeast along the southern boundary of that right-of-way to the point where the centerline of Cross Street, extended northeast, intersects that right-of-way, thence south along the centerline of Cross Street to the point where that line intersects the northern edge of the Wilbur Mills Freeway (I-630), surveyed by the Arkansas ~~State Highway and Transportation~~ Department of Transportation, thence

1 westward along the northern edge of the Wilbur Mills Freeway (I-630), as
2 surveyed by the Arkansas ~~State Highway and Transportation~~ Department of of
3 Transportation, to the point of the beginning.

4
5 SECTION 80. Arkansas Code § 22-3-407(d), concerning additional parking
6 areas on State Capitol grounds, is amended to read as follows:

7 (d) Upon receiving the certification, the commission shall proceed to
8 prepare necessary plans and specifications for the parking area and shall let
9 a contract for the work and pay for the work out of the Arkansas ~~State~~
10 ~~Highway and Transportation~~ Department of of Transportation construction funds or
11 shall perform the work out of the department maintenance appropriation.

12
13 SECTION 81. Arkansas Code § 22-4-113(b)(1)(B), concerning definitions
14 that apply to the use of certain vehicles by a person with a disability
15 document and a valid driver's license, is amended to read as follows:

16 (B) The authority to operate an all-terrain vehicle or a
17 golf cart under subdivision (b)(1)(A) of this section includes Arkansas ~~State~~
18 ~~Highway and Transportation~~ Department of of Transportation drives designated as
19 the State Highway (S.H.) 600 Series within the state parks and recreational
20 areas.

21
22 SECTION 82. Arkansas Code § 22-5-814(a), concerning the removal of
23 sand or water from navigable waters, is amended to read as follows:

24 (a) Sand and gravel may be removed from the beds or bars of any
25 navigable river or lake by the Arkansas ~~State Highway and Transportation~~
26 Department of of Transportation, any county or road district, or any federal
27 agency to be used for road building or maintenance, without paying the State
28 of Arkansas any amount whatsoever.

29
30 SECTION 83. Arkansas Code § 22-8-101(a)(1), concerning the
31 registration of state-owned motor vehicles, is amended to read as follows:

32 (a)(1) In order that a complete inventory of all state-owned motor
33 vehicles is maintained, every state agency, including the Arkansas ~~State~~
34 ~~Highway and Transportation~~ Department of of Transportation, the Arkansas State
35 Game and Fish Commission, the Department of Arkansas State Police, the
36 Arkansas National Guard, and all constitutional offices shall annually

1 register each motor vehicle owned by the State of Arkansas with the Director
2 of the Department of Finance and Administration in a manner prescribed by the
3 director.

4
5 SECTION 84. Arkansas Code § 22-8-104(a), concerning the private use of
6 state or county vehicles, is amended to read as follows:

7 (a) It shall be unlawful for any state or county employee who is
8 employed by the Arkansas ~~State Highway and Transportation~~ Department of of
9 Transportation or by a county highway department, county judge, or road
10 commissioner to use trucks and automobiles that belong to the state or county
11 for any purpose other than performing actual service for the state or county.

12
13 SECTION 85. Arkansas Code § 22-8-203(3)(B), concerning the definitions
14 used in the Automobile and Pickup Truck Acquisition Act for the State of
15 Arkansas, is amended to read as follows:

16 (B) "Law enforcement agency" does not include the Arkansas
17 Highway Police Division of the Arkansas ~~State Highway and Transportation~~
18 Department of Transportation.

19
20 SECTION 86. Arkansas Code § 22-8-204 is amended to read as follows:

21 22-8-204. Applicability.

22 This subchapter shall not apply to the elected constitutional officers
23 of the state, to the moneys appropriated by the General Assembly for
24 financing the statutory responsibilities of these officers, to the Arkansas
25 ~~State Highway and Transportation~~ Department of Transportation, nor to any
26 local political subdivision.

27
28 SECTION 87. Arkansas Code § 22-9-303(b), concerning exceptions to the
29 minimum prevailing wage, is amended to read as follows:

30 (b) Nothing contained in this subchapter shall be construed to apply
31 to or affect highway, road, street, or bridge construction and maintenance or
32 related work contracted for or performed by incorporated towns, cities,
33 counties, or the Arkansas ~~State Highway and Transportation~~ Department of
34 Transportation.

35
36 SECTION 88. Arkansas Code § 22-9-308(a), concerning ascertainment of

1 minimum prevailing wage before awarding contract, is amended to read as
2 follows:

3 (a) Before any public body, excluding the Arkansas ~~State Highway and~~
4 ~~Transportation~~ Department of Transportation, awards a contract or begins
5 supervised construction for public works, it shall notify the Department of
6 Labor to ascertain the prevailing hourly rate of wages in the county in which
7 the work is to be performed, for each craft or type of worker needed to
8 execute the contract or project.

9

10 SECTION 89. Arkansas Code § 23-1-101(2), concerning definitions
11 applicable to public utilities and carriers, is amended to read as follows:

12 (2) "Commission" means the Arkansas Public Service Commission or
13 the Arkansas ~~State Highway and Transportation~~ Department of Transportation
14 with respect to the particular public utilities and matters over which each
15 agency has jurisdiction;

16

17 SECTION 90. Arkansas Code § 23-2-201 is amended to read as follows:

18 23-2-201. Definitions.

19 As used in this subchapter, unless the context otherwise requires:

20 (1) "Department" means the Arkansas ~~State Highway and~~
21 ~~Transportation~~ Department of Transportation; and

22 (2) "Transportation" means the carriage of persons and property
23 for compensation by air, rail, water, carrier pipelines, or motor carriers.

24

25 SECTION 91. Arkansas Code § 23-2-207 is repealed.

26 ~~23-2-207. Officers and employees.~~

27 ~~The Arkansas State Highway and Transportation Department shall have the~~
28 ~~power to employ, during its pleasure, such officers, examiners, experts,~~
29 ~~engineers, statisticians, accountants, attorneys, inspectors, clerks, and~~
30 ~~employees, one of whom shall be designated as secretary of the department, as~~
31 ~~it may deem necessary to carry out its proper function or to perform the~~
32 ~~duties and exercise the powers conferred by law upon the department, as may~~
33 ~~be provided by appropriation of the General Assembly therefor.~~

34

35 SECTION 92. Arkansas Code § 23-2-208 is repealed.

36 ~~23-2-208. Free transportation of employees.~~

1 ~~The employees of the Arkansas State Highway and Transportation~~
2 ~~Department shall have the right to pass free of charge on all railroads and~~
3 ~~other public carriers when in the performance of their official duties~~
4 ~~subject in whole or in part to the control or regulation of the department.~~
5

6 SECTION 93. Arkansas Code § 23-2-209(c), concerning the jurisdiction
7 of the regulatory commissions, is repealed.

8 ~~(c) All authority conferred and vested on the Arkansas State Highway~~
9 ~~and Transportation Department or the State Highway Commission by any of the~~
10 ~~laws of this state concerning the regulation of pipeline companies which are~~
11 ~~common carriers shall be transferred, vested, and conferred upon the Arkansas~~
12 ~~Public Service Commission.~~
13

14 SECTION 94. Arkansas Code § 23-2-210 is repealed.

15 ~~23-2-210. Rules and regulations.~~

16 ~~The Arkansas State Highway and Transportation Department shall make~~
17 ~~such reasonable rules and regulations as may be necessary to administer the~~
18 ~~provisions of this subchapter and the laws administered by the Arkansas~~
19 ~~Public Service Commission with respect to the regulation of transportation~~
20 ~~prior to February 28, 1957.~~
21

22 SECTION 95. Arkansas Code § 23-2-211(a), concerning proceedings before
23 the Arkansas State Highway and Transportation Department, is amended to read
24 as follows:

25 (a) In the exercise of its jurisdiction, the Arkansas ~~State Highway~~
26 ~~and Transportation~~ Department of Transportation shall have the power to
27 promulgate reasonable rules and regulations governing procedure before the
28 department and for other purposes.
29

30 SECTION 96. Arkansas Code § 23-2-212(a), concerning expenses incurred
31 by the Arkansas State Highway and Transportation Department, is amended to
32 read as follows:

33 (a) All expenses incurred by the Arkansas ~~State Highway and~~
34 ~~Transportation~~ Department of Transportation pursuant to under the provisions
35 of this subchapter, including the actual and necessary traveling and other
36 expenses and disbursements incurred while on business of the department,

1 shall be paid from the funds provided for the use of the department.

2
3 SECTION 97. Arkansas Code § 23-2-303 is amended to read as follows:

4 23-2-303. Jurisdiction over intrastate transportation services.

5 Nothing contained in this act shall be construed as giving the Arkansas
6 Public Service Commission any jurisdiction over taxicab or truck service in
7 cities or towns, and of railroad, taxicab, or motor bus service between
8 cities or towns, jurisdiction over which is vested in the Arkansas ~~State~~
9 ~~Highway and Transportation~~ Department of Transportation.

10
11 SECTION 98. Arkansas Code § 23-2-403(a), concerning evidence and
12 pleadings in a proceeding before the Arkansas Public Service Commission and
13 the Arkansas State Highway and Transportation Department, is amended to read
14 as follows:

15 (a) The Arkansas Public Service Commission and the Arkansas ~~State~~
16 ~~Highway and Transportation~~ Department of Transportation shall prescribe the
17 rules of procedure and for taking of evidence in all matters that may come
18 before them.

19
20 SECTION 99. Arkansas Code § 23-2-406 is amended to read as follows:

21 23-2-406. Oaths – Testimony.

22 Any commissioner, secretary, or assistant secretary employed by the
23 Arkansas Public Service Commission or the Arkansas ~~State Highway and~~
24 ~~Transportation~~ Department of Transportation may administer oaths and take
25 testimony.

26
27 SECTION 100. Arkansas Code § 23-2-407 is amended to read as follows:

28 23-2-407. Subpoenas for witnesses – Issuance and service.

29 Subpoenas for witnesses shall be issued by the secretary, assistant
30 secretary, or any commissioner of the Arkansas Public Service Commission or
31 the Arkansas ~~State Highway and Transportation~~ Department of Transportation
32 and shall be served as provided by law for the service of other subpoenas.

33
34 SECTION 101. Arkansas Code § 23-2-409 is amended to read as follows:

35 23-2-409. Subpoenas – Failure to comply – Penalty.

36 The failure or refusal of any witness to appear or to produce any

1 books, papers, or documents required by the Arkansas Public Service
2 Commission or the Arkansas ~~State Highway and Transportation~~ Department of of
3 Transportation and to submit them to the inspection of the commission or the
4 department or the refusal to answer any questions propounded by the
5 commission or the department shall constitute a violation punishable by a
6 fine of not less than fifty dollars (\$50.00) nor more than five hundred
7 dollars (\$500).

8
9 SECTION 102. Arkansas Code § 23-2-418(a), concerning records of
10 proceedings and testimony before regulatory commissions, is amended to read
11 as follows:

12 23-2-418. Records of proceedings and testimony.

13 (a) A full and complete record shall be kept of all proceedings had
14 before the Arkansas Public Service Commission, the Arkansas ~~State Highway and~~
15 ~~Transportation~~ Department of Transportation, any commissioner, or any
16 examiner on any formal investigation.

17
18 SECTION 103. Arkansas Code § 23-2-425(a), concerning appeals from the
19 Arkansas State Highway and Transportation Department, is amended to read as
20 follows:

21 (a)(1) Within thirty (30) days after the entry on the record of the
22 Arkansas ~~State Highway and Transportation~~ Department of Transportation of any
23 order made by it, any party aggrieved may file a written motion with the
24 secretary of the department praying for appeal from the order to the Pulaski
25 County Circuit Court.

26
27 SECTION 104. Arkansas Code § 23-2-427 is amended to read as follows:

28 23-2-427. Orders, rules, etc., of department not controverted in
29 actions between private person and railroad company.

30 In all actions between private parties and railroad companies brought
31 under Acts 1899, No. 53, the rates, charges, orders, rules, regulations, and
32 classifications prescribed by the Arkansas ~~State Highway and Transportation~~
33 Department of Transportation before the institution of the action shall be
34 held, deemed, and accepted to be reasonable, fair, and just, and in such
35 respects shall not be controverted therein.

36

1 SECTION 105. Arkansas Code § 23-3-101(a), concerning the organization
2 or reorganization of public utilities, is amended to read as follows:

3 (a) Organizations or reorganizations of all public utilities shall be
4 subject to the supervision and control of the Arkansas Public Service
5 Commission or the Arkansas ~~State Highway and Transportation~~ Department of of
6 Transportation.

7
8 SECTION 106. Arkansas Code § 23-3-109(a), annual statements of gross
9 earnings by a utility, is amended to read as follows:

10 (a) Annually, during the month of March, each utility subject by law
11 to the payment of fees or charges under the jurisdiction of either the
12 Arkansas Public Service Commission or the Arkansas ~~State Highway and~~
13 ~~Transportation~~ Department of Transportation shall prepare and transmit to the
14 commission or the department having jurisdiction over the utility a certified
15 statement of the gross earnings from its properties in Arkansas for the
16 preceding calendar year ending December 31.

17
18 SECTION 107. Arkansas Code § 23-3-110(a)(1), concerning the annual
19 fees collected from a utility, is amended to read as follows:

20 (a)(1) There is levied and charged and there shall be collected
21 annually from each utility subject by law to the payment of fees or charges
22 under the jurisdiction of either the Arkansas Public Service Commission or
23 the Arkansas ~~State Highway and Transportation~~ Department of Transportation
24 a fee in an amount ~~which shall be~~ equivalent to that proportion of the total
25 utilities costs that the gross earnings of each of the utilities bear to the
26 total gross earnings of all utilities.

27
28 SECTION 108. Arkansas Code § 23-3-202 is amended to read as follows:

29 23-3-202. Requirement for operation under suspended permit.

30 ~~No~~ A public utility shall not exercise any right or privilege under any
31 franchise or permit, the exercise of which has been suspended or discontinued
32 for more than one (1) year, without first obtaining from the Arkansas Public
33 Service Commission or the Arkansas ~~State Highway and Transportation~~
34 Department of Transportation a certificate that public convenience and
35 necessity require the exercise of such a right or privilege.

36

1 SECTION 109. Arkansas Code § 23-4-101(a), concerning the authority of
2 the Arkansas Public Service Commission or the Arkansas State Highway and
3 Transportation Department to establish rates for public utilities, is amended
4 to read as follows:

5 (a) With respect to the particular public utilities and matters over
6 which each agency has jurisdiction, the Arkansas Public Service Commission or
7 the Arkansas ~~State Highway and Transportation~~ Department of Transportation
8 shall have the power, after reasonable notice and after full and complete
9 hearing, to enforce, originate, establish, modify, change, adjust, and
10 promulgate tariffs, rates, joint rates, tolls, and schedules for all public
11 service corporations, companies, and utilities and all rules and regulations
12 with reference thereto and orders directing the performance of any duties
13 devolving on the company, utility, common carrier, or public service
14 corporation under the terms of this act.

15
16 SECTION 110. Arkansas Code § 23-4-601 is amended to read as follows:

17 23-4-601. Construction of §§ 23-4-602, 23-4-608 – 23-4-610, 23-4-615,
18 23-4-706, 23-10-301, and 23-11-101.

19 Nothing in §§ 23-4-602, 23-4-608 – 23-4-610, 23-4-615, 23-4-706, 23-10-
20 301, and 23-11-101 shall be so construed as to amend or repeal any act prior
21 to May 28, 1907, in force, nor to curtail or limit the powers and duties of
22 the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

23
24 SECTION 111. Arkansas Code § 23-4-602(a), concerning violations of §§
25 23-4-601, 23-4-608 – 23-4-610, 23-4-615, 23-4-706, 23-10-301, and 23-11-101,
26 tariff of charges, or rules of the Arkansas State Highway and Transportation
27 Department, is amended to read as follows:

28 (a) If any person or corporation operating a railroad or express
29 company in this state or any receiver, trustee, or lessee of any such person
30 or corporation violates any of the provisions of §§ 23-4-601, 23-4-608 – 23-
31 4-610, 23-4-615, 23-4-706, 23-10-301, and 23-11-101, or aids or abets
32 therein, or violates the tariff of charges as fixed by the Arkansas ~~State~~
33 ~~Highway and Transportation~~ Department of Transportation or any of the rules
34 regarding railroads or express companies as made by the department and for
35 which there is no other penalty prescribed, then such a person or
36 corporation, receiver, trustee, or lessee shall be liable to a penalty of not

1 less than five hundred dollars (\$500) nor more than three thousand dollars
2 (\$3,000) for each violation of §§ 23-4-601, 23-4-608 – 23-4-610, 23-4-615,
3 23-4-706, 23-10-301, and 23-11-101 or such tariff of charges or rules and
4 regulations.

5

6 SECTION 112. Arkansas Code § 23-4-606(a), regulation of rates and
7 charges for continuous railroad lines, is amended to read as follows:

8 (a) In all cases where there is, by physical connection of railroads,
9 a continuous line of railway communication between railroad stations within
10 this state, whether such stations are on railroads operated by one and the
11 same company or corporation or on railroads operated by different and
12 independent companies or corporations, it shall be the duty of the Arkansas
13 ~~State Highway and Transportation~~ Department of Transportation, to and from
14 such stations, to make just and reasonable rates for freight, express, and
15 passenger traffic, to be observed by all persons, companies, or corporations
16 operating any railroad or engaged in transporting persons or property as
17 express or freight in this state.

18

19 SECTION 113. Arkansas Code § 23-4-607 is amended to read as follows:
20 23-4-607. Connecting railroad lines – Division of charges.

21 If any two (2) or more connecting lines of railroad in this state fail
22 to agree upon a fair and just division of the charges arising from the
23 transportation of freights, passengers, or cars over their lines, the
24 Arkansas ~~State Highway and Transportation~~ Department of Transportation shall
25 make the division and shall fix the pro rata part of such charges to be
26 received by each of the connecting lines.

27

28 SECTION 114. Arkansas Code § 23-4-608(a), concerning the penalties for
29 violations of §§ 23-4-606 and 23-4-607, is amended to read as follows:

30 (a) If any person or corporation operating a railroad or express
31 company in this state, or any receiver, trustee, or lessee of any such person
32 or corporation, violates any of the provisions of §§ 23-4-606 and 23-4-607,
33 or aids or abets therein, or violates the tariff of charges as fixed by the
34 Arkansas ~~State Highway and Transportation~~ Department of Transportation or any
35 of the rules regarding railroads or express companies as made by the
36 department, and for which there is no other penalty prescribed in §§ 23-4-606

1 and 23-4-607, then the person or corporation, receiver, trustee, or lessee
2 shall be liable to a penalty of not less than five hundred dollars (\$500) nor
3 more than three thousand dollars (\$3000) for each violation of §§ 23-4-606
4 and 23-4-607, or such tariff of charges or rules and regulations.

5
6 SECTION 115. Arkansas Code § 23-4-609(c), concerning connecting
7 railroad lines under one management, is amended to read as follows:

8 (c) The Arkansas ~~State Highway and Transportation~~ Department of of
9 Transportation shall have the power to fix different rates for different
10 lines bearing the relation to each other described in this section whenever
11 it finds such action necessary to do justice.

12
13 SECTION 116. Arkansas Code § 23-4-610(a), concerning through freight
14 rates and regulations for railroads, is amended to read as follows:

15 (a) The Arkansas ~~State Highway and Transportation~~ Department of of
16 Transportation shall have power, and it is its duty, to investigate all
17 through-freight rates and regulations on railroads in Arkansas.

18
19 SECTION 117. Arkansas Code § 23-4-611(b)(1), concerning short line
20 railroads, is amended to read as follows:

21 (b)(1) The rates charged by any company may be reduced by the Arkansas
22 ~~State Highway and Transportation~~ Department of of Transportation whenever it
23 appears that the net annual profits of the company exceed ten percent (10%)
24 of the amount of capital actually invested.

25
26 SECTION 118. Arkansas Code § 23-4-615 is amended to read as follows:

27 23-4-615. Railroads – Sleeping car tariffs.

28 The Arkansas ~~State Highway and Transportation~~ Department of of
29 Transportation is authorized and it is its duty to adopt, change, or make
30 reasonable and just rates, charges, and regulations to govern and regulate
31 sleeping car tariffs and service in order to correct abuses and prevent
32 unjust discrimination and extortion in the rates for sleeping cars.

33
34 SECTION 119. Arkansas Code § 23-4-620(a), concerning notice of rate
35 changes, is amended to read as follows:

36 (a) Unless the Arkansas ~~State Highway and Transportation~~ Department of of

1 Transportation otherwise orders, no public utility shall make any change in
2 any rate duly established under this act except after thirty (30) days'
3 notice to the department. This notice shall plainly state the change proposed
4 to be made in the rates then in force and the time when the changed rates
5 will go into effect.

6
7 SECTION 120. Arkansas Code § 23-4-622 is amended to read as follows:
8 23-4-622. Investigation of rate changes.

9 Whenever there is filed with the Arkansas ~~State Highway and~~
10 ~~Transportation~~ Department of Transportation by any public utility any
11 schedule stating a new rate, the department, either upon complaint or upon
12 its own motion and upon reasonable notice, may enter upon any investigation
13 concerning the lawfulness of the rates.

14
15 SECTION 121. Arkansas Code § 23-4-623 is amended to read as follows:
16 23-4-623. Suspension of proposed rates.

17 Pending its investigation and the decision thereon, the Arkansas ~~State~~
18 ~~Highway and Transportation~~ Department of Transportation by written order at
19 any time before the new rate becomes effective may suspend the operation of
20 the rate. However, the suspension shall not be for a longer period than nine
21 (9) months beyond the time when the rate would otherwise go into effect. Any
22 order initially suspending the rate shall set a specific date for the
23 commencement of a hearing inquiring into the rate requested unless waived by
24 the applicant utility.

25
26 SECTION 122. Arkansas Code § 23-4-624(a), concerning interim
27 implementation of suspended rates, is amended to read as follows:

28 (a) If the public utility contends that an immediate and impelling
29 necessity exists for the requested rate increase, a petition may be filed
30 with the Arkansas ~~State Highway and Transportation~~ Department of
31 Transportation narrating the alleged circumstances and requesting a hearing
32 on the petition.

33
34 SECTION 123. Arkansas Code § 23-4-625 is amended to read as follows:
35 23-4-625. Rate increase not effective until final order.

36 Unless the Arkansas ~~State Highway and Transportation~~ Department of

1 Transportation finds an immediate and impelling necessity exists or if the
2 department fails to enter a timely order as provided in § 23-4-624, no public
3 utility shall place any rate increase into effect until a final decision and
4 order is made by the department.

5
6 SECTION 124. Arkansas Code § 23-4-626(a), concerning the authority of
7 the Arkansas State Highway and Transportation Department to fix rates, is
8 amended to read as follows:

9 (a) If, after the investigation and hearing thereon, the Arkansas
10 ~~State Highway and Transportation~~ Department of Transportation finds the new
11 rate to be unjust, unreasonable, discriminatory, or otherwise in violation of
12 the law or rules of the department, it shall determine and fix the just and
13 reasonable rate to be charged or applied by the utility for the service in
14 question, from and after the time the new rate took effect.

15
16 SECTION 125. Arkansas Code § 23-4-627 is amended to read as follows:

17 23-4-627. Failure of department to reach timely decision – Conditional
18 implementation of suspended rates.

19 In the event no final rate determination has been made upon the
20 schedule for new rates within ten (10) months after the date the schedule for
21 new rates was filed with the Arkansas ~~State Highway and Transportation~~
22 Department of Transportation, the public utility may put the suspended rate
23 into effect for all bills rendered thereafter immediately upon the filing of
24 a bond to be approved by the department payable to the State of Arkansas in
25 such amount and with sufficient security to insure prompt payment of any
26 refunds to the persons entitled thereto, including an interest rate as
27 determined by the department not to exceed the maximum interest otherwise
28 allowed by law, if the rate or rates so put into effect are finally
29 determined to be excessive. There may be substituted for the bond other
30 arrangements satisfactory to the department for the protection of the parties
31 interested.

32
33 SECTION 126. Arkansas Code § 23-4-629(a), concerning the surcharge to
34 collect rates increased by courts, is amended to read as follows:

35 (a) In the event that the rates set in the order of the Arkansas ~~State~~
36 ~~Highway and Transportation~~ Department of Transportation subsequently are

1 determined to have been inadequate, either on rehearing or in accordance with
2 court decision on judicial review, the public utility subject to the order
3 shall be entitled to impose a surcharge on the affected customers for
4 collection of the increased rates that otherwise would have been collected
5 during the period between the effective date of the initial order and the
6 effective date of the rates as increased, together with interest as
7 determined by the department at a rate not to exceed the maximum interest
8 rate otherwise allowed by law.

9
10 SECTION 127. Arkansas Code § 23-4-630 is amended to read as follows:

11 23-4-630. Refunds of excessive rate collections under bond.

12 In the event a public utility shall have implemented under bond or
13 other arrangements as a matter involving an immediate and impelling necessity
14 ~~pursuant to~~ under § 23-4-624 an amount which exceeds that allowed by the
15 ~~Arkansas State Highway and Transportation~~ Department of Transportation in its
16 final order, the department shall order the immediate refund of the excessive
17 bonded collections.

18
19 SECTION 128. Arkansas Code § 23-4-631 is amended to read as follows:

20 23-4-631. Refunds of excessive bonded collections – Order not stayed
21 during rehearing.

22 An application for rehearing ~~pursuant to~~ under § 23-2-422 filed by a
23 party aggrieved by the final order of the ~~Arkansas State Highway and~~
24 ~~Transportation~~ Department of Transportation shall not stay the effectiveness
25 of the order as it pertains to refunds of excessive bonded collections.

26
27 SECTION 129. Arkansas Code § 23-4-632 is amended to read as follows:

28 23-4-632. Surcharge to collect excessive refunds.

29 In the event that the amount of refunds ordered by the ~~Arkansas State~~
30 ~~Highway and Transportation~~ Department of Transportation in its final order is
31 subsequently determined to have been excessive, either on rehearing or in
32 accordance with a court decision on judicial review, the public utility
33 subject to the order shall be entitled to impose an additional surcharge on
34 the affected customers to recover that portion of the refunds to which it was
35 entitled, together with interest as determined by the department at a rate
36 not to exceed the maximum interest rate otherwise allowed by law. The

1 surcharge shall be assessed over a period equal to the period between the
2 date the rates were implemented under bond and the date of the department's
3 final order. The surcharge shall be distributed among the affected customers
4 in proportion to the amount of refunds those customers received.

5
6 SECTION 130. Arkansas Code § 23-4-633 is amended to read as follows:
7 23-4-633. Petition for mandamus.

8 If the Arkansas ~~State Highway and Transportation~~ Department of
9 Transportation order is not issued before the expiration of the period of
10 suspension, the filed rates shall remain subject to refund as provided in §
11 23-4-630, but the applicant utility shall have the right to petition the
12 Pulaski County Circuit Court for a writ of mandamus compelling the issuance
13 of an order by the department within fifteen (15) days of the writ of
14 mandamus issued by the Pulaski County Circuit Court. The petition shall be
15 advanced on the docket above all other pending civil cases, and a hearing
16 thereon shall be held within seven (7) days of the filing of the petition.
17 The scope of review shall be limited to the issue of the failure of the
18 department to act within the time limits provided for in this act.

19
20 SECTION 131. Arkansas Code § 23-4-634(a), concerning a suit to compel
21 funds from a public utility, is amended to read as follows:

22 (a) If the public utility fails to make refunds within thirty (30)
23 days after the effective date of the order requiring such refunds, the
24 Arkansas ~~State Highway and Transportation~~ Department of Transportation shall
25 bring suit in the name of the State of Arkansas, for the use and benefits of
26 all those entitled to a refund, in any court of competent jurisdiction and
27 recover the amount of all refunds due together with interest thereon at a
28 rate not to exceed the maximum rate otherwise allowed by law and all court
29 costs.

30
31 SECTION 132. Arkansas Code § 23-4-635(a), concerning changes in rates
32 by common carriers, is amended to read as follows:

33 (a) No change shall be made in the rates, fares, and charges or joint
34 rates, fares, and charges ~~which that~~ have been filed with the Arkansas ~~State~~
35 ~~Highway and Transportation~~ Department of Transportation and published by any
36 common carrier in compliance with the requirements of § 23-4-110 except after

1 thirty (30) days' notice to the department and to the public.

2
3 SECTION 133. Arkansas Code § 23-4-637(a), concerning discriminatory
4 interterritorial freight rates, is amended to read as follows:

5 (a) The Arkansas ~~State Highway and Transportation~~ Department of
6 Transportation is vested with authority to formulate and adopt plans for a
7 complete and thorough study of and attack on interterritorial freight rates
8 adversely affecting Arkansas. However, the plans shall be subject to approval
9 by the Governor.

10
11 SECTION 134. Arkansas Code § 23-4-703 is amended to read as follows:
12 23-4-703. Acts 1899, No. 53, not applicable to interstate traffic.

13 The provisions of this act shall not be construed as to require the
14 Arkansas ~~State Highway and Transportation~~ Department of Transportation to
15 investigate or call upon any railroad or express company for its schedule or
16 tariff of charges in the transportation of passengers or property from any
17 point wholly outside of this state or to in any way interfere with such rates
18 or charges.

19
20 SECTION 135. Arkansas Code § 23-4-706(a), concerning the penalties
21 imposed on railroad and express companies for a violation of this act,
22 amended to read as follows:

23 (a) If any person or corporation operating a railroad or express
24 company in this state, or any receiver, trustee, or lessee of any such person
25 or corporation, violates any of the provisions of this act or aids or abets,
26 or violates the tariff of charges as fixed by the Arkansas ~~State Highway and~~
27 ~~Transportation~~ Department of Transportation or any of the rules regarding
28 railroads or express companies as made by the department and for which there
29 is no other penalty prescribed in this act, then the person or corporation,
30 receiver, trustee, or lessee shall be liable to a penalty of not less than
31 five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) for
32 each violation of this act or such tariff of charges or rules and
33 regulations.

34
35 SECTION 136. Arkansas Code § 23-4-708(a), concerning the rate sheets
36 and tariff changes furnished by railroad or express companies to the Arkansas

1 State Highway and Transportation Department, is amended to read as follows:

2 (a) Every person or corporation operating any railroad or express
3 business in this state is required to furnish the Arkansas ~~State Highway and~~
4 ~~Transportation~~ Department of Transportation, within fifteen (15) days after
5 notice to do so, with the rate sheet and tariff charges for transportation of
6 every kind over the railroad.

7
8 SECTION 137. The introductory language of Arkansas Code § 23-4-709(a),
9 concerning the rate-making procedure, is amended to read as follows:

10 (a) It shall be the duty of the Arkansas ~~State Highway and~~
11 ~~Transportation~~ Department of Transportation to:

12
13 SECTION 138. Arkansas Code § 23-4-714 is amended to read as follows:

14 23-4-714. Complaints – Investigation.

15 It shall be the duty of the Arkansas ~~State Highway and Transportation~~
16 Department of Transportation, upon the complaint of any person, company, or
17 corporation in writing, charging any person or corporation with
18 discrimination or overcharge, to investigate the complaint and take such
19 action in the premises as is provided in this act and which the facts in the
20 case justify.

21
22 SECTION 139. Arkansas Code § 23-4-715 is amended to read as follows:

23 23-4-715. Complaints – Hearings.

24 It shall be the duty of the Arkansas ~~State Highway and Transportation~~
25 Department of Transportation to hear all complaints made by any person, firm,
26 or corporation against any such tariff of charges so approved, to hear the
27 parties to the controversy in person or by attorney, or both. The department
28 may take testimony, orally or in writing, and regulate argument thereon and
29 conduct the investigation of such complaints in such manner as to the
30 department may seem best adapted to arrive at the truth. When any changes are
31 made in any tariff of charges, notice thereof shall be given to the person or
32 corporation to be affected thereby.

33
34 SECTION 140. Arkansas Code § 23-4-716 is amended to read as follows:

35 23-4-716. Liability as to rates approved by department.

36 In no instance shall any person or corporation operating a railroad or

1 express company, the schedule of charges of which have been submitted to,
2 revised, and approved by the Arkansas ~~State Highway and Transportation~~
3 Department of Transportation, be civilly or criminally liable for the making
4 of any charge ~~which~~ that has been authorized by the tariff of charges
5 approved by the department or the rules and regulations prescribed by the
6 department.

7
8 SECTION 141. Arkansas Code § 23-4-717 is amended to read as follows:

9 23-4-717. Railroads required to furnish copies of traffic agreements
10 and other information to department.

11 Upon notice to do so, every person or corporation operating a railroad
12 or express company having an agent or office in the state shall furnish the
13 Arkansas ~~State Highway and Transportation~~ Department of Transportation with
14 all the information required to enable the department to perform its duties
15 relative to the management of their respective lines and connecting lines
16 and, particularly, with copies of all leases, contracts, and agreements with
17 other lines, express companies, or sleeping car companies and shall furnish
18 all such information as to the number of persons employed in the different
19 departments of their service and the wages paid these employees, as the
20 department may require.

21
22 SECTION 142. Arkansas Code § 23-4-718(a)(1), concerning access to
23 railroad books by the Arkansas State Highway and Transportation Department,
24 is amended to read as follows:

25 (a)(1) The Arkansas ~~State Highway and Transportation~~ Department of
26 Transportation shall have the right at such times as ~~they may deem~~ the
27 department deems necessary to inspect the books and papers of any railroad
28 company and to examine under oath any officer, agent, or employee of the
29 railroad in relation to the business and affairs of the railroad.

30
31 SECTION 143. Arkansas Code § 23-4-719 is amended to read as follows:

32 23-4-719. Enforcement of Acts 1899, No. 53 – Mandamus.

33 If any person or corporation operating any railroad or express company
34 fails, refuses, or neglects, after notice by the Arkansas ~~State Highway and~~
35 ~~Transportation~~ Department of Transportation, to put up its rate sheet, giving
36 its tariff of charges in the manner, place, and time as provided in this act;

1 to furnish the department with the rate sheet and tariff of charges as
2 provided for in this act; to furnish cars and motive power for the prompt
3 transportation of freight as provided in this act; to comply with any
4 provision of this act; or to make returns as required by this act, then the
5 person or corporation shall be subject to a writ of mandamus. The writ shall
6 be issued by any circuit court of this state where the person or corporation
7 has an office, agent, or place of business to compel a compliance with the
8 provisions and requirements of the act. The writ shall issue in the name of
9 the State of Arkansas at the relation of the department appointed under the
10 provisions of this act, and failure to comply with the requirements shall be
11 punishable as and for a contempt.

12

13 SECTION 144. Arkansas Code § 23-10-301 is amended to read as follows:

14 23-10-301. Express and freight rules prescribed by department.

15 The Arkansas ~~State Highway and Transportation~~ Department of
16 Transportation shall make rules and regulations to be observed by all persons
17 or corporations operating any railroad or engaged in transporting property as
18 express or freight in this state, in respect to the receiving, hauling,
19 transporting, storing, and delivering of freight and express as, in its
20 judgment, the public convenience may require.

21

22 SECTION 145. Arkansas Code § 23-10-302(b), concerning penalties
23 imposed on express offices and delivery, is amended to read as follows:

24 (b) The Arkansas ~~State Highway and Transportation~~ Department of
25 Transportation is authorized and directed to define the limits in the cities
26 in which express companies shall make free delivery of all express packages
27 received by them.

28

29 SECTION 146. Arkansas Code § 23-10-406(a), concerning penalties for
30 violations of §§ 23-10-402, 23-10-403, 23-10-405, and 23-10-409 – 23-10-431,
31 or rules of the Arkansas State Highway and Transportation Department, is
32 amended to read as follows:

33 (a) If any person or corporation operating a railroad in this state
34 for the transportation of freight, or any receiver, trustee, or lessee of any
35 such person or corporation, or any other person or corporation as defined in
36 § 23-10-402 or its employees or agents violate any of the provisions of §§

1 23-10-402, 23-10-403, 23-10-405, and 23-10-409 – 23-10-431, or aid or abet
2 therein, or violate the tariff of charges or the rules of the Arkansas State
3 ~~Highway and Transportation~~ Department of Transportation as fixed by the
4 department regarding railroad companies upon furnishing cars upon application
5 of shippers, and regarding transportation, delivery, and storage of freight,
6 forbidden pooling, discrimination, rebate, drawback, or other similar device,
7 either directly or indirectly, or regarding any of the rules made by the
8 department based upon §§ 23-10-402, 23-10-403, 23-10-405, and 23-10-409 – 23-
9 10-431, and for which there is no other penalty prescribed in §§ 23-10-402,
10 23-10-403, 23-10-405, and 23-10-409 – 23-10-431, then the person,
11 corporation, receiver, trustee, lessee, or any other person or corporation as
12 defined in § 23-10-402 shall be liable to a penalty of not less than five
13 hundred dollars (\$500) nor more than three thousand dollars (\$3,000) for each
14 violation of §§ 23-10-402, 23-10-403, 23-10-405, and 23-10-409 – 23-10-431,
15 or of such rules and regulations of the department based upon §§ 23-10-402,
16 23-10-403, 23-10-405, and 23-10-409 – 23-10-431.

17

18 SECTION 147. Arkansas Code § 23-10-415(b), concerning the duty to
19 exchange and return cars, is amended to read as follows:

20 (b) Upon demand of the owner thereof, it shall be the duty of every
21 railroad company receiving the cars of another railroad company to return the
22 cars within a reasonable time after demand therefor and within the time and
23 according to the rules and regulations prescribed by the Arkansas State
24 ~~Highway and Transportation~~ Department of Transportation.

25

26 SECTION 148. Arkansas Code § 23-10-432 is amended to read as follows:

27 23-10-432. Duty to furnish cars – Reasonable time for requesting cars.

28 It shall be deemed, prima facie, a reasonable time within which to
29 order cars that any shipper shall give notice thereof to the station agent at
30 the place of shipment, or in his or her absence to the nearest station agent
31 of the railroad company to which the application is made, three (3) days
32 before a shipment of five (5) cars or fewer, and five (5) days for fewer than
33 ten (10) but more than five (5) cars, and eight (8) days for ten (10) cars or
34 more. It shall be the duty of the railroad companies to furnish their station
35 agents with printed blanks upon which shippers may make application for their
36 cars. However, nothing in this section and §§ 23-10-401, 23-10-433 – 23-10-

1 437, and 23-12-605 shall be construed to exempt any railroad company from the
2 obligation to furnish cars for shipment without the written notice, but it
3 shall only be subject to the penalties of §§ 23-10-434 – 23-10-437 for
4 failure to furnish cars to shippers where notice thereof shall be given in
5 writing or, in case of shipment of freight wholly between points in this
6 state, then in accordance with the rules and regulations of the Arkansas
7 ~~State Highway and Transportation~~ Department of Transportation.

8
9 SECTION 149. Arkansas Code § 23-10-434(a), concerning exceptions to a
10 railroad company's liability for failure to furnish or exchange cars, is
11 amended to read as follows:

12 (a) Every railroad company that, in violation of any of the provisions
13 of this section and §§ 23-10-401, 23-10-432, 23-10-433, 23-10-435 – 23-10-
14 437, and 23-12-605, fails to furnish any cars for the shipment of any freight
15 within a reasonable time or, in case of the shipment of freight between
16 points within this state, within the time prescribed by the Arkansas ~~State~~
17 ~~Highway and Transportation~~ Department of Transportation if the department
18 shall prescribe the time by rules and regulations as provided in this section
19 and §§ 23-10-401, 23-10-432, 23-10-433, 23-10-435 – 23-10-437, and 23-12-605,
20 and the company fails to do so within a reasonable time, or fails to receive
21 and forward any loaded cars or to exchange cars as provided for in this
22 section and §§ 23-10-401, 23-10-432, 23-10-433, 23-10-435 – 23-10-437, and
23 23-12-605, that company shall be liable to the shipper or other person
24 injured or damaged thereby for all such injury and damages as may result to
25 the shipper. The railroad company is also liable for all special damages of
26 which it had notice at the time of the shipment or which occurs after written
27 notice thereof, and shall be liable, in addition thereto, for an amount equal
28 to a reasonable attorney's fee, in case suit is brought for recovery of such
29 damages.

30
31 SECTION 150. Arkansas Code § 23-10-435(a), concerning a railroad
32 company's liability for cars of another railroad, is amended to read as
33 follows:

34 (a) Every railroad company using cars of another railroad company, or
35 cars which have been delivered to it by the other railroad company, shall be
36 liable to the party entitled thereto to pay for the reasonable use and hire

1 thereof and for injury or damages to or destruction of the cars, while in its
2 possession or under its control, for the amount of such injury. In the case
3 of cars in the shipment of freight between points wholly within this state,
4 the amount for the use or hire of the cars may be prescribed by the Arkansas
5 ~~State Highway and Transportation~~ Department of Transportation, except where
6 the owners of the cars and the railway companies agree upon the compensation,
7 in which case the amount so fixed shall govern.

8
9 SECTION 151. Arkansas Code § 23-10-436(a)(1), concerning the penalty
10 incurred by a railroad company for gross negligence in not furnishing or
11 exchanging cars, is amended to read as follows:

12 (a)(1) Every railroad company which willfully, by its own gross
13 negligence or by the gross negligence of its agents having charge and
14 management of the matter of furnishing cars, fails or refuses to furnish or
15 exchange cars as provided for in this section and §§ 23-10-401, 23-10-432 –
16 23-10-435, 23-10-437, and 23-12-605 or to transport or deliver the cars
17 within the time prescribed by the Arkansas ~~State Highway and Transportation~~
18 Department of Transportation as to freight carried between points wholly
19 within this state, or if not so prescribed, then within a reasonable time,
20 shall, in addition to other liabilities provided for in this section and §§
21 23-10-401, 23-10-432 – 23-10-435, 23-10-437, and 23-12-605 forfeit to the
22 State of Arkansas, for each of the violations, not less than one dollar
23 (\$1.00) nor more than one hundred dollars (\$100).

24
25 SECTION 152. The introductory language of Arkansas Code § 23-10-
26 437(a), concerning intrastate freight rules and regulations, is amended to
27 read as follows:

28 (a) The Arkansas ~~State Highway and Transportation~~ Department of
29 Transportation is authorized and empowered, as to all freight carried wholly
30 within this state and the cars used therefor:

31
32 SECTION 153. Arkansas Code § 23-11-101 is amended to read as follows:

33 23-11-101. Enforcement of laws or orders on complaint.

34 It is made the duty of the Arkansas ~~State Highway and Transportation~~
35 Department of Transportation, on complaint, to enforce by necessary order any
36 or all laws of this state pertaining to railroads and express companies.

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SECTION 154. Arkansas Code § 23-11-103(a), concerning required annual reports by railroads and express companies, is amended to read as follows:

(a) It ~~shall be~~ is the duty of every person or corporation operating any railroad or express company in this state to make annual returns of the business of the railroad or express company to the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 155. Arkansas Code § 23-11-104(a)(1), concerning the report by the Arkansas State Highway and Transportation Department as to information regarding railroad companies, is amended to read as follows:

(a)(1) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall ascertain as early as practicable the amount of money expended in the construction and equipment per mile of every railroad in Arkansas, the amount of money expended to procure the right-of-way, and the amount of money it would require to reconstruct the roadbed, track, and depots and to replace all the physical properties belonging to the railroad.

SECTION 156. Arkansas Code § 23-11-202(a)(1), concerning definitions used in the Railroad Incorporation Act of 1959, is amended to read as follows:

(1) "Department" means the Arkansas ~~State Highway and Transportation~~ Department of Transportation or such other department as may be created or established for the purpose of regulation of common carriers in the State of Arkansas; and

SECTION 157. Arkansas Code § 23-11-203(a), concerning the articles of incorporation of a contemplated railroad corporation, is amended to read as follows:

(a) The articles of incorporation of any contemplated railroad corporation shall contain all of the information prescribed for inclusion in the application to be filed with the Arkansas ~~State Highway and Transportation~~ Department of Transportation by § 23-11-204. However, it shall not be necessary that the articles contain a statement of the manner in which the public convenience, necessity, and interest will be served by the granting of the charter, nor shall it be necessary that a preliminary survey

1 of the proposed roadway or route be attached to the articles.

2
3 SECTION 158. The introductory language of Arkansas Code § 23-11-204,
4 concerning the formation of a railroad corporation, is amended to read as
5 follows:

6 Any number of persons, not fewer than three (3), being subscribers of
7 the stock of any contemplated railroad corporation and desiring to form a
8 railroad corporation under the laws of this state, may do so by first filing
9 an application with the Arkansas ~~State Highway and Transportation~~ Department
10 of Transportation, setting forth the following information:

11
12 SECTION 159. Arkansas Code § 23-11-205(a), concerning an application
13 for incorporation of a railroad corporation, is amended to read as follows:

14 (a) Promptly after the filing of an application for the organization
15 of a railroad corporation, the Arkansas ~~State Highway and Transportation~~
16 Department of Transportation, under and in accordance with rules and
17 regulations to be established by the department, shall set a date for a
18 hearing upon the application and shall provide that notice of the hearing
19 shall be given to all persons whose interest may be adversely affected by the
20 granting of the application.

21
22 SECTION 160. Arkansas Code § 23-11-207(a), concerning the effect of
23 filing of papers for a railroad corporation, is amended to read as follows:

24 (a) Certified copies of the articles of incorporation together with
25 copies of the charter issued by the Secretary of State and the order of the
26 Arkansas ~~State Highway and Transportation~~ Department of Transportation shall
27 be filed in the office of the county clerk of each county through which the
28 proposed line shall be situated or into which the proposed line shall extend.

29
30 SECTION 161. Arkansas Code § 23-11-209(8), concerning specific powers
31 and liabilities of a railroad corporation, is amended to read as follows:

32 (8) To regulate the time and manner in which passengers and
33 property shall be transported and the tolls and compensation to be paid
34 therefor, subject to the approval of the Arkansas ~~State Highway and~~
35 ~~Transportation~~ Department of Transportation;

36

1 SECTION 162. Arkansas Code § 23-11-219 is amended to read as follows:

2 23-11-219. Subscription contracts for sale of stock.

3 Railroad corporations organized under the law of this state are
4 authorized to enter into subscription contracts for the sale of their stock
5 under such terms, conditions, and restrictions and subject to such
6 liabilities relative thereto as are provided by law for such contracts by
7 private corporations, except as such contracts may be restricted by the
8 articles of incorporation or the Arkansas ~~State Highway and Transportation~~
9 Department of Transportation.

10
11 SECTION 163. Arkansas Code § 23-11-220(c)(1), concerning an amendment
12 to the articles of incorporation of a railroad corporation, is amended to
13 read as follows:

14 (c)(1) No amendment of the articles of incorporation of a railroad
15 corporation shall become effective unless and until the amendment has been
16 first approved by the Arkansas ~~State Highway and Transportation~~ Department of
17 Transportation.

18
19 SECTION 164. Arkansas Code § 23-11-221(a), concerning the dissolution
20 or liquidation of a railroad company, is amended to read as follows:

21 (a) Railroad corporations organized under the laws of this state may
22 be dissolved or liquidated, wholly or in part, after approval of the action
23 by the Arkansas ~~State Highway and Transportation~~ Department of Transportation
24 in the manner provided by the law for dissolution or liquidation of business
25 corporations organized under the laws of this state.

26
27 SECTION 165. Arkansas Code § 23-11-222(a), concerning railroad
28 corporations existing prior to June 11, 1959, is amended to read as follows:

29 (a) This subchapter shall be applicable to all railroad corporations
30 organized under the laws of this state, provided that each existing railroad
31 corporation may, within two (2) years of June 11, 1959, file with the
32 Arkansas ~~State Highway and Transportation~~ Department of Transportation, the
33 Secretary of State, and the county clerk of each county in which its articles
34 of incorporation are then filed an amendment to its articles of incorporation
35 adopted by not less than two-thirds (2/3) of its stockholders, at an annual
36 or special meeting, setting forth the period of existence desired for the

1 corporation.

2

3 SECTION 166. Arkansas Code § 23-11-223(a), concerning railroad
4 corporations existing prior to June 7, 1945, is amended to read as follows:

5 (a) Upon the application of any railroad corporation chartered under
6 the laws of this state prior to June 7, 1945, accompanied by a resolution of
7 the board of directors of the railroad corporation, the Arkansas ~~State~~
8 ~~Highway and Transportation~~ Department of Transportation is authorized to
9 extend the charter of any such railroad corporation in accordance with the
10 petition and the resolution of the board of directors of the railroad
11 corporation, or on such terms as the department shall prescribe.

12

13 SECTION 167. Arkansas Code § 23-11-302(a), concerning the authority to
14 sell or lease road or property to a connecting foreign railroad, is amended
15 to read as follows:

16 (a) Subject to the approval thereof by the Arkansas ~~State Highway and~~
17 ~~Transportation~~ Department of Transportation under such rules and regulations
18 for procedure as it may establish and a determination that such action will
19 be in the public interest, any railroad corporation in this state may sell or
20 lease its road, property, and franchise to any other railroad corporation
21 duly organized and existing under the laws of any other state or territory
22 whose line of railroad shall so connect with the leased or purchased road by
23 bridge, ferry, or otherwise as to practically form a continuous line of
24 railroad.

25

26 SECTION 168. Arkansas Code § 23-11-402 is amended to read as follows:

27 23-11-402. Purchase or lease state roads – Exception.

28 Subject to approval ~~thereof~~ by the Arkansas ~~State Highway and~~
29 ~~Transportation~~ Department of Transportation under such rules and regulations
30 for procedure as it may establish and a determination that action will be in
31 the public interest, any railroad corporation existing under the laws of any
32 other state or territory may buy, lease, or otherwise acquire any railroad,
33 the whole or part of which is in this state, with all the rights, privileges,
34 and franchises thereto pertaining, or buy the stock and bonds, or guarantee
35 the bonds of any railroad corporation incorporated or organized under the
36 laws of this state whenever the roads of such companies shall form in the

1 operation thereof a continuous line or lines. However, the road so purchased
2 shall not be parallel or competing with the purchasing road.

3
4 SECTION 169. Arkansas Code § 23-12-101 is amended to read as follows:

5 23-12-101. Sections 23-12-101 – 23-12-103 cumulative.

6 The provisions of this section and §§ 23-12-102 and 23-12-103 shall be
7 regarded as cumulative, and nothing therein shall be so construed as to
8 repeal any other act now in force, nor to in any way curtail or limit the
9 powers and duties of the Arkansas ~~State Highway and Transportation~~ Department
10 of Transportation.

11
12 SECTION 170. Arkansas Code § 23-12-102 is amended to read as follows:

13 23-12-102. Inspection of railroads by department.

14 The Arkansas ~~State Highway and Transportation~~ Department of
15 Transportation shall carefully examine the condition of the railroads of this
16 state as often as ~~it deems it~~ the department considers necessary.

17
18 SECTION 171. Arkansas Code § 23-12-103(a)(1), concerning the notice to
19 railroad of necessary repairs, is amended to read as follows:

20 (a)(1) It shall be the duty of the Arkansas ~~State Highway and~~
21 ~~Transportation~~ Department of Transportation to inspect and examine the
22 tracks, bridges, or other structures whenever it has reasonable grounds,
23 either upon complaint or otherwise, to believe that any of the tracks,
24 bridges, or other structures of any railroads in this state are in a
25 condition ~~which~~ that renders any of them dangerous or unfit for the
26 transportation of passengers with reasonable safety.

27
28 SECTION 172. Arkansas Code § 23-12-104(a), concerning the number and
29 frequency of trains and streetcars, is amended to read as follows:

30 (a) If in the judgment of the Arkansas ~~State Highway and~~
31 ~~Transportation~~ Department of Transportation any railroad corporation or
32 street railroad corporation does not run trains enough or cars enough or
33 possess or operate motive power enough reasonably to accommodate the
34 passenger and freight traffic transported by or offered for transportation to
35 it, or does not run its trains or cars with sufficient frequency or at
36 reasonable or proper time, having regard to safety, or does not run any train

1 or car upon a reasonable time schedule for the run, then, after a hearing
2 either on its own motion or after complaint, the department shall have power
3 to make an order directing any such railroad corporation or street railroad
4 corporation to increase the number of its trains or of its cars or its motive
5 power, or to change the time for starting its trains or cars, or to change
6 the time schedule for the run of any train or car, or make any other suitable
7 order that the department may determine reasonably necessary to accommodate
8 and transport the passenger or freight traffic transported or offered for
9 transportation.

10
11 SECTION 173. Arkansas Code § 23-12-203(b), concerning the clearing of
12 a right-of-way following a derailment or wreck, is amended to read as
13 follows:

14 (b) In the event any railroad fails to comply with this requirement
15 the Arkansas ~~State Highway and Transportation~~ Department of Transportation,
16 upon petition of any ten (10) citizens, shall conduct a hearing for the
17 purpose of determining the cause of the railroad's failure to comply with
18 this requirement.

19
20 SECTION 174. Arkansas Code § 23-12-302 is amended to read as follows:

21 23-12-302. Railroad switch connections to be permitted.

22 Every railroad company shall permit switch connections for intrastate
23 business to be made with its tracks at suitable and safe points by other
24 carriers or shippers upon such terms and conditions as the Arkansas ~~State~~
25 ~~Highway and Transportation~~ Department of Transportation may prescribe
26 whenever, in the judgment of the department, it can be done with reasonable
27 safety and whenever the business to be offered by the connecting company or
28 shipper justifies it.

29
30 SECTION 175. Arkansas Code § 23-12-603 is amended to read as follows:

31 23-12-603. Department may require passenger trains to stop at all
32 stations - Exception.

33 (a)(1) The Arkansas ~~State Highway and Transportation~~ Department of
34 Transportation is empowered to require every company or person operating a
35 railroad in Arkansas which runs and operates passenger trains to stop one (1)
36 of its passenger trains each way every day at all regular stations where

1 tickets are sold whether the station is a flag station or not.

2 (2) However, if the department after a hearing finds that
3 adequate service for the carriage of passengers, mail, baggage, express, and
4 newspapers between stations is or will be furnished and rendered daily by
5 motor-propelled vehicles on highways, it shall have the power to authorize
6 the railroad company to discontinue stopping the trains at stations.

7
8 SECTION 176. Arkansas Code § 23-12-605(a), concerning union passengers
9 or freight depots, is amended to read as follows:

10 (a) The Arkansas ~~State Highway and Transportation~~ Department of of
11 Transportation shall have power to require the building and maintaining of
12 union passenger or freight depots, by two (2) or more railroads in any city
13 of the first or second class in this state, when the business and conditions
14 in the city justify or require such facilities.

15
16 SECTION 177. Arkansas Code § 23-12-607 is amended to read as follows:

17 23-12-607. Petitions for establishment, discontinuance, modification,
18 etc., of service – Authority of department.

19 The Arkansas ~~State Highway and Transportation~~ Department of of
20 Transportation is authorized, empowered, and required to hear and consider
21 all petitions filed with it for establishment, discontinuance, enlargement,
22 dualization, or modification of railroad train service, spurs, sidetracks,
23 and platforms.

24
25 SECTION 178. Arkansas Code § 23-12-608(a), concerning an investigation
26 by the Arkansas State Highway and Transportation Department of the objects
27 sought to be accomplished by the petitioner, is amended to read as follows:

28 (a) Within thirty (30) days after the filing of a petition, the
29 Arkansas ~~State Highway and Transportation~~ Department of of Transportation shall
30 proceed to make a personal inspection of the conditions complained of and
31 investigate the objects sought to be accomplished by the petitioners. The
32 department shall have the right and power to summon and swear witnesses. The
33 summons shall be served by any sheriff, constable, or deputy having legal
34 jurisdiction.

35
36 SECTION 179. Arkansas Code § 23-12-609 is amended to read as follows:

1 23-12-609. Establishment, discontinuance, modification, etc., of
2 service generally – Failure to comply with findings and mandate – Penalty.

3 (a) Any railroad, railroad company, lessee, or operator of the
4 railroad company, which fails or refuses to comply with the findings,
5 decrees, and mandates of the Arkansas ~~State Highway and Transportation~~
6 Department of Transportation within the time specified therein, shall be
7 deemed guilty of a misdemeanor.

8 (b) ~~It shall be proceeded against by the~~ The district prosecuting
9 attorney shall bring the proceeding in any court having competent
10 jurisdiction, and upon conviction the railroad, railroad company, lessee, or
11 operator of the railroad company shall be fined in any sum not less than
12 twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100).

13 (c)(1) Every day of the violation, refusal, failure, or neglect shall
14 constitute a separate offense.

15 (2) However, no order for doing anything hereinabove provided
16 shall be made by the department until all parties concerned shall receive ten
17 (10) days' notice of the proposed change.

18
19 SECTION 180. Arkansas Code § 23-12-611(a), concerning the
20 discontinuance, dualization, or modification of agency station, is amended to
21 read as follows:

22 (a) Any railroad operating in this state may file with the Arkansas
23 ~~State Highway and Transportation~~ Department of Transportation a notice of
24 discontinuance, dualization, or modification of any of its agency stations
25 together with a statement certified by a proper officer of the railroad to
26 the effect that the agency station had been operating at a financial loss
27 according to standard accounting procedures for not less than one (1) year
28 immediately preceding, or that operating economies would result consistent
29 with public convenience and necessity.

30
31 SECTION 181. Arkansas Code § 23-12-613(a), concerning the receiver
32 appointed upon attempt to abandon a railroad, is amended to read as follows:

33 (a) If any railroad corporation, manager, or receiver shall attempt to
34 abandon any railroad, or part thereof, by failing to operate its trains, or
35 to resume operation of its trains over its railroad, or part thereof, if the
36 operation of trains has been abandoned, the Arkansas ~~State Highway and~~

1 ~~Transportation~~ Department of Transportation shall report the attempted
2 abandonment to the Attorney General.

3
4 SECTION 182. Arkansas Code § 23-13-102(a), concerning the employment
5 of inspectors for the inspection of licensees, is amended to read as follows:

6 (a) The Arkansas ~~State Highway and Transportation~~ Department of
7 Transportation shall have the right to employ one (1) or more inspectors as
8 may be needed for the purpose of making inspections of licensees from time to
9 time.

10
11 SECTION 183. Arkansas Code § 23-13-203(a)(6), concerning the
12 definitions used in the Arkansas Motor Carrier Act, 1955, is repealed.

13 ~~(6) "Department" means the Arkansas State Highway and Transportation~~
14 ~~Department;~~

15
16 SECTION 184. Arkansas Code § 23-13-207 is amended to read as follows:
17 23-13-207. Regulation by department.

18 The regulation of the transportation of passengers or property by motor
19 carriers over the public highways of this state, the procurement thereof, and
20 the provisions of facilities ~~therefor~~ is vested in the Arkansas ~~State Highway~~
21 ~~and Transportation~~ Department of Transportation.

22
23 SECTION 185. The introductory language of Arkansas Code § 23-13-208,
24 concerning the general duties and powers of the Arkansas State Highway and
25 Transportation Department, is amended to read as follows:

26 It shall be the duty of the Arkansas ~~State Highway and Transportation~~
27 Department of Transportation:

28
29 SECTION 186. Arkansas Code § 23-13-209 is amended to read as follows:
30 23-13-209. Mandatory injunction – Requirement that department take
31 jurisdiction.

32 Where the Arkansas ~~State Highway and Transportation~~ Department of
33 Transportation, in respect to any matter arising under this subchapter, has
34 issued a negative order solely because of a supposed lack of power, any party
35 in interest may file a bill of complaint in the Pulaski County Circuit Court.
36 The court, if it determines that the department has the power, may force by

1 writ of mandatory injunction the department to take jurisdiction.

2
3 SECTION 187. Arkansas Code § 23-13-210(a), concerning hearings before
4 the Arkansas State Highway and Transportation Department, is amended to read
5 as follows:

6 (a) Any matter arising in the administration of this subchapter
7 concerning which a hearing is required shall be heard by the Arkansas ~~State~~
8 ~~Highway and Transportation~~ Department of Transportation.

9
10 SECTION 188. Arkansas Code § 23-13-211 is amended to read as follows:

11 23-13-211. Appeals – Entitlement.

12 Any final order made under this subchapter ~~shall be~~ is subject to the
13 same right of appeal by any party to the proceedings as is provided by § 23-
14 2-425, in respect to appeals from the order of the Arkansas ~~State Highway and~~
15 ~~Transportation~~ Department of Transportation.

16
17 SECTION 189. Arkansas Code § 23-13-212 is amended to read as follows:

18 23-13-212. Appeals – Notice.

19 Upon the filing of a motion for appeal, the Arkansas ~~State Highway and~~
20 ~~Transportation~~ Department of Transportation shall forthwith serve notice of
21 the appeal upon all parties to the proceeding appealed from.

22
23 SECTION 190. Arkansas Code § 23-13-213 is amended to read as follows:

24 23-13-213. Appeals – Stay of operating authority pending appeal.

25 If the party appealing desires to stay the beginning of the operating
26 authority granted by the Arkansas ~~State Highway and Transportation~~ Department
27 of Transportation, the party shall file with the motion for appeal a bond,
28 with surety thereon approved by the Pulaski County Circuit Court. The bond
29 shall be conditioned that the appealing party will pay to the party in whose
30 favor the order appealed from operates all damages which the party may suffer
31 by reason of the stay of operation under the order in the event the orders
32 shall be affirmed or sustained upon final adjudication. The operating
33 authority granted by the department shall be stayed until the matter has been
34 finally adjudicated.

35
36 SECTION 191. Arkansas Code § 23-13-214(a), concerning the required

1 transcripts for appeals, is amended to read as follows:

2 (a) Where any appeal is taken, as provided in §§ 23-13-211 – 23-13-215
3 or by other statutes with regard to appeals from orders of the Arkansas ~~State~~
4 ~~Highway and Transportation~~ Department of Transportation, the secretary of the
5 department shall cause to be prepared, for use on the appeal, an accurate and
6 true copy of the record of proceedings before the department, which shall
7 contain only such portions of the record as shall be designated by the person
8 taking such appeal in the notice of appeal filed.

9

10 SECTION 192. Arkansas Code § 23-13-215 is amended to read as follows:

11 23-13-215. Appeals – Filing fees.

12 The secretary of the Arkansas ~~State Highway and Transportation~~
13 Department of Transportation shall immediately notify the party filing the
14 motion for appeal the date of the deposit of the transcript with the clerk of
15 the Pulaski County Circuit Court. Within ten (10) days from the date of the
16 deposit of the transcript, the party shall pay to the clerk of the court the
17 required filing fee.

18

19 SECTION 193. Arkansas Code § 23-13-216(a), concerning the agent for
20 service of process, notices, or orders, is amended to read as follows:

21 (a)(1) It shall be the duty of every motor carrier to file with the
22 Arkansas ~~State Highway and Transportation~~ Department of Transportation a
23 designation in writing of the name and post office address of a person
24 maintaining a residence within this state upon whom or which service of
25 notices or orders may be made under this subchapter. The designation may from
26 time to time be changed by like writing similarly filed.

27

28 SECTION 194. Arkansas Code § 23-13-218 is amended to read as follows:

29 23-13-218. Certificate of public convenience and necessity –
30 Requirement.

31 No common carrier by motor vehicle subject to the provisions of this
32 subchapter shall engage in any operation on any public highway in this state
33 unless there is in force with respect to such a carrier a certificate of
34 public convenience and necessity issued by the Arkansas ~~State Highway and~~
35 ~~Transportation~~ Department of Transportation authorizing such an operation.

36

1 SECTION 195. Arkansas Code § 23-13-219(a), concerning the application
2 and fee for a certificate of public convenience and necessity, is amended to
3 read as follows:

4 (a) Applications for certificates of public convenience and necessity
5 shall be made in writing to the Arkansas ~~State Highway and Transportation~~
6 Department of Transportation, be verified under oath, shall be in such form,
7 contain such information, and be accompanied by proof of service upon such
8 interested parties as the department by regulation shall require.

9
10 SECTION 196. Arkansas Code § 23-13-220(a)(1), concerning the notice
11 and hearing for the issuance of a certificate of public convenience and
12 necessity, is amended to read as follows:

13 (a)(1) Subject to the provisions of this subchapter, a certificate of
14 public convenience and necessity shall be issued to any qualified applicant
15 therefor, authorizing the whole or any part of the operations covered by the
16 application if it is found that the applicant is fit, willing, and able
17 properly to perform the service proposed and to conform to the provisions of
18 this subchapter and the requirements, rules, and regulations of the Arkansas
19 ~~State Highway and Transportation~~ Department of Transportation thereunder, and
20 that the proposed service, to the extent to be authorized by the certificate,
21 is or will be required by the present or future public convenience and
22 necessity; otherwise the application shall be denied. The burden of proof
23 shall be upon the applicant.

24
25 SECTION 197. Arkansas Code § 23-13-221(a)(2), concerning the terms and
26 conditions of a certificate of public convenience and necessity, is amended
27 to read as follows:

28 (2)(A) At the time of issuance and from time to time thereafter,
29 there shall be attached to the exercise of the privileges granted by the
30 certificate such reasonable terms, conditions, and limitations as the public
31 convenience and necessity may from time to time require, including terms,
32 conditions, and limitations as to the extension of the routes of the carrier
33 and such terms and conditions as are necessary to carry out, with respect to
34 the operations of the carrier, the requirements established by the Arkansas
35 ~~State Highway and Transportation~~ Department of Transportation under this
36 subchapter.

1 (B) However, no terms, conditions, or limitations shall restrict
2 the right of the carrier to add to his or her or its equipment and facilities
3 over the routes, between the termini, or within the territory specified in
4 the certificate as the development of the business and the demands of the
5 public shall require.

6
7 SECTION 198. Arkansas Code § 23-13-222 is amended to read as follows:
8 23-13-222. Permits for contract carriers – Requirement.

9 No person shall engage in the business of a contract carrier by motor
10 vehicles over any public highways in this state unless there is in force with
11 respect to the carrier a permit issued by the Arkansas ~~State Highway and~~
12 ~~Transportation~~ Department of Transportation authorizing such persons to
13 engage in such business.

14
15 SECTION 199. Arkansas Code § 23-13-223(a), concerning the application
16 and fees for permits for contract carriers, is amended to read as follows:

17 (a) Applications for permits for contract carriers by motor vehicles
18 shall be made to the Arkansas ~~State Highway and Transportation~~ Department of
19 Transportation in writing, be verified under oath, and shall be in such form,
20 contain such information, and be accompanied by proof of service upon such
21 interested parties as the department by regulation may require.

22
23 SECTION 200. Arkansas Code § 23-13-224(a), concerning the issuance of
24 permits for contract carriers, is amended to read as follows:

25 (a) Subject to this subchapter, a permit for a contract carrier by
26 motor vehicle shall be issued to any qualified applicant therefor authorizing
27 in whole or in part the operations covered by the applications, if it is
28 found that the applicant is fit, willing, and able to properly perform the
29 service of a contract carrier by motor vehicle and to conform to the
30 provisions of this subchapter and the lawful requirements, rules, and
31 regulations of the Arkansas ~~State Highway and Transportation~~ Department of
32 Transportation, and the proposed operation, to the extent authorized by the
33 permit, will promote the public interest and the policy declared in § 23-13-
34 202; otherwise the application shall be denied.

35
36 SECTION 201. Arkansas Code § 23-13-226 is amended to read as follows:

1 23-13-226. Dual operation.

2 No person shall at the same time hold under this subchapter a
3 certificate as a common carrier and permit as a contract carrier authorizing
4 operation for the transportation of property by motor vehicle over the same
5 route or within the same territory, unless for good cause shown the Arkansas
6 ~~State Highway and Transportation~~ Department of Transportation shall find that
7 the certificate and permit will promote the public interest and the policy
8 declared in § 23-13-202.

9
10 SECTION 202. Arkansas Code § 23-13-227(a), concerning security for the
11 protection of the public, is amended to read as follows:

12 (a) No certificate or permit shall be issued to a motor carrier or
13 remain in force unless the carrier complies with such reasonable rules ~~and~~
14 ~~regulations~~ as the Arkansas ~~State Highway and Transportation~~ Department of
15 Transportation shall prescribe governing the filing and approval of surety
16 bonds, policies of insurance, qualification as a self-insurer or other
17 securities or agreements in such reasonable amount as the department may
18 require, conditioned to pay, within the amount of the surety bonds, policies
19 of insurance, qualifications as a self-insurer or other securities or
20 agreements, any final judgment recovered against the motor carrier for bodily
21 injuries to or the death of any person resulting from the negligent
22 operation, maintenance, or use of motor vehicles under the certificate or
23 permit or for loss or damage to the property of others.

24
25 SECTION 203. Arkansas Code § 23-13-229(a), concerning temporary
26 authority for the service by common or contract carrier, is amended to read
27 as follows:

28 (a) To provide motor carrier service for which there is an urgent and
29 immediate need to, from, or between points within a territory having no motor
30 carrier service deemed capable of meeting that need, the Arkansas ~~State~~
31 ~~Highway and Transportation~~ Department of Transportation in its discretion and
32 without hearing or other proceeding may grant temporary authority for a
33 period not exceeding ninety (90) days for the service by common or contract
34 carrier, as the case may be. Satisfactory proof of the urgent and immediate
35 need shall be made by affidavit or other verified proof, as the department
36 shall prescribe.

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SECTION 204. Arkansas Code § 23-13-230(a)(1), concerning rules and regulations for the protection of the public, is amended to read as follows:

(a)(1) ~~No~~ A person shall not for compensation sell or offer for sale transportation subject to this subchapter; ~~shall~~ make any contract, agreement, or arrangement to provide, procure, furnish, or arrange for such transportation; or ~~shall~~ hold himself or herself or itself out by advertisements, solicitation, or otherwise as one who sells, provides, procures, contracts, or arranges for such transportation unless that person holds a broker's license issued by the Arkansas ~~State Highway and Transportation~~ Department of Transportation to engage in such transactions.

SECTION 205. Arkansas Code § 23-13-232(a), concerning the transfer or assignment of certificates, permits, and licenses, is amended to read as follows:

(a) Certificates, permits, and licenses shall not be assigned, transferred, or hypothecated in any manner, nor shall the operation under any such permit, certificate, or license be leased without authority of the Arkansas ~~State Highway and Transportation~~ Department of Transportation and on written application, and after ten (10) days' notice, to parties in interest and hearing.

SECTION 206. Arkansas Code § 23-13-233(a), concerning the amendment, revocation, and suspension of certificates, permits, and licenses, is amended to read as follows:

(a) Any certificates, permits, or licenses, upon application of the holder thereof and in the discretion of the Arkansas ~~State Highway and Transportation~~ Department of Transportation, may be amended or revoked, in whole or in part, or may upon complaint or on the department's own initiative, after notice and hearing, be suspended, changed, or revoked, in whole or in part, for:

SECTION 207. The introductory language of Arkansas Code § 23-13-234(a)(1), concerning the operation of a motor carrier without a certificate or permit, is amended to read as follows:

(a)(1) Any motor carrier using the highways of this state without

1 first having obtained a permit or certificate from the Arkansas ~~State Highway~~
2 ~~and Transportation~~ Department of Transportation, as provided by this
3 subchapter, or who, being a holder thereof, violates any term, condition, or
4 provision thereof shall be subject to a civil penalty to be collected by the
5 department, after notice and hearing, in an amount not less than one hundred
6 dollars (\$100) nor more than five hundred dollars (\$500).

7
8 SECTION 208. Arkansas Code § 23-13-235(a)(3), concerning the annual
9 fees charged carriers, is amended to read as follows:

10 (3) The Arkansas ~~State Highway and Transportation~~ Department of
11 Transportation shall also collect fees under the base state registration
12 program on behalf of and for all other participating states of travel from
13 all carriers based in the State of Arkansas. All fees collected on behalf of
14 other participating states shall be collected in the amount required by that
15 state and remitted to that state under the rules and regulations adopted by
16 the Interstate Commerce Commission [abolished].

17
18 SECTION 209. Arkansas Code § 23-13-238 is amended to read as follows:
19 23-13-238. Common carriers – Rates, fares, rules, regulations, etc. –
20 Complaints.

21 Any person, state board, organization, or body politic may make
22 complaint in writing to the Arkansas ~~State Highway and Transportation~~
23 Department of Transportation that any rate, fare, charge, classification,
24 rule, regulation, or practice in effect or proposed to be put into effect is
25 or will be in violation of this subchapter.

26
27 SECTION 210. Arkansas Code § 23-13-239(a)(1), concerning rates, fares,
28 rules, regulations, etc. for common carriers, is amended to read as follows:

29 (a)(1) Whenever, after hearing, upon complaint, or in an investigation
30 on its own initiative, the Arkansas ~~State Highway and Transportation~~
31 Department of Transportation shall be of the opinion that any individual or
32 joint rate, fare, or charge, demanded, charged, or collected by any common
33 carriers by railroad, express, or water for transportation, or that any
34 classification, rule, regulation, or practice whatsoever of the carriers
35 affecting the rate, fare, or charge or the value of the service thereunder,
36 is or will be unjust or unreasonable, unjustly discriminatory, or unduly

1 preferential, or unduly prejudicial, it shall determine and prescribe the
2 lawful rate, fare, or charge or the maximum or minimum rate, fare, or charge
3 thereafter to be observed, or the lawful classification, rule, regulation, or
4 practice thereafter to be made effective.

5
6 SECTION 211. Arkansas Code § 23-13-240(c)(1), concerning rates,
7 charges, rules, regulations, etc. for common carriers, is amended to read as
8 follows:

9 (c)(1) Whenever, after hearing, upon complaint or upon its own
10 initiative the Arkansas ~~State Highway and Transportation~~ Department of of
11 Transportation is of the opinion that the divisions of joint rates, fares, or
12 charges, applicable to the transportation of passengers or property by common
13 carriers by motor vehicle, or by such carriers in conjunction with common
14 carriers by railroad, express, or water, are or will be unjust, unreasonable,
15 inequitable, or unduly preferential or prejudicial as between the carriers
16 parties thereto, whether agreed upon by such carriers, or any of them, or
17 otherwise established, the department shall by order prescribe the just,
18 reasonable, and equitable divisions thereof to be received by the several
19 carriers.

20
21 SECTION 212. Arkansas Code § 23-12-241(a), concerning hearing and
22 suspension proceedings against common carriers, is amended to read as
23 follows:

24 (a) Whenever any schedule stating a new individual or joint rate,
25 fare, charge, or classification for the transportation of passengers, or by
26 any such carrier in conjunction with a common carrier or carriers by
27 railroad, express, or water, or any rule, regulation, or practice affecting
28 the rate, fare, or charge, or the value of the service thereunder is filed
29 with the Arkansas ~~State Highway and Transportation~~ Department of of
30 Transportation, the department is authorized and empowered to enter upon a
31 hearing concerning the lawfulness of the rate, fare, or charge, or the
32 lawfulness of a rule, regulation, or practice, upon the complaint of any
33 interested party or upon its own initiative, at once, if the department so
34 orders, without answer or other formal pleading by the interested carrier or
35 carriers, but upon reasonable notice.

36

1 SECTION 213. The introductory language of Arkansas Code § 23-13-
2 242(a), concerning factors of reasonableness or justness, is amended to read
3 as follows:

4 (a) In the exercise of its power to prescribe just and reasonable
5 rates for the transportation of passengers or property by common carrier by
6 motor vehicle, the Arkansas ~~State Highway and Transportation~~ Department of of
7 Transportation shall give due consideration, among other factors, to:

8
9 SECTION 214. Arkansas Code § 23-13-244(a)(1), concerning tariffs of
10 common carriers by motor vehicle, is amended to read as follows:

11 (a)(1) Whenever an applicable tariff has not already been prescribed
12 by the Arkansas ~~State Highway and Transportation~~ Department of of
13 Transportation, every common carrier by motor vehicle shall file with the
14 department and shall keep open to public inspection at all times tariffs
15 showing all the rates, fares, and charges for transportation, and all
16 services in connection therewith, of passengers or property between points on
17 its own route and points on the route of any other common carrier, or on the
18 routes of any common carrier by railroad, express, or water, when a through
19 route and joint rate shall have been established.

20
21 SECTION 215. Arkansas Code § 23-13-245(b), concerning contract
22 carriers, is amended to read as follows:

23 (b) It shall be the duty of every contract carrier by motor vehicle to
24 file with the Arkansas ~~State Highway and Transportation~~ Department of of
25 Transportation and to publish and keep open for public inspection, in the
26 form and manner prescribed by the department, schedules containing the
27 minimum rates or charges of the carrier actually maintained and charged for
28 the transportation of passengers or property and any rule, ~~regulation~~, or
29 practice affecting such rates or charges and the value of the service
30 thereunder.

31
32 SECTION 216. Arkansas Code § 23-13-246(a), concerning the minimum
33 rates and charges by contract carriers, is amended to read as follows:

34 (a) No contract carrier by motor vehicle shall demand, charge, or
35 collect a less compensation for the transportation than the charges filed in
36 accordance with § 23-13-245, as affected by any rule, regulation, or practice

1 so filed, or may be prescribed by the Arkansas ~~State Highway and~~
2 ~~Transportation~~ Department of Transportation from time to time.

3
4 SECTION 217. Arkansas Code § 23-13-247(a), concerning the notice of
5 proposed changes to the schedule of minimum rates and charges by a contract
6 carrier, is amended to read as follows:

7 (a) No reduction shall be made in any charge of a contract
8 carrier by motor vehicle either directly or by means of any change in any
9 rate, regulation, or practice affecting the charge or the value of services
10 thereunder except after thirty (30) days' notice of the proposed change filed
11 in the manner and form set forth in § 23-13-245. However, in its discretion
12 and for good cause shown, the Arkansas ~~State Highway and Transportation~~
13 Department of Transportation may allow such a change upon less notice or
14 modify the requirements of § 23-13-245 with respect to posting and filing of
15 the schedules, either in particular instances or by general order applicable
16 to special or peculiar circumstances or conditions.

17
18 SECTION 218. Arkansas Code § 23-13-249(a), concerning hearing
19 requested by a contract carriers, is amended to read as follows:

20 (a) Whenever ~~any~~ a contract carrier by motor vehicle files with the
21 Arkansas ~~State Highway and Transportation~~ Department of Transportation any
22 schedule stating a charge for a new service or a reduced charge directly, or
23 by means of any rule, regulation, or practice, for transportation of
24 passengers or property, the department ~~is authorized and empowered to~~ may
25 enter upon a hearing concerning the lawfulness of such charge or such rule,
26 regulation, or practice upon complaint of interested parties or upon its own
27 initiative at once, and if it so orders, without answer or other formal
28 pleading by the interested party, but upon reasonable notice.

29
30 SECTION 219. Arkansas Code § 23-13-250(a), concerning the schedule of
31 minimum rates and charges for a contract carrier, is amended to read as
32 follows:

33 (a) Whenever, after hearing, upon complaint or upon its own
34 initiative, the Arkansas ~~State Highway and Transportation~~ Department of
35 Transportation finds that any minimum rate or charge of any contract carrier
36 by motor vehicle, that any rule, regulation, or practice of any such carrier

1 affecting the minimum rate or charge, or that the value of the service
2 thereunder for the transportation of passengers or property or in connection
3 therewith contravenes the transportation policy declared in this subchapter,
4 or is in contravention of any provision of this subchapter, the department
5 may prescribe such just and reasonable minimum rates, charges, rules,
6 regulations, or practices as in its judgment may be necessary or desirable in
7 the public interest and desirable to promote the policy and will not be in
8 contravention of any provision of this subchapter.

9
10 SECTION 220. Arkansas Code § 23-13-251(a), concerning the collection
11 of rates and charges, is amended to read as follows:

12 (a) ~~No~~ A common carrier by motor vehicle shall not deliver or
13 relinquish possession at destination of any freight transported by it until
14 all tariff rates and charges thereon have been paid except under such rules
15 and regulations as the Arkansas ~~State Highway and Transportation~~ Department
16 of Transportation from time to time may prescribe to govern the settlement of
17 all such rates and charges, including rules and regulations for weekly or
18 monthly settlement and those to prevent unjust discrimination or undue
19 preference or prejudice.

20
21 SECTION 221. Arkansas Code § 23-13-302 is amended to read as follows:

22 23-13-302. Authority of department.

23 The Arkansas ~~State Highway and Transportation~~ Department of
24 Transportation may, in all matters within its jurisdiction, issue subpoenas,
25 subpoenas duces tecum, and all necessary process in proceedings pending
26 before the department; may administer oaths, examine witnesses, compel the
27 production of records, books, papers, files, documents, contracts,
28 correspondence, agreements, or accounts necessary for any investigation being
29 conducted; and may certify official acts.

30
31 SECTION 222. Arkansas Code § 23-13-303 is amended to read as follows:

32 23-13-303. Commencement of action before the department.

33 (a) Upon any complaint in writing being made by any person, or by the
34 Arkansas ~~State Highway and Transportation~~ Department of Transportation on its
35 own motion, setting forth any act or thing done or omitted to be done by any
36 person in violation, or claimed violation, of any provision of § 23-13-102 or

1 of any order or rule of the department, the department shall enter the
2 complaint upon its docket.

3 (b)(1) ~~It~~ The department shall immediately serve a copy of the
4 complaint upon each defendant, together with a notice directed to each
5 defendant requiring that the matter complained of be answered in writing
6 within ten (10) days of the date of service of the notice.

7 (2) However, the department in its discretion may require particular
8 cases to be answered within a shorter time, and the department for good cause
9 shown may extend the time in which an answer may be filed.

10

11 SECTION 223. Arkansas Code § 23-13-304(a), concerning service of
12 process and notices, is amended to read as follows:

13 (a) All process issued by the Arkansas ~~State Highway and~~
14 ~~Transportation~~ Department of Transportation shall extend to all parts of the
15 state.

16

17 SECTION 224. Arkansas Code § 23-13-305 is amended to read as follows:
18 23-13-305. Time and place of hearing.

19 Upon the filing of the answer provided for in § 23-13-303, the Arkansas
20 ~~State Highway and Transportation~~ Department of Transportation shall set a
21 time and place for the hearing. Notice of the time and place of the hearing
22 shall be served not less than ten (10) days before the time set therefor
23 unless the department finds that public necessity requires the hearing at an
24 earlier date.

25

26 SECTION 225. Arkansas Code § 23-13-306(a)(1), concerning the findings
27 and order of the Arkansas State Highway and Transportation Department, is
28 amended to read as follows:

29 (a)(1) After the conclusion of any hearing, the Arkansas ~~State Highway~~
30 ~~and Transportation~~ Department of Transportation within sixty (60) days shall
31 make and file its findings and order, with its opinion, if any.

32

33 SECTION 226. Arkansas Code § 23-13-307 is amended to read as follows:
34 23-13-307. Revocation of license, permit, or certificate.

35 (a) In the event the Arkansas ~~State Highway and Transportation~~
36 Department of Transportation finds that the defendant is guilty upon any

1 complaint filed and proceeding had, and that the provisions of § 23-13-102 or
2 the rules, regulations, or orders of the Arkansas ~~State Highway and~~
3 ~~Transportation~~ Department of Transportation have been willfully and knowingly
4 violated and that a motor vehicle was used in the violation, the Arkansas
5 ~~State Highway and Transportation~~ Department of Transportation shall forthwith
6 deliver a certified copy of its findings and order to the Director of the
7 Department of Finance and Administration.

8 (b) It shall be the duty of the director to forthwith revoke and take
9 up the license plates issued upon any vehicles used in the violations. This
10 penalty shall apply to the vehicles used in the violation regardless of
11 whether the vehicle was being used by the violator by reason of special
12 ownership, ownership, lease, or otherwise.

13 (c) In addition to the penalty set forth in subsection (b) of this
14 section, if the violator holds a permit or certificate issued by the Arkansas
15 ~~State Highway and Transportation~~ Department of Transportation authorizing it
16 to engage in the transportation of persons or property for hire, then the
17 permit or certificate may also be revoked by the Arkansas ~~State Highway and~~
18 ~~Transportation~~ Department of Transportation.

19
20 SECTION 227. Arkansas Code § 23-13-308 is amended to read as follows:

21 23-13-308. Appeal to Pulaski County Circuit Court.

22 Any person aggrieved by any findings and order of the Arkansas ~~State~~
23 ~~Highway and Transportation~~ Department of Transportation may appeal to the
24 Pulaski County Circuit Court in the way and manner provided for appeals from
25 the department.

26
27 SECTION 228. Arkansas Code § 23-13-309 is amended to read as follows:

28 23-13-309. Order or subpoena of department enforceable upon
29 application to court.

30 In case of failure on the part of any person to comply with any lawful
31 order of the Arkansas ~~State Highway and Transportation~~ Department of
32 Transportation, or with any subpoena or subpoena duces tecum, or to testify
33 concerning any matter on which he or she may be lawfully interrogated, any
34 court of record of general jurisdiction or a judge thereof upon application
35 of the department may compel obedience by proceedings for contempt as in the
36 case of disobedience of the requirements of a subpoena issued from the court,

1 or of the refusal to testify therein.

2

3 SECTION 229. Arkansas Code § 23-13-310(a), concerning witness fees and
4 costs, is amended to read as follows:

5 (a) Witnesses who are summoned before the Arkansas ~~State Highway and~~
6 ~~Transportation~~ Department of Transportation shall be paid the same fees and
7 mileage as are paid to witnesses in courts of record.

8

9 SECTION 230. Arkansas Code § 23-13-604(c)(2), concerning registration
10 fees, is amended to read as follows:

11 (2) Distributed and expended in the manner directed by the
12 Unified Carrier Registration Act of 2005, Pub. L. No. 109-59, § 4301 et seq.,
13 for the payment of expenses incurred by the Arkansas ~~State Highway and~~
14 ~~Transportation~~ Department of Transportation for motor carrier law enforcement
15 and safety operations.

16

17 SECTION 231. Arkansas Code § 23-13-605(a)(2), concerning penalties for
18 failure to register if subject to the Unified Carrier Registration Act of
19 2005, is amended to read as follows:

20 (2) The Department of Arkansas State Police, the Arkansas
21 Highway Police Division of the Arkansas ~~State Highway and Transportation~~
22 Department of Transportation, and local authorities may enforce this
23 subsection.

24

25 SECTION 232. Arkansas Code § 23-13-720(a)(2), concerning the exclusive
26 authority of the Arkansas Public Service Commission over transportation
27 network companies and their drivers, is amended to read as follows:

28 (2) This subchapter does not limit the Arkansas ~~State Highway~~
29 ~~and Transportation~~ Department of Transportation, the Department of Arkansas
30 State Police, the Attorney General, other state agencies, law enforcement,
31 and local governments within this state from enforcing state and federal laws
32 or regulations of general applicability that apply to transportation network
33 companies and transportation network company drivers.

34

35 SECTION 233. Arkansas Code § 23-14-102(4), concerning definitions used
36 in the Arkansas Air Commerce Act, is repealed

1 ~~(4) "Department" means the Arkansas State Highway and~~
2 ~~Transportation Department;~~

3
4 SECTION 234. Arkansas Code § 23-14-103(2), concerning exemptions to
5 the Arkansas Air Commerce Act, is amended to read as follows:

6 (2) Any common carrier by aircraft which the Arkansas ~~State~~
7 ~~Highway and Transportation~~ Department of Transportation shall by order
8 determine to be engaged mainly and principally in interstate commerce and
9 whose intrastate business is incidental to its interstate business, if the
10 department finds that its operations are conducted pursuant to a certificate
11 of public convenience and necessity issued by the Federal Aviation
12 Administration or any other governmental agency successor thereto.

13
14 SECTION 235. Arkansas Code § 23-14-104(a), concerning the penalties
15 for violating the Arkansas Air Commerce Act, is amended to read as follows:

16 (a) ~~Every~~ A person, including any officer, agent, or employee of a
17 corporation, who violates any provision of this chapter or fails to comply
18 with any order, decision, or regulation issued by the Arkansas ~~State Highway~~
19 ~~and Transportation~~ Department of Transportation ~~shall be~~ is guilty of a Class
20 A misdemeanor.

21
22 SECTION 236. Arkansas Code § 23-14-106 is amended to read as follows:

23 23-14-106. Control, supervision, and regulation by department.
24 ~~Every~~ A person engaging in air commerce is declared to be subject to
25 control, supervision, and regulation by the Arkansas ~~State Highway and~~
26 ~~Transportation~~ Department of Transportation.

27
28 SECTION 237. Arkansas Code § 23-14-107(a), concerning the duties and
29 powers of the Arkansas State Highway and Transportation Department in the
30 administration and enforcement of the Arkansas Air Commerce Act, is amended
31 to read as follows:

32 (a) Administration and Enforcement. It shall be the duty of the
33 Arkansas ~~State Highway and Transportation~~ Department of Transportation to
34 administer the provisions of this chapter, and to that end the department
35 shall have authority to make and amend such general or special rules and
36 regulations and to issue such orders as may be necessary to carry out the

1 provisions of this chapter.

2
3 SECTION 238. Arkansas Code § 23-14-108 is amended to read as follows:
4 23-14-108. Pecuniary interest by employees prohibited.

5 No member of the Arkansas ~~State Highway and Transportation~~ Department
6 of Transportation or any employee of the department appointed or employed in
7 the administration of this chapter shall in any manner have a pecuniary
8 interest in, own any securities of, or hold any position with any common
9 carrier by aircraft.

10
11 SECTION 239. Arkansas Code § 23-14-109 is amended to read as follows:
12 23-14-109. Certificates required.

13 No person shall engage in the business of a common carrier by aircraft
14 unless there is in force a certificate issued by the Arkansas ~~State Highway~~
15 ~~and Transportation~~ Department of Transportation authorizing the person to
16 engage in that business.

17
18 SECTION 240. Arkansas Code § 23-14-110(a), concerning applications for
19 certificates under the Arkansas Air Commerce Act, is amended to read as
20 follows:

21 (a) Applications for certificates shall be made in writing to the
22 Arkansas ~~State Highway and Transportation~~ Department of Transportation, shall
23 be verified under oath, and shall be in such form and contain such
24 information and be accompanied by proof of service upon such interested
25 parties as the department shall by regulation require.

26
27 SECTION 241. Arkansas Code § 23-14-111 is amended to read as follows:
28 23-14-111. Temporary certificates.

29 The Arkansas ~~State Highway and Transportation~~ Department of
30 Transportation may grant temporary certificates without notice or hearing
31 upon such terms and conditions as the department may prescribe, but not for a
32 period exceeding one hundred eighty (180) days.

33
34 SECTION 242. Arkansas Code § 23-14-112 is amended to read as follows:
35 23-14-112. Certificates – Security for the protection of the public

36 required.

1 No certificate shall be issued to a common carrier by aircraft or
2 remain in force unless the carrier complies with such reasonable rules and
3 regulations as the Arkansas ~~State Highway and Transportation~~ Department of of
4 Transportation shall prescribe governing the filing and approval of surety
5 bonds, policies of insurance, qualifications as a self-insurer, or other
6 securities or agreements, in such reasonable amount and conditioned as the
7 department may require.

8
9 SECTION 243. Arkansas Code § 23-14-114 is amended to read as follows:
10 23-14-114. Issuance of certificates.

11 The Arkansas ~~State Highway and Transportation~~ Department of of
12 Transportation, subject to §§ 23-14-109 and 23-14-111 – 23-14-113, shall
13 issue a certificate authorizing the whole or any part of the operation
14 covered by an application for a certificate if it finds that the applicant is
15 fit, willing, and able to perform the operation properly and to conform to
16 the provisions of this chapter and the rules, regulations, and requirements
17 of the department hereunder and that the operation and the performance
18 thereof by the applicant is required by the public convenience and necessity.

19
20 SECTION 244. Arkansas Code § 23-14-116 is amended to read as follows:
21 23-14-116. Certificates – Transfer or lease.

22 Any certificate may be transferred or leased subject to the approval of
23 the Arkansas ~~State Highway and Transportation Department~~ of Transportation
24 and under such reasonable rules and regulations as may be prescribed by the
25 department.

26
27 SECTION 245. Arkansas Code § 23-14-117 is amended to read as follows:
28 23-14-117. Certificates – Modification, suspension, or revocation.

29 The Arkansas ~~State Highway and Transportation~~ Department of of
30 Transportation after due notice and hearing may alter, amend, modify,
31 suspend, or revoke any certificate previously granted where the public
32 interest so demands.

33
34 SECTION 246. Arkansas Code § 23-14-118 is amended to read as follows:
35 23-14-118. Rates and service generally.

36 Every common carrier by aircraft shall furnish reasonable and adequate

1 service and facilities at just and reasonable rates as shall be determined by
2 the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

3
4 SECTION 247. Arkansas Code § 23-14-119 is amended to read as follows:

5 23-14-119. Extension of service.

6 The Arkansas ~~State Highway and Transportation~~ Department of
7 Transportation after due notice and hearing may require any certificate
8 holder to extend its existing service as required by the public convenience
9 and necessity.

10
11 SECTION 248. Arkansas Code § 23-14-120 is amended to read as follows:

12 23-14-120. Abandonment or discontinuance of service.

13 No common carrier by aircraft shall abandon or discontinue any route or
14 part thereof for which a certificate has been issued by the Arkansas ~~State~~
15 ~~Highway and Transportation~~ Department of Transportation, unless upon the
16 application of the common carrier the department finds after notice and
17 opportunity for hearing the abandonment or discontinuance to be in the public
18 interest.

19
20 SECTION 249. Arkansas Code § 23-14-121(a), concerning the filing and
21 observance of tariffs under the Arkansas Air Commerce Act, is amended to read
22 as follows:

23 (a) Filing. ~~Every~~ A common carrier by aircraft shall file with the
24 Arkansas ~~State Highway and Transportation~~ Department of Transportation,
25 print, and make available to the public tariffs showing all rates, fares, and
26 charges for air commerce between points served by it, and between points
27 served by it and points served by any other common carrier by aircraft when
28 through-air commerce service and rates have been established, and all
29 classifications, rules, regulations, practices, and services in connection
30 with such commerce. The tariffs shall be filed in such manner and form as
31 shall be prescribed by the department.

32
33 SECTION 250. The introductory language of Arkansas Code § 23-14-
34 122(a), concerning free or reduced-rate transportation, is amended to read as
35 follows:

36 (a) Nothing in this chapter shall prohibit common carriers by

1 aircraft, under such terms and conditions as the Arkansas State Highway and
2 ~~Transportation~~ Department of Transportation may prescribe, from issuing or
3 interchanging tickets or passes for free or reduced-rate transportation to:
4

5 SECTION 251. Arkansas Code § 23-14-123(a)(1), concerning approval from
6 the Arkansas State Highway and Transportation Department for a change in
7 tariff, charge, rule, regulation, etc., is amended to read as follows:

8 (a)(1) ~~No~~ A change shall not be made in any rate, fare, or charge, or
9 any classification, rule, regulation, or practice affecting the rate, fare,
10 or charge, or the value of the service thereunder, specified in any effective
11 tariff of any common carrier by aircraft, except upon approval of the
12 Arkansas ~~State Highway and Transportation~~ Department of Transportation and
13 the rules and regulations prescribed by it.
14

15 SECTION 252. Arkansas Code § 23-14-124(a), concerning the regulation
16 of securities and liens under the Arkansas Air Commerce Act, is amended to
17 read as follows:

18 (a) The Arkansas ~~State Highway and Transportation~~ Department of
19 Transportation is empowered to supervise, regulate, restrict, and control the
20 issuance of stock, stock certificates, bonds, notes, and other evidences of
21 indebtedness by common carriers by aircraft incorporated under the laws of
22 Arkansas and the creation of liens on property in this state by carriers
23 incorporated under the laws of other states.
24

25 SECTION 253. Arkansas Code § 23-14-125(a), concerning accounts,
26 records, and reports required under the Arkansas Air Commerce Act, is
27 amended to read as follows:

28 (a) The Arkansas ~~State Highway and Transportation~~ Department of
29 Transportation is empowered to require annual and other periodic reports from
30 any common carrier by aircraft covering any or all operations or business.
31

32 SECTION 254. Arkansas Code § 23-14-126(a), concerning access to and
33 examination of property and records under the Arkansas Air Commerce Act, is
34 amended to read as follows:

35 (a) The Arkansas ~~State Highway and Transportation~~ Department of
36 Transportation shall at all times have access to all lands, buildings, and

1 equipment of any common carrier by aircraft and to all accounts, records, and
2 memoranda, including all documents, papers, and correspondence, now or
3 hereafter existing and kept or required to be kept by such carriers.
4

5 SECTION 255. The introductory language of Arkansas Code § 23-14-
6 128(a), concerning application fees under the Arkansas Air Commerce Act, is
7 amended to read as follows:

8 (a) Application Fees. The following application fees shall be paid to
9 the Arkansas ~~State Highway and Transportation~~ Department of Transportation at
10 the time of filing an application:
11

12 SECTION 256. Arkansas Code § 23-15-105(a), concerning pipeline
13 companies authorized to transport ammonia and other components of fertilizer,
14 is amended to read as follows:

15 (a) Pipeline companies operating in this state as common carriers and
16 companies operating pipelines in this state for conveying natural or
17 artificial gas for public utility service may transport by pipeline ammonia
18 and other substances and materials composing commercial fertilizer, or used
19 in manufacturing commercial fertilizer, when specifically authorized to so do
20 by the Arkansas ~~State Highway and Transportation~~ Department of
21 Transportation.
22

23 SECTION 257. Arkansas Code § 23-16-101(1), concerning the definitions
24 used in provisions relating to carriers, is repealed.

25 ~~(1) "Department" means the Arkansas State Highway and Transportation~~
26 ~~Department;~~
27

28 SECTION 258. Arkansas Code § 23-16-103(a)(1), concerning annual
29 certified statement of gross revenue, is amended to read as follows:

30 (a)(1) Annually, during the month of March, every rail carrier and
31 other carrier ~~which is~~ subject to regulation by the Arkansas ~~State Highway~~
32 ~~and Transportation~~ Department of Transportation under the laws of Arkansas
33 shall prepare and transmit to the department a certified statement of the
34 gross revenues from its operations in Arkansas for the preceding calendar
35 year ending December 31.
36

1 SECTION 259. Arkansas Code § 23-16-104(a), concerning the annual fee
2 collected from carriers, is amended to read as follows:

3 (a) There is levied and charged and there shall be collected annually
4 from each rail carrier ~~which is~~ subject to regulation by the Arkansas ~~State~~
5 ~~Highway and Transportation~~ Department of Transportation under the laws of
6 Arkansas a fee in an amount ~~which shall be~~ equivalent to that proportion of
7 the total rail carrier cost that the gross revenues in Arkansas of each of
8 the rail carriers bear to the total gross revenues in Arkansas of all of the
9 rail carriers. However, the fee to be collected annually from each of the
10 rail carriers shall not exceed in any year an amount exceeding two-fifths of
11 one percent (2/5 of 1%) of the gross revenues in Arkansas of each respective
12 rail carrier.

13
14 SECTION 260. Arkansas Code § 23-16-105(a), concerning the payment and
15 delinquent penalty for statement of fees due form rail carriers, is amended
16 to read as follows:

17 (a) After determining the amount of the fee due to be paid by each of
18 the rail carriers, the Arkansas ~~State Highway and Transportation~~ Department
19 of Transportation, annually on or before August 15, shall prepare and
20 transmit to each of the rail carriers a statement of the fees due for rail
21 carrier costs during the preceding fiscal year.

22
23 SECTION 261. The introductory language of Arkansas Code § 23-16-106,
24 concerning the record of the cost of operation and maintenance for utilities
25 and carriers, is amended to read as follows:

26 (a) The Arkansas ~~State Highway and Transportation~~ Department of
27 Transportation shall designate one (1) of its officers or employees who is
28 familiar with cost accounting methods to keep a separate and accurate record
29 of that part of the cost of operation and maintenance of the Arkansas ~~State~~
30 ~~Highway and Transportation~~ Department of Transportation having to do with
31 matters relating to the regulation of:

32
33 SECTION 262. Arkansas Code § 23-16-505(b)(2), concerning the driver
34 testing required for a contract carrier, is amended to read as follows:

35 (2) If alcohol testing and controlled substances testing cannot
36 be completed as soon as possible but no later than thirty-two (32) hours

1 after the accident, the records shall be submitted to the Arkansas Highway
2 Police Division of the Arkansas ~~State Highway and Transportation~~ Department
3 of Transportation.

4
5 SECTION 263. Arkansas Code § 23-16-508 is amended to read as follows:

6 23-16-508. Access to facilities and records.

7 A contract carrier shall allow an employee of the Arkansas Highway
8 Police Division of the Arkansas ~~State Highway and Transportation~~ Department
9 of Transportation or its designee access to:

- 10 (1) A facility to determine compliance with this subchapter; and
11 (2) Records or information related to an accident investigation
12 under this subchapter.

13
14 SECTION 264. Arkansas Code § 23-16-510 is amended to read as follows:

15 23-16-510. Penalties.

16 (a)(1) A person who knowingly violates a provision of this subchapter
17 is liable to the state for a civil penalty not to exceed one thousand dollars
18 (\$1,000) for each violation.

19 (2) Each day that a violation continues is a separate offense.

20 (b) The Arkansas Highway Police Division of the Arkansas ~~State Highway~~
21 ~~and Transportation~~ Department of Transportation shall assess penalties for
22 violations under this subchapter by written notice to the violator.

23 (c) To determine the amount of the penalty, the Arkansas ~~State Highway~~
24 ~~and Transportation~~ Department of Transportation or its designee shall
25 evaluate:

26 (1) The nature, circumstances, extent, and gravity of the
27 violation;

28 (2) The degree of culpability, history of prior offenses,
29 ability to pay, and effect on the ability to continue to do business of the
30 person found to have committed a violation; and

31 (3) Other circumstances as justice may require.

32
33 SECTION 265. Arkansas Code § 23-18-513(a)(7)(D), concerning service or
34 notice of application for certificate under the Utility Facility
35 Environmental and Economic Protection Act, is amended to read as follows:

36 (D) Arkansas ~~State Highway and Transportation~~ Department

1 of Transportation;

2

3 SECTION 266. The introductory language of Arkansas Code § 23-112-
4 107(g), concerning motor vehicle event data recorder under the Arkansas Motor
5 Vehicle Commission Act, is amended to read as follows:

6 (g) The Arkansas ~~State Highway and Transportation~~ Department of
7 Transportation may retrieve data from a motor vehicle event data recorder if
8 the data is used for the following purposes:

9

10 SECTION 267. Arkansas Code § 24-2-302(1), concerning the
11 classification of members of a state retirement system, is amended to read as
12 follows:

13 (1) All eligible employees of the Arkansas ~~State Highway and~~
14 ~~Transportation~~ Department of Transportation shall be members of the Arkansas
15 State Highway Employees' Retirement System;

16

17 SECTION 268. Arkansas Code § 24-4-101(17)(B)(vi), concerning the
18 definitions applicable to the Arkansas Public Employees' Retirement System,
19 is amended to read as follows:

20 (vi) Persons who are in the employ of the Arkansas
21 ~~State Highway and Transportation~~ Department of Transportation;

22

23 SECTION 269. Arkansas Code § 24-5-101(6), concerning the definition of
24 "current service", is amended to read as follows:

25 (6) "Current service" means service as an employee of the Arkansas
26 State Highway and Transportation Department or the Arkansas Department of
27 Transportation after the date of establishment of the system and may include
28 the period of time during which the employee's service may have been
29 interrupted by service in the United States Armed Forces. The annual earnings
30 for a military service period shall be computed in the manner set forth for
31 prior service in subdivision (12) of this section;

32

33 SECTION 270. Arkansas Code § 24-5-101(7), concerning the definition of
34 "employee", is amended to read as follows:

35 (7)(A) "Employee" means any employee of the Arkansas State
36 Highway and Transportation Department or the Arkansas Department of

1 Transportation whose compensation is, or was, payable on an hourly, biweekly,
2 monthly, annual, or other basis by the ~~department~~ Arkansas State Highway and
3 Transportation Department or the Arkansas Department of Transportation,
4 including any employee of the ~~department~~ Arkansas State Highway and
5 Transportation Department or the Arkansas Department of Transportation whose
6 salary is paid or reimbursed, in whole or in part, from federal or other
7 funds.

8 (B) "Employee" does not include persons who are employees
9 of the Arkansas State Highway and Transportation Department or the Arkansas
10 Department of Transportation on or after July 1, 1997, and who are eligible
11 for benefits under, or who are earning a retirement benefit from, another
12 state-supported retirement system;

13
14 SECTION 271. Arkansas Code § 24-5-101(8), concerning the definition of
15 "employer", is amended to read as follows:

16 (8) "Employer" means the Arkansas State Highway and
17 Transportation Department or the Arkansas Department of Transportation;

18
19 SECTION 272. Arkansas Code § 24-5-101(11), concerning the definition
20 of "prior service", is amended to read as follows:

21 (11) "Prior service" means all service as an employee of the Arkansas
22 State Highway and Transportation Department or the Arkansas Department of
23 Transportation before the date of establishment of the system;

24
25 SECTION 273. Arkansas Code § 24-5-101(12), concerning the definition
26 of "prior service earnings", is amended to read as follows:

27 (12)(A) "Prior service earnings" means the authenticated record
28 filed with and approved by the board setting forth the salary received by the
29 member for each fiscal year, or portion thereof, of his or her prior service
30 as an employee, beginning with his or her last year of prior service and
31 continuing in reverse chronological order.

32 (B) Prior service earnings records may include the period
33 of time during which the employee's service may have been interrupted for
34 service in the United States Armed Forces, in which case the annual earnings
35 for the military service period of the member shall be computed upon the
36 average of his or her last twelve (12) months' compensation from the Arkansas

1 State Highway and Transportation Department or the Arkansas Department of
2 Transportation before his or her entry into the ~~armed forces~~ United States
3 Armed Forces and the first twelve (12) months' compensation after
4 reemployment by the department;

5
6 SECTION 274. Arkansas Code § 24-5-103 is amended to read as follows:
7 24-5-103. Establishment of system.

8 There is created and established a retirement system for employees of
9 the Arkansas ~~State Highway and Transportation~~ Department of Transportation to
10 be known as the "Arkansas State Highway Employees' Retirement System", all
11 the business of which shall be transacted through a board of trustees as
12 provided for in this chapter.

13
14 SECTION 275. Arkansas Code § 24-5-104(b) and (c), concerning the board
15 of trustees for the Arkansas State Highway Employees' Retirement System, is
16 amended to read as follows:

17 (b)(1) The board shall consist of seven (7) members:

18 (A) The Director of State Highways and Transportation;

19 (B) The Treasurer of State;

20 (C) The Director of the Department of Finance and
21 Administration;

22 (D) The Chief Engineer of the Arkansas ~~State Highway and~~
23 ~~Transportation~~ Department of Transportation;

24 (E) A retiree from the Arkansas State Highway and
25 Transportation Department or the Arkansas Department of Transportation; and

26 (F) Two (2) regularly qualified members of the system.

27 (2) The board shall cause an election to be held by letter
28 ballot in June of each year, after thirty (30) days' written notice to the
29 membership, for the purpose of electing two (2) employee members and one (1)
30 retiree member who shall serve for two (2) years.

31 (3) In case of a vacancy of any employee member of the board,
32 the board shall fill the vacancy until the next regular election, when the
33 vacancy shall be filled by the election procedure specified in subsection
34 (b)(2) of this section.

35 (c) The officers of the board shall be a chair and a vice chair, who
36 shall be selected annually from their own number by the board, and an

1 executive secretary, who shall be an accountant in the Arkansas ~~State Highway~~
2 ~~and Transportation~~ Department of Transportation Accounting Division
3 designated by the board to serve as executive secretary, without power to
4 vote and who shall perform the duties provided in this section.

5
6 SECTION 276. Arkansas Code § 24-5-105(a), concerning the cost of
7 administering payment of benefits and adjustment of errors, is amended to
8 read as follows:

9 (a) The cost of administering the plan shall be borne by the Arkansas
10 ~~State Highway and Transportation~~ Department of Transportation, except that
11 the Arkansas State Highway Employees' Retirement System shall pay the
12 expenses incurred for the actuary, the consultant for investments, fees for
13 the members of the medical board of the system, expenses associated with
14 automating the accounting needs of the system, and forms purchased from
15 vendors and identified by letterhead printing as those of the ~~Arkansas State~~
16 ~~Highway Employees' Retirement System~~ system.

17
18 SECTION 277. Arkansas Code § 24-5-107(a), concerning membership to the
19 Arkansas State Highway Employees' Retirement System, is amended to read as
20 follows:

21 (a) Any employee of the Arkansas State Highway and Transportation
22 Department or the Arkansas Department of Transportation, as defined in § 24-
23 5-101(7), shall become a member of the Arkansas State Highway Employees'
24 Retirement System in the manner and under the conditions provided in this
25 chapter.

26
27 SECTION 278. Arkansas Code § 24-5-110(a)(1), concerning credit for
28 prior and current service in the Arkansas State Highway and Transportation
29 Department, is amended to read as follows:

30 (a)(1) Any employee of the Arkansas ~~State Highway and Transportation~~
31 Department of Transportation may make application within one (1) year from
32 the date of becoming a member of the Arkansas State Highway Employees'
33 Retirement System and receive credit for any authenticated prior service
34 rendered as an employee of the department prior to July 1, 1949.

35
36 SECTION 279. Arkansas Code § 24-5-112(b)(1), concerning voluntary

1 retirement is amended to read as follows:

2 (b)(1) Any retired member who has creditable service with the Arkansas
3 State Highway and Transportation Department or the Arkansas Department of
4 Transportation for more than thirty-five (35) years and who is not receiving
5 benefits based on his or her actual creditable service time, on February 27,
6 1991, shall have his or her annuity adjusted at that time.

7

8 SECTION 280. Arkansas Code § 24-5-113(a), concerning disability
9 retirement, is amended to read as follows:

10 (a) A member shall be eligible for disability retirement benefits
11 after five (5) or more years of creditable service in the Arkansas State
12 Highway and Transportation Department or the Arkansas Department of
13 Transportation, but no member shall be eligible to receive benefits for a
14 disability incurred prior to his or her becoming a member of the Arkansas
15 State Highway Employees' Retirement System.

16

17 SECTION 281. Arkansas Code § 24-5-117(b)(1), concerning withdrawal
18 from service, is amended to read as follows:

19 (b)(1) In the case of an employee's withdrawal from service after
20 becoming a member of the system and when the employee's contribution has
21 accumulated to a total of less than two hundred fifty dollars (\$250), then
22 the employee's accumulated contribution shall become forfeit to the Arkansas
23 State Highway Employees' Retirement System Fund unless withdrawn by the
24 former employee from the fund within the first three (3) years following the
25 employee's termination of service with the Arkansas ~~State Highway and~~
26 ~~Transportation~~ Department of Transportation, provided that such employee is
27 not a member of a reciprocal system.

28

29 SECTION 282. Arkansas Code § 24-5-122(b)(6)(B), concerning early
30 retirement incentives, is amended to read as follows:

31 (B) The retirement bonus shall be paid from funds
32 appropriated to the Arkansas ~~State Highway and Transportation~~ Department of
33 Transportation for salaries.

34

35 SECTION 283. Arkansas Code § 24-5-127(a), concerning credible service,
36 is amended to read as follows:

1 (a) Any employee of the Arkansas State Highway and Transportation
2 Department or the Arkansas Department of Transportation who is a member of
3 the Arkansas State Highway Employees' Retirement System and who has served as
4 a member of the Arkansas State Highway Commission shall receive partial
5 credit, equal to forty percent (40%) of the time the member served as a
6 member of the commission, as creditable service.

7
8 SECTION 284. Arkansas Code § 24-5-202(b)(3), concerning requirements
9 for the Deferred Retirement Option Plan, is amended to read as follows:

10 (3) In order to participate in the Arkansas State Highway
11 Employees' Deferred Retirement Option Plan for a period of longer than five
12 (5) years, the member shall contribute six percent (6%) of his or her gross
13 salary, and the Arkansas ~~State Highway and Transportation~~ Department of of
14 Transportation shall contribute six and nine-tenths percent (6.9%) of the
15 member's gross salary.

16
17 SECTION 285. Arkansas Code § 25-1-120(c)(2)(H), concerning
18 comprehensive cross-sector collaboration, is amended to read as follows:

19 (H) Arkansas ~~State Highway and Transportation~~ Department of of
20 Transportation;

21
22 SECTION 286. Arkansas Code § 25-1-203(e)(10), concerning distribution
23 of other publications to the General Assembly, is amended to read as follows:

24 (10) The "Arkansas Highways" magazine published by the Arkansas
25 ~~State Highway and Transportation~~ Department of of Transportation.

26
27 SECTION 287. Arkansas Code § 25-3-104(a)(3), concerning the Arkansas
28 Natural and Cultural Heritage Advisory Committee, is amended to read as
29 follows:

30 (3) The Director of ~~the Arkansas State Highway and State~~
31 Highways and Transportation Department;

32
33 SECTION 288. Arkansas Code § 25-4-103(11), concerning the definitions
34 associated with the Department of Information Systems, is amended to read as
35 follows:

36 (11) "Other governmental entities" means state-elected

1 constitutional officers and their staffs, the Supreme Court and the
2 Administrative Office of the Courts, the General Assembly or its committees
3 or staffs, the Arkansas ~~State Highway and Transportation~~ Department of of
4 Transportation, the Arkansas State Game and Fish Commission, the federal
5 government, cities, counties, municipalities, public school districts, and
6 other publicly funded governmental entities;

7
8 SECTION 289. Arkansas Code § 25-4-125(b)(1)(A), concerning the state
9 broadband manager, is amended to read as follows:

10 (A) State agencies, boards, commissions, and
11 constitutional officers, including without limitation the Governor,
12 Department of Education, Department of Higher Education, and Arkansas ~~State~~
13 ~~Highway and Transportation~~ Department of of Transportation;

14
15 SECTION 290. Arkansas Code § 25-9-106(a), concerning the Community
16 Alcohol Safety Program, is amended to read as follows:

17 (a) On or after July 1, 1999, all powers, duties, functions, records,
18 and funds administered or provided by other support divisions within the
19 Arkansas ~~State Highway and Transportation~~ Department of of Transportation for
20 the Traffic Safety Section of the Planning and Research Division regarding or
21 relating to the state alcohol program, commonly known as the "Community
22 Alcohol Safety Program", administered by the department pursuant to the laws
23 of this state and transferred to that department by Acts 1989, 1st Ex. Sess.,
24 No. 153, shall be transferred by a type 2 transfer, as defined in § 25-2-105,
25 to the Division of Behavioral Health Services of the Department of Human
26 Services.

27
28 SECTION 291. Arkansas Code § 25-9-107 is amended to read as follows:

29 25-9-107. Transfer of personnel pursuant to § 25-9-106.

30 All personnel transferred from the Arkansas ~~State Highway and~~
31 ~~Transportation~~ Department of of Transportation pursuant to under § 25-9-106
32 shall be eligible for employment under this section in a comparable position
33 with the Division of Behavioral Health Services of the Department of Human
34 Services.

35
36 SECTION 292. Arkansas Code § 26-3-308(a), concerning property owned by

1 the State Highway Commission of the State Highway and Transportation
2 Department, is amended to read as follows:

3 (a) It is hereby found and determined by the Seventy-Eighth General
4 Assembly and the Ninety-First that all property owned by the ~~Arkansas~~ State
5 Highway Commission or the Arkansas ~~State Highway and Transportation~~
6 Department of Transportation is public property used exclusively for public
7 purposes.

8

9 SECTION 293. Arkansas Code § 26-26-1616(a)(2)(A), concerning
10 disposition of taxes and penalties for utilities and carriers, is amended to
11 read as follows:

12 (2)(A) The Treasurer of State shall annually transmit to the
13 respective county treasurers of the several counties of this state the
14 proportionate part of the Ad Valorem Tax Fund coming from the source that the
15 improved state highway mileage in each county bears to the improved state
16 highway mileage in all counties, the highway mileage figures to be furnished
17 by the Arkansas ~~State Highway and Transportation~~ Department of Transportation
18 on request of the Treasurer of State.

19

20 SECTION 294. Arkansas Code § 26-36-303(1)(A)(xvii), concerning
21 definitions associated to the collection of delinquent taxes, is amended to
22 read as follows:

23 (xvii) The Arkansas ~~State Highway and Transportation~~
24 Department of Transportation.

25

26 SECTION 295. Arkansas Code § 26-55-604 is amended to read as follows:

27 26-55-604. Rules and regulations – Audit assistance.

28 The Director of State Highways and Transportation shall prescribe and
29 promulgate rules and regulations necessary for the proper enforcement of this
30 subchapter with the advice of the Legislative Council, and in any audits
31 conducted by the Arkansas ~~State Highway and Transportation~~ Department of
32 Transportation relating to the Motor Fuel Tax Law, § 26-55-201 et seq., or
33 the Special Motor Fuels Tax Law, § 26-56-101 et seq., or this subchapter or
34 other pertinent laws, may call upon the Director of the Department of Finance
35 and Administration for assistance.

36

1 SECTION 296. Arkansas Code § 26-55-608(a) and (b), concerning the
2 authority to stop, investigate, and impound vehicles, are amended to read as
3 follows:

4 (a) In order to enforce the provisions of this subchapter, any officer
5 of the Arkansas Highway Police Division of the Arkansas ~~State Highway and~~
6 ~~Transportation~~ Department of Transportation shall have the authority to stop
7 any vehicle appearing to be handling or transporting fuels for the purpose of
8 examining the documents required by this subchapter or to ensure the
9 operator's compliance with its provisions.

10 (b) If after the examination or investigation it is determined that
11 the transporter should have secured an import/export load permit as required
12 by this subchapter, but has failed to secure that permit, the enforcement
13 officer shall immediately cause the offending vehicle and its operator to be
14 removed to the nearest Arkansas ~~State Highway and Transportation~~ Department
15 of Transportation property, port of entry, or any designated location where
16 the Director of the Department of Finance and Administration's representative
17 shall immediately assess the tax on that load together with the penalty
18 provided in § 26-55-609 against the person found to be responsible for the
19 payment of the tax.

20
21 SECTION 297. Arkansas Code § 26-55-709 is amended to read as follows:

22 26-55-709. Interstate carrier certificates or permits.

23 When the Arkansas ~~State Highway and Transportation~~ Department of
24 Transportation receives an application for an interstate carrier certificate
25 or permit, with the appropriate fees for the certificate or permit, and also
26 receives an application for a fuel user permit from that same applicant, the
27 Arkansas ~~State Highway and Transportation~~ Department of Transportation shall
28 deliver the application for a fuel user permit to the Motor Fuel Tax Section
29 of the Department of Finance and Administration for issuance of the fuel user
30 permit.

31
32 SECTION 298. Arkansas Code § 26-56-102(15), concerning the definitions
33 of "person", is amended to read as follows:

34 (15) "Person" means every natural person, fiduciary,
35 partnership, limited liability company, firm, association, corporation,
36 business trust combination acting as a unit, any receiver appointed by any

1 state or federal court, or any municipality, county, or any subdivision,
2 department, agency, board, commission, or other instrumentality of this
3 state, except the Arkansas ~~State Highway and Transportation~~ Department of of
4 Transportation;

5
6 SECTION 299. Arkansas Code § 26-56-105(a), concerning the payment of
7 tax by the Arkansas State Highway and Transportation Department, is amended
8 to read as follows:

9 (a) The Arkansas ~~State Highway and Transportation~~ Department of of
10 Transportation shall pay the special motor fuel tax established by this
11 chapter on the special motor fuels used in its motor vehicles as defined in §
12 26-56-102(13).

13
14 SECTION 300. Arkansas Code § 26-56-405(a), concerning the payment of
15 tax by the Arkansas State Highway and Transportation Department, is amended
16 to read as follows:

17 (a) The Arkansas ~~State Highway and Transportation~~ Department of of
18 Transportation shall continue to pay the special motor fuel tax established
19 by this chapter on all diesel-powered motor vehicles as defined in § 26-56-
20 102 owned by the department.

21
22 SECTION 301. Arkansas Code § 26-57-247(1)(1)(A)(iii), concerning
23 seizure, forfeiture, and disposition of tobacco products and other property,
24 is amended to read as follows:

25 (iii)(a) A law enforcement agency may use forfeited
26 property or money if the circuit court's order specifies that the forfeited
27 property or money is forfeited to the prosecuting attorney, sheriff, chief of
28 police, Department of Arkansas State Police, Director of Arkansas Tobacco
29 Control, or Arkansas Highway Police Division of the Arkansas ~~State Highway~~
30 ~~and Transportation~~ Department of Transportation.

31 (b) After the order, the prosecuting
32 attorney, sheriff, chief of police, Department of Arkansas State Police,
33 Director of Arkansas Tobacco Control, or Arkansas Highway Police Division of
34 the Arkansas ~~State Highway and Transportation~~ Department of Transportation
35 shall maintain an inventory of the forfeited property or money, be
36 accountable for the forfeited property or money, and be subject to

1 subdivision (j)(5) of this section with respect to the forfeited property or
2 money;

3
4 SECTION 302. Arkansas Code § 26-62-104 is amended to read as follows:
5 26-62-104. Rules and regulations.

6 The Director of the Department of Finance and Administration is
7 authorized and empowered in consultation with the Director of State Highways
8 and Transportation of the Arkansas ~~State Highway and Transportation~~
9 Department of Transportation to make and promulgate such rules and
10 regulations not inconsistent with this chapter as they shall deem necessary
11 and desirable to facilitate the collection of the taxes levied in this
12 chapter and to otherwise effectuate the purposes of this chapter, and these
13 rules and regulations shall have the same effect as if specifically set forth
14 in this chapter.

15
16 SECTION 303. Arkansas Code § 26-62-111 is amended to read as follows:
17 26-62-111. Audits.

18 In all audits conducted by the Arkansas ~~State Highway and~~
19 ~~Transportation~~ Department of Transportation pursuant to under this chapter,
20 the Arkansas State Highway and Transportation Department may call upon the
21 Director of the Department of Finance and Administration for assistance.

22
23 SECTION 304. Arkansas Code § 26-62-208 is amended to read as follows:
24 26-62-208. Prima facie presumptions – Failure to keep records, issue
25 invoices, or file reports – Tax, penalties, and interest.

26 (a) Any alternative fuels supplier, user, interstate user, or IFTA
27 carrier user who fails to keep the records, issue the invoices, or file the
28 reports required by this chapter shall be prima facie presumed to have sold,
29 delivered, or used for taxable purposes all alternative fuels shown by a
30 verified audit by the Arkansas ~~State Highway and Transportation~~ Department of
31 Transportation, the Director of the Department of Finance and Administration,
32 or any authorized representative.

33 (b)(1) The director is authorized to fix or establish the amount of
34 taxes, penalties, and interest due the State of Arkansas from any record or
35 information available to the director, or to the Arkansas ~~State Highway and~~
36 ~~Transportation~~ Department of Transportation, and if the tax claim as

1 developed from that procedure is not paid, the claim and any audit made by
2 the Arkansas ~~State Highway and Transportation~~ Department of Transportation,
3 the director, or an authorized representative, or any report filed by such
4 alternative fuels supplier, user, interstate user, or IFTA carrier user shall
5 be admissible in evidence in any suit or judicial proceedings filed by the
6 director and shall be prima facie evidence of the correctness of said claim
7 or audit.

8 (2) However, the prima facie presumption of the correctness of
9 the claim may be overcome by evidence adduced by the alternative fuels
10 supplier, user, interstate user, or IFTA carrier user.

11
12 SECTION 305. Arkansas Code § 26-63-302(c)(2)(A)(ii), concerning rental
13 vehicle tax, is amended to read as follows:

14 (ii) The moneys in the fund resulting from a deposit
15 described in subdivision (c)(2)(A)(i) of this section shall be used by the
16 Arkansas ~~State Highway and Transportation~~ Department of Transportation for
17 the purpose of acquiring federal matching funds for the purchase of public
18 transportation vehicles, for public transit equipment or facilities, and for
19 the operation of the United States Department of Transportation Federal
20 Transit Administration assistance programs.

21
22 SECTION 306. Arkansas Code § 27-1-102(b)(2), concerning the
23 legislative intent of the Highway and Transportation Act of 1977, is amended
24 to read as follows:

25 (2) To this end, the Arkansas ~~State Highway and Transportation~~
26 Department of Transportation is directed to establish and maintain
27 coordination with all agencies of the state having transportation
28 responsibility; local, city, and county governments; regional planning and
29 transportation districts, commissions, and authorities; and private
30 transportation agencies.

31
32 SECTION 307. Arkansas Code § 27-1-103 is amended to read as follows:
33 27-1-103. Definitions.

34 ~~(a) As used in this chapter:~~

35 ~~(1) "Commission" means the State Highway Commission;~~

36 ~~(2) "Department" means the Arkansas State Highway and~~

1 ~~Transportation Department; and~~

2 ~~(3) "Service" or "services" means either or both freight and~~
3 ~~passenger transport, whether by air, land, or water.~~

4 ~~(b)(1) Whenever the words, "State Highway Department" are used in any~~
5 ~~statute, directive, rule, or regulation, they shall be held and taken to mean~~
6 ~~the Arkansas State Highway and Transportation Department.~~

7 ~~(2) Whenever the words "director" or "Director of State~~
8 ~~Highways" are used in any statute, directive, rule, or regulation, they shall~~
9 ~~be held to mean the Director of State Highways and Transportation.~~

10
11 SECTION 308. Arkansas Code § 27-1-104(b), concerning powers of certain
12 entities unabrogated, is amended to read as follows:

13 (b)(1) In the area of marine and aviation facilities and services, it
14 is the intent of this chapter that the various state and local airport
15 commissions and the Arkansas Waterways Commission's authority, powers, and
16 responsibilities shall remain intact.

17 (2) However, they the various state and local airport
18 commissions and the Arkansas Waterways Commission shall inform the Arkansas
19 ~~State Highway and Transportation~~ Department of Transportation of their plans
20 in order that total transportation planning can be achieved and made
21 available for incorporation in a comprehensive growth plan for the state.

22
23 SECTION 309. The introductory language of Arkansas Code § 27-1-105(a),
24 concerning the powers and duties the Arkansas State Highway and
25 Transportation Department has over rail service, is amended to read as
26 follows:

27 (a) The Arkansas ~~State Highway and Transportation~~ Department of
28 Transportation is authorized to exercise those powers necessary for the state
29 to qualify for rail service preservation subsidies or other transportation
30 assistance ~~pursuant to~~ under the provisions of any federal act. The
31 department shall:

32
33 SECTION 310. The introductory language of Arkansas Code § 27-1-106(b),
34 concerning the powers and duties the Arkansas State Highway and
35 Transportation Department has over mass transit, is amended to read as
36 follows:

1 (b) To this end, the Arkansas ~~State Highway and Transportation~~
2 Department of Transportation shall:

3
4 SECTION 311. Arkansas Code § 27-1-107 is amended to read as follows:

5 27-1-107. Rules and regulations – Reorganization.

6 The Arkansas ~~State Highway and Transportation~~ Department of
7 Transportation shall adopt and promulgate reasonable rules and regulations
8 and reorganize as necessary to carry out the responsibilities delegated to it
9 under this chapter.

10
11 SECTION 312. Arkansas Code § 27-2-102(1)(C), concerning definitions
12 used in the Hazardous Materials Transportation Act of 1972, is amended to
13 read as follows:

14 (C) Standards established by the Arkansas ~~State Highway~~
15 ~~and Transportation~~ Department of Transportation, by regulation, with
16 reference to labeling of containers of hazardous materials; or

17
18 SECTION 313. Arkansas Code § 27-2-102(5), concerning definitions used
19 in the Hazardous Materials Transportation Act of 1972, is repealed.

20 ~~(5) “Department” means Arkansas State Highway and Transportation~~
21 ~~Department;~~

22
23 SECTION 314. Arkansas Code § 27-2-103(b)(2), concerning prohibited
24 acts and exceptions under the Hazardous Materials Transportation Act of 1977,
25 is amended to read as follows:

26 (2) Further provided, if the United States Department of
27 Transportation or the United States Congress adopts exceptions greater than
28 those currently allowed transporters of hazardous materials in 49 C.F.R. pt.
29 173, the Arkansas ~~State Highway and Transportation~~ Department of
30 Transportation may adopt such comparable exemptions as are applicable to the
31 transporters while utilizing the highways of this state.

32
33 SECTION 315. Arkansas Code § 27-2-105 is amended to read as follows:

34 27-2-105. Enforcement.

35 The enforcement personnel of the Department of Arkansas State Police
36 and enforcement personnel of the Arkansas ~~State Highway and Transportation~~

1 Department of Transportation shall have the authority to enforce the
2 provisions of this chapter.

3

4 SECTION 316. Arkansas Code § 27-2-106(a)(1), concerning additional
5 regulations authorized under the Hazardous Materials Transportation Act of
6 1977, is amended to read as follows:

7 (a)(1) In addition to the specific authority granted to the Arkansas
8 ~~State Highway and Transportation~~ Department of Transportation by this chapter
9 to define terms and impose additional requirements, by regulation, the
10 department shall have the authority to promulgate additional regulations, in
11 the manner provided by law, in furtherance of this chapter.

12

13 SECTION 317. Arkansas Code § 27-2-108 is amended to read as follows:

14 27-2-108. Conformity with Arkansas Administrative Procedure Act.

15 All rules and regulations proposed and adopted by the Arkansas ~~State~~
16 ~~Highway and Transportation~~ Department of Transportation pursuant to under
17 this chapter and all other actions of the department taken ~~pursuant to~~ under
18 the authority and responsibility prescribed in this chapter shall be in
19 conformity with the provisions of the Arkansas Administrative Procedure Act,
20 § 25-15-201 et seq.

21

22 SECTION 318. Arkansas Code § 27-3-102 is amended to read as follows:

23 27-3-102. Legislative determination.

24 Adequate and efficient public transportation is essential to the well-
25 being of many of our state's citizens and the economic growth of both urban
26 and rural areas. It is the purpose and intent of this chapter to have a
27 general public transportation policy which encourages the planning,
28 development, implementation, operation, and evaluation of efficient and
29 coordinated transportation systems, both public and private. While the
30 leadership and coordination in the development of public transportation
31 policy and programs is vested in the Arkansas ~~State Highway and~~
32 ~~Transportation~~ Department of Transportation by statutory authority, a number
33 of departments, agencies, and other legally constituted bodies are involved
34 in the implementation and operation of public transportation services, and
35 the policy and programs should be developed with their advice and
36 recommendations.

1
2 SECTION 319. Arkansas Code § 27-3-104(3), concerning definitions used
3 in the Arkansas Public Transportation Coordination Act, is repealed.

4 ~~(3) "Department" means the Arkansas State Highway and~~
5 ~~Transportation Department;~~

6
7 SECTION 320. Arkansas Code § 27-3-105(a), concerning the rights and
8 responsibilities of the Arkansas Public Transportation Coordination Council,
9 is amended to read as follows:

10 27-3-105. Purpose – Rights and responsibilities.

11 (a) The Arkansas Public Transportation Coordination Council, by and
12 through the Arkansas ~~State Highway and Transportation~~ Department of
13 Transportation, is to accomplish the coordination of transportation services
14 provided to the general public, particularly the transportation-
15 disadvantaged.

16
17 SECTION 321. Arkansas Code § 27-3-106(a), concerning administrative
18 support provided by the Arkansas State Highway and Transportation Department,
19 is amended to read as follows:

20 (a) Administrative support shall be provided by the Arkansas ~~State~~
21 ~~Highway and Transportation~~ Department of Transportation.

22
23 SECTION 322. Arkansas Code § 27-14-601(a)(3)(H)(viii), concerning fees
24 for registration and licensing of motor vehicles, is amended to read as
25 follows:

26 (viii) The director shall promulgate such rules and
27 regulations as may be necessary to carry out the intent of this
28 classification and prevent abuse thereof. However, before any such rules or
29 regulations shall be effective, they shall be approved by majority action of
30 the members of the State Highway Commission acting for and in behalf of the
31 Arkansas Highway Police Division of the Arkansas ~~State Highway and~~
32 ~~Transportation~~ Department of Transportation, which is the agency charged with
33 the principal responsibility of enforcing the motor vehicle license laws of
34 this state.

35
36 SECTION 323. Arkansas Code § 27-14-601(e)(2)(B), concerning penalties

1 for failure to pay fees for registration and licensing of motor vehicles, is
2 amended to read as follows:

3 (B) An officer of the Arkansas Highway Police Division of
4 the Arkansas ~~State Highway and Transportation~~ Department of Transportation,
5 the fine collected shall be remitted by the tenth day of each month to the
6 Administration of Justice Funds Section of the Office of Administrative
7 Services of the Department of Finance and Administration on a form provided
8 by the Administration of Justice Funds Section of the Office of
9 Administrative Services of the Department of Finance and Administration for
10 deposit into the State Highway and Transportation Department Fund, to be used
11 for the purchase and maintenance of highway police vehicles;

12

13 SECTION 324. Arkansas Code § 27-14-611(a)(2)(B), concerning
14 registration for nonprofit motor vehicle fleets, is amended to read as
15 follows:

16 (B) Is eligible to participate in the federal transit
17 grant programs administered through the Arkansas ~~State Highway and~~
18 ~~Transportation~~ Department of Transportation.

19

20 SECTION 325. Arkansas Code § 27-14-1403(a), concerning community or
21 farm-to-market buses, is amended to read as follows:

22 (a) As used in this section, "community or farm-to-market bus" means
23 any bus operating under and by authority of the Arkansas ~~State Highway and~~
24 ~~Transportation~~ Department of Transportation, which is privileged to operate
25 as a common carrier for hire within the State of Arkansas and which has a
26 home office that is domiciled within this state, and where the privilege does
27 not extend beyond the territory of fifty (50) miles for any operation, shall
28 be termed a "community or farm-to-market bus".

29

30 SECTION 326. Arkansas Code § 27-23-120 is amended to read as follows:
31 27-23-120. Rulemaking authority.

32 The Office of Driver Services and the Department of Arkansas State
33 Police shall have the authority to adopt rules and regulations after
34 consulting with, and with the concurrence of, the State Highway Commission
35 and the Arkansas Highway Police Division of the Arkansas ~~State Highway and~~
36 ~~Transportation~~ Department of Transportation, necessary to carry out the

1 provisions of this subchapter.

2
3 SECTION 327. Arkansas Code § 27-23-122 is amended to read as follows:
4 27-23-122. Enforcement.

5 The enforcement personnel of the State Highway Commission, the Arkansas
6 Highway Police Division of the Arkansas ~~State Highway and Transportation~~
7 Department of Transportation, and any certified law enforcement officer shall
8 have the authority to enforce the provisions of this subchapter.

9
10 SECTION 328. Arkansas Code § 27-24-402 is amended to read as follows:
11 27-24-402. Metal plates required on state highway vehicles.

12 (a) The State Highway Commission shall not be required to purchase a
13 license plate from the Department of Finance and Administration for a motor
14 vehicle, truck, or trailer owned or leased by the Arkansas ~~State Highway and~~
15 ~~Transportation~~ Department of Transportation or as otherwise determined by
16 minute order of the commission.

17 (b)(1) The commission shall procure and place upon each vehicle owned
18 or leased by the Arkansas ~~State Highway and Transportation~~ Department of
19 Transportation a metal plate that contains legible:

20 (A) Words that state that the vehicle upon which the plate
21 is placed belongs to the Arkansas ~~State Highway and Transportation~~ Department
22 of Transportation; and

23 (B) Numbers that correlate with a list of all metal plates
24 placed on vehicles that belong to the Arkansas ~~State Highway and~~
25 ~~Transportation~~ Department of Transportation.

26 (2) The commission shall keep and maintain a complete list that
27 includes:

28 (A) The number of all metal plates placed upon vehicles
29 belonging to the Arkansas ~~State Highway and Transportation~~ Department of
30 Transportation; and

31 (B)(i) A description of the vehicle on which each plate is
32 placed.

33 (ii) The description shall include the vehicle
34 identification number, the motor number, the model number, or other unique
35 identification of the vehicle.

36

1 SECTION 329. Arkansas Code § 27-35-210(a)(2)(D)(iv), concerning
2 definitions that apply to permits for special cargoes, is amended to read as
3 follows:

4 (iv) Proof of liability insurance for the tow
5 vehicle shall be submitted to the Arkansas ~~State Highway and Transportation~~
6 Department of Transportation;

7
8 SECTION 330. Arkansas Code § 27-35-301(1), concerning definitions that
9 apply to manufactured homes and houses, is repealed.

10 ~~(1) "Department" means the Arkansas State Highway and~~
11 ~~Transportation Department;~~

12
13 SECTION 331. Arkansas Code § 27-35-303 is amended to read as follows:
14 27-35-303. Rules and regulations.

15 The Arkansas ~~State Highway and Transportation~~ Department of
16 Transportation shall promulgate rules and regulations covering the
17 application for, and issuance of, special permits for the safe movement of
18 manufactured home units in accordance with the provisions of this subchapter.

19
20 SECTION 332. Arkansas Code § 27-35-304(a)(1), concerning special
21 permit to move fee for manufactured home, is amended to read as follows:

22 (a)(1) Manufactured home units may be lawfully moved interstate and
23 intrastate on the highways, roads, and streets of this state by procuring a
24 special permit issued by the Arkansas ~~State Highway and Transportation~~
25 Department of Transportation.

26
27 SECTION 333. Arkansas Code § 27-35-305(a), concerning the issuance of
28 permits, is amended to read as follows:

29 (a) Special permits shall be issued to any licensed carrier, dealer,
30 or manufacturer who files with the Arkansas ~~State Highway and Transportation~~
31 Department of Transportation evidence of acceptable insurance coverage.

32
33 SECTION 334. Arkansas Code § 27-35-306(a), concerning times and places
34 for moving overwidth or overlength manufactured homes, is amended to read as
35 follows:

36 (a) Overwidth or overlength manufactured home units shall be moved on

1 those highways, roads, and streets and at times and under conditions as may
2 be designated by the Arkansas ~~State Highway and Transportation~~ Department of of
3 Transportation.

4
5 SECTION 335. Arkansas Code § 27-35-307(a), concerning the payment of
6 fees on a monthly basis, is amended to read as follows:

7 (a) Persons posting a surety bond with the Arkansas ~~State Highway and~~
8 ~~Transportation~~ Department of of Transportation in the amount of one thousand
9 dollars (\$1,000), payable on default to the State of Arkansas, shall be
10 allowed to pay the fees accruing for permits on a monthly basis.

11
12 SECTION 336. Arkansas Code § 27-35-308 is amended to read as follows:
13 27-35-308. Disposition of fees.

14 (a) All fees collected under the provisions of this subchapter shall
15 forthwith be deposited into the State Treasury as special revenues.

16 (b) The net amount shall be credited to the State Highway and
17 Transportation Department Fund, there to be used for the operation and
18 maintenance of the Arkansas Highway Police Division of the Arkansas ~~State~~
19 ~~Highway and Transportation~~ Department of of Transportation.

20
21 SECTION 337. Arkansas Code § 27-35-309(a), concerning transportation
22 of houses and other structures, is amended to read as follows:

23 (a) Qualified house or structural movers in this state who have met
24 the financial responsibility requirements of the laws of this state and
25 regulations of the Arkansas ~~State Highway and Transportation~~ Department of of
26 Transportation shall be authorized to move upon the public highways of this
27 state houses and other structures up to and including twenty-eight feet six
28 inches (28' 6") in width, exclusive of roof overhang, upon obtaining a permit
29 as required by law.

30
31 SECTION 338. Arkansas Code § 27-37-202(b)(3)(A), concerning horns,
32 warning devices, and flashing lights on emergency vehicles, is amended to
33 read as follows:

34 (3)(A) Every authorized emergency vehicle shall be equipped with
35 a siren, whistle, or bell capable of emitting sound audible under normal
36 conditions from a distance of not less than five hundred feet (500") and of a

1 type approved by the Arkansas ~~State Highway and Transportation~~ Department of 2 Transportation.

3
4 SECTION 339. Arkansas Code § 27-50-201 is amended to read as follows:
5 27-50-201. Provisions deemed cumulative.

6 This subchapter shall be cumulative to the laws in force relating to
7 the functions and duties imposed upon the Department of Arkansas State Police
8 under the provisions of Acts 1953, No. 122, and acts amendatory thereto. It
9 shall also be cumulative to laws in effect ~~which~~ that were in effect prior to
10 the enactment of Acts 1953, No. 122, which imposed duties upon the Arkansas
11 ~~State Highway and Transportation~~ Department of Transportation and the
12 Director of the Department of Finance and Administration, which were
13 transferred to the Department of Arkansas State Police under the provisions
14 of Acts 1953, No. 122, as amended.

15
16 SECTION 340. Arkansas Code § 27-50-202 is amended to read as follows:
17 27-50-202. Arkansas Highway Police Division of the Arkansas ~~State~~
18 ~~Highway and Transportation~~ Department of Transportation – Creation.

19 The Arkansas Highway Police Division of the Arkansas ~~State Highway and~~
20 ~~Transportation~~ Department of Transportation is created.

21
22 SECTION 341. Arkansas Code § 27-50-203 is amended to read as follows:
23 27-50-203. Appointment of director.

24 The State Highway Commission shall appoint a Director of the Arkansas
25 Highway Police Division of the Arkansas ~~State Highway and Transportation~~
26 Department of Transportation who shall serve at the pleasure of the
27 commission.

28
29 SECTION 342. Arkansas Code § 27-50-204(a)(1), concerning the rules and
30 regulations governing employees of the Arkansas Highway Police Division of
31 the Arkansas State Highway and Transportation Department, is amended to read
32 as follows:

33 (a)(1) The State Highway Commission shall establish rules and
34 regulations governing employees of the Arkansas Highway Police Division of
35 the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

36

1 SECTION 343. Arkansas Code § 27-50-205(a), concerning the powers of
2 the Arkansas Highway Police Division of the Arkansas State Highway and
3 Transportation Department, is amended to read as follows:

4 (a) The Arkansas Highway Police Division of the Arkansas ~~State Highway~~
5 ~~and Transportation~~ Department of Transportation shall have the power and
6 authority to enforce all laws pertaining to the unlawful operation of motor
7 vehicles over the highways of this state.

8
9 SECTION 344. Arkansas Code § 27-50-408(a), concerning fines for moving
10 traffic violations in a highway work zone, is amended to read as follows:

11 (a) As used in this section, unless the context otherwise requires:

12 (1) "Construction personnel" means employees of the Arkansas
13 ~~State Highway and Transportation~~ Department of Transportation or the counties
14 or the municipalities of this state or any contractors of the State Highway
15 Commission or the counties or municipalities;

16 (2) "Conviction" means a formal declaration that a person is
17 guilty of a violation of law determined when a person ~~who is~~ charged with a
18 violation of law ~~and who~~ pleads guilty or nolo contendere, is found guilty,
19 or forfeits a bond in lieu of a plea or trial; and

20 (3) ~~"Department" means the Arkansas State Highway and~~
21 ~~Transportation Department; and~~

22 ~~(4)~~ "Highway work zone" means any area upon or adjacent to any
23 highway, road, or street of this state where construction, reconstruction,
24 maintenance, or any other type of work is being performed or is in progress
25 by employees of the Arkansas ~~State Highway and Transportation~~ Department of
26 Transportation, the counties or the municipalities of this state, or any
27 contractors of the State Highway Commission or the counties or
28 municipalities.

29
30 SECTION 345. Arkansas Code § 27-50-1212(b), concerning criminal
31 penalties for removal or immobilization of unattended or abandoned vehicles,
32 is amended to read as follows:

33 (b) The Department of Arkansas State Police, the Arkansas Highway
34 Police Division of the Arkansas ~~State Highway and Transportation~~ Department
35 of Transportation, and county and municipal authorities may enforce § 27-50-
36 1101 et seq. and § 27-50-1201 et seq.

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SECTION 346. Arkansas Code § 27-51-204(b)(1), concerning exceptions to the maximum and minimum speed limits, is amended to read as follows:

(b)(1) The maximum and minimum speed limits posted shall apply to all vehicles using the facility except authorized emergency vehicles on emergency trips, such as police vehicles on duty, fire vehicles on calls, and ambulances; oversize/overweight vehicles moving under special permit issued by the Arkansas ~~State Highway and Transportation~~ Department of Transportation or its lawfully delegated agents; and other specific vehicles for which special limits may be posted in particular situations or under particular conditions.

SECTION 347. Arkansas Code § 27-51-207 is amended to read as follows:
27-51-207. Assistance to local authorities in determining limits.

Local authorities may request professional assistance of the Arkansas ~~State Highway and Transportation~~ Department of Transportation in determining reasonable and prudent maximum and minimum speeds for arterial highways, roads, and streets not on the state highway system in their respective jurisdictions.

SECTION 348. Arkansas Code § 27-51-210(c), concerning towing of manufactured homes and mobile homes, is amended to read as follows:

(c) The Arkansas ~~State Highway and Transportation~~ Department of Transportation may set minimum and maximum speed limits different from those posted or may set a speed limit less than the maximum provided in subsections (a) and (b) of this section for a vehicle towing a manufactured home or mobile home by noting any speed restriction on the oversize load permit issued by the department to that vehicle.

SECTION 349. Arkansas Code § 27-51-213(b)(1)(A), concerning the erection and maintenance of required signs in school zones, is amended to read as follows:

(b)(1)(A) It shall be the duty of the Arkansas ~~State Highway and Transportation~~ Department of Transportation, county road department, city street department, or any other agency having the responsibility of maintaining the streets or roadways to erect the signs required by subsection

1 (a) of this section unless a special traffic engineering study for a specific
2 school zone produces other recommendations for that school zone.

3
4 SECTION 350. Arkansas Code § 27-51-301(c)(1), concerning the
5 exceptions to vehicles to be driven on the right side of the roadway, is
6 amended to read as follows:

7 (c)(1) The Arkansas ~~State Highway and Transportation~~ Department of of
8 Transportation may designate certain multilane highways or portions of
9 multilane highways as prohibiting continuous driving in the left lane except
10 in those instances described in subsection (a) of this section.

11
12 SECTION 351. Arkansas Code § 27-51-310(a)(2), concerning the passing
13 of an authorized vehicle stopped on a highway, is amended to read as follows:

14 (2) Is one (1) of the following:

15 (A) An emergency response vehicle;

16 (B) A law enforcement vehicle;

17 (C) An Arkansas ~~State Highway and Transportation~~
18 Department of Transportation vehicle;

19 (D) An Arkansas ~~State Highway and Transportation~~
20 Department of Transportation contractor vehicle;

21 (E) A utility company vehicle; or

22 (F) A vehicle used in a towing operation as defined under
23 § 27-51-904.

24
25 SECTION 352. Arkansas Code § 27-51-1303(a)(3)(A), concerning the
26 stopping, standing, or parking outside of a business or residence district,
27 is amended to read as follows:

28 (A) Employees or vehicles of the Arkansas ~~State Highway~~
29 ~~and Transportation~~ Department of Transportation engaged in necessary
30 construction, maintenance, or repair of the highways;

31
32 SECTION 353. Arkansas Code § 27-51-1602(5), concerning the definition
33 of "highway worker" used in the Fewer Distractions Mean Safer Driving Act, is
34 amended to read as follows:

35 (5) "Highway worker" means an employee of any of the following
36 who is present in a highway work zone:

1 (A) The Arkansas ~~State Highway and Transportation~~
2 Department of Transportation;

3 (B) A county;

4 (C) A municipality; or

5 (D) A contractor or subcontractor of the State Highway
6 Commission or a county or municipality that is performing duties related to
7 the highway work zone;

8
9 SECTION 354. Arkansas Code § 27-52-110(d), 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 (d) This section shall not prevent the Arkansas Highway Police
13 Division of the Arkansas ~~State Highway and Transportation~~ Department of
14 Transportation from using automated enforcement devices to enforce state or
15 federal motor carrier laws.

16
17 SECTION 355. Arkansas Code § 27-52-111(d), concerning an automated
18 enforcement device operated by a municipality or a department of state
19 government operating within the boundaries of a municipality, is amended to
20 read as follows:

21 (d) This section shall not prevent the Arkansas Highway Police
22 Division of the Arkansas ~~State Highway and Transportation~~ Department of
23 Transportation from using automated enforcement devices to enforce state or
24 federal motor carrier laws.

25
26 SECTION 356. Arkansas Code § 27-53-207(b), concerning tabulation and
27 analysis, is amended to read as follows:

28 (b) After its annual report on the number and circumstances of traffic
29 accidents, the ~~department~~ Department of Arkansas State Police shall further
30 report to the Arkansas ~~State Highway and Transportation~~ Department of
31 Transportation the location of all accidents occurring within the preceding
32 twelve-month period on the state highway system which resulted in a human
33 fatality and where two (2) or more accidents involving a personal bodily
34 injury occurred at the same location.

35
36 SECTION 357. Arkansas Code § 27-53-211 is amended to read as follows:

1 27-53-211. Inspection of accident scenes for safety improvements.

2 (a)(1) It shall be the duty of the Arkansas ~~State Highway and~~
3 ~~Transportation~~ Department of Transportation to inspect all accident locations
4 on the state highway system in Arkansas, as reported to the Arkansas ~~State~~
5 ~~Highway and Transportation~~ Department of Transportation by the Department of
6 Arkansas State Police pursuant to under § 27-53-207(b), where accidents which
7 resulted in a human fatality occurred within the preceding twelve-month
8 period and where two (2) or more accidents involving a personal bodily injury
9 occurred at the same location.

10 (2) The inspections shall determine, within the judgment of
11 Arkansas ~~State Highway and Transportation~~ Department of Transportation
12 personnel, whether safety improvements, increased visibility, warning signs,
13 traffic control devices, or any other safety improvements are warranted which
14 could reduce or prevent the future occurrence of any similar accidents at the
15 same locations.

16 (b) The Arkansas ~~State Highway and Transportation~~ Department of
17 Transportation shall develop a schedule for and implement those safety
18 improvements deemed warranted by ~~that department~~ the Arkansas Department of
19 Transportation.

20
21 SECTION 358. Arkansas Code § 27-53-304(a), concerning traffic accident
22 report forms, is amended to read as follows:

23 (a) All traffic accident investigation reports shall be made upon
24 forms prescribed, approved, and supplied by the Department of Arkansas State
25 Police, with the concurrence of the Arkansas ~~State Highway and Transportation~~
26 Department of Transportation.

27
28 SECTION 359. Arkansas Code § 27-64-101(1), concerning air rights over
29 highways, roads, and streets, is amended to read as follows:

30 (1) The Arkansas ~~State Highway and Transportation~~ Department of
31 Transportation with respect to state highways;

32
33 SECTION 360. Arkansas Code § 27-64-103(a)(1), concerning mowing,
34 installing, and maintaining sprinkler system on rights-of-way by adjoining
35 landowner, is amended to read as follows:

36 (a)(1) The owners of properties which abut the right-of-way of

1 interstate, federal-aid primary, state, or county roads or highways in this
2 state may enter upon and mow grass, weeds, and other vegetation on the
3 portion of the right-of-way adjoining the property unless the Arkansas ~~State~~
4 ~~Highway and Transportation~~ Department of Transportation or the county has
5 installed barriers designed to prohibit entry or unless the property owner
6 has received notice from the department or the county restricting or
7 prohibiting mowing grass, weeds, and other vegetation.

8
9 SECTION 361. Arkansas Code § 27-65-102 is amended to read as follows:

10 27-65-102. Administration of department.

11 The administrative control of the Arkansas ~~State Highway and~~
12 ~~Transportation~~ Department of Transportation shall be vested in the State
13 Highway Commission.

14
15 SECTION 362. Arkansas Code § 27-65-103 is amended to read as follows:

16 27-65-103. Office locations.

17 (a) The main office of the State Highway Commission shall be located
18 in the City of Little Rock.

19 (b) The Arkansas ~~State Highway and Transportation~~ Department of
20 Transportation shall have its office in Little Rock, where complete records
21 shall be kept.

22
23 SECTION 363. Arkansas Code § 27-65-107(a)(7), concerning the powers of
24 the State Highway Commission, is amended to read as follows:

25 (7) To investigate highway conditions and official conduct of
26 Arkansas ~~State Highway and Transportation~~ Department of Transportation
27 personnel;

28
29 SECTION 364. Arkansas Code § 27-65-122(c)(4), concerning the Director
30 of State Highways and Transportation, is amended to read as follows:

31 (4) Be the chief executive officer of the Arkansas ~~State Highway~~
32 ~~and Transportation~~ Department of Transportation and, subject to the approval
33 of the commission, have direct and full control and management of the affairs
34 relating to the state highways; and

35
36 SECTION 365. Arkansas Code § 27-65-123(a), concerning the secretary

1 serving the State Highway Commission, is amended to read as follows:

2 (a) The Arkansas ~~State Highway and Transportation~~ Department of of
3 Transportation, with the advice and consent of the State Highway Commission,
4 shall appoint an assistant who shall serve as secretary to the commission.

5

6 SECTION 366. Arkansas Code § 27-65-129 is amended to read as follows:
7 27-65-129. Oaths.

8 (a) The members of the State Highway Commission and the Director of
9 State Highways and Transportation, before entering upon the discharge of
10 their duties, shall take oaths that they will faithfully and honestly execute
11 the duties of their offices during their continuance therein.

12 (b) All employees of the commission shall take the following oath
13 before assuming the duties of their employment:

14 "I do solemnly swear (or affirm) that so long as I am an employee of
15 the State Highway Commission of the State of Arkansas or of the Arkansas
16 ~~State Highway and Transportation~~ Department of of Transportation, I will give my
17 entire and undivided time to the work of the department, and that I will not
18 accept other employment while in the employ of the department, nor will I be
19 interested, either directly or indirectly, in any of the contracts, work, or
20 other activity of the Arkansas ~~State Highway and Transportation~~ Department of of
21 Transportation other than as employee of the department, nor in the purchase
22 or sale of any material, machinery, or equipment bought for or sold by the
23 department while an employee of the department; that I will not be interested
24 otherwise than as an employee of the state in adding any road to the state
25 highway system or in the improving of any road by the Arkansas ~~State Highway~~
26 ~~and Transportation~~ Department of of Transportation, nor in the appointment of
27 any person to any position in connection therewith; and that I will
28 diligently and impartially execute the duties of my employment, and I will
29 never use any information or influence that I may have, by reason of my
30 employment, to gain any pecuniary reward for myself, directly or indirectly,
31 nor will I disclose information so that it may be used by others, so help me
32 God."

33 (c) All suits involving the validity of subsection (b) of this section
34 or any portion thereof shall be deemed matters of public interest and shall
35 be advanced and disposed of at the earliest possible moment, and appeals in
36 these suits must be taken and perfected within thirty (30) days from the date

1 of the judgment or decree.

2

3 SECTION 367. Arkansas Code § 27-65-130 is amended to read as follows:

4 27-65-130. Bonds – Commissioner and director.

5 (a) Each commissioner of the State Highway Commission shall give bond,
6 as required by law.

7 (b) Upon appointment, the Arkansas ~~State Highway and Transportation~~
8 Department of Transportation shall execute a bond to the State of Arkansas in
9 the sum of twenty-five thousand dollars (\$25,000) for faithful performance of
10 his or her duties.

11 (c) The premium on these bonds shall be paid out of the State Treasury
12 from the annual appropriation for the commission.

13

14 SECTION 368. Arkansas Code § 27-65-134(a), concerning the venue for
15 suits against state highway officers, is amended to read as follows:

16 (a) Suits against any state officer involving any act done or proposed
17 to be done in the administration of the Arkansas ~~State Highway and~~
18 ~~Transportation~~ Department of Transportation or of any law pertaining to the
19 state highway system shall be brought only at the seat of government, in
20 Pulaski County.

21

22 SECTION 369. Arkansas Code § 27-65-135(a), concerning the fiscal year,
23 is amended to read as follows:

24 (a) The fiscal year of the Arkansas ~~State Highway and Transportation~~
25 Department of Transportation shall be from July 1 to June 30 of each year.

26

27 SECTION 370. Arkansas Code § 27-65-136(a), concerning the prohibition
28 on increasing number of employees before election, is amended to read as
29 follows:

30 (a) Within ninety (90) days preceding any primary election, the
31 Arkansas ~~State Highway~~ Department of Transportation shall not increase the
32 number of its employees beyond the average number ~~which were employed by it~~
33 ~~and under its supervision~~ of employees the department employed and supervised
34 during the twelve (12) months prior to the primary election, except in case
35 of floods.

36

1 SECTION 371. Arkansas Code § 27-65-137(b), concerning special expense
2 allowances, is amended to read as follows:

3 (b) The commission shall provide for an expense allowance of up to two
4 thousand dollars (\$2,000) per annum for each chief, captain, first
5 lieutenant, second lieutenant, sergeant, corporal, patrolman first class,
6 patrolman, and motor carrier safety inspector of the Arkansas Highway Police
7 Division of the Arkansas ~~State Highway and Transportation~~ Department of of
8 Transportation.

9
10 SECTION 372. Arkansas Code § 27-65-138(a), concerning the acquisition
11 of property by the Arkansas State Highway and Transportation Department, is
12 amended to read as follows:

13 (a) Notwithstanding the provisions of any laws to the contrary, the
14 Arkansas ~~State Highway and Transportation~~ Department of Transportation,
15 acting on behalf of the State Highway Commission, is hereby authorized, on
16 acquiring whole taxable parcels of property upon which real estate taxes or
17 assessments are due and payable or which shall become due and payable for any
18 time period prior to the acquisition, to collect from the owner or owners of
19 such property such taxes or assessments and to remit such taxes or
20 assessments to the appropriate taxing or assessing authorities.

21
22 SECTION 373. Arkansas Code § 27-65-139(a)(1), concerning uniform
23 allowance for the Arkansas Highway Police Division of the Arkansas State
24 Highway and Transportation Department, is amended to read as follows:

25 (a)(1) The State Highway Commission is hereby authorized to pay from
26 funds appropriated for maintenance and operation a uniform allowance not to
27 exceed one thousand eight hundred dollars (\$1,800) per annum for all
28 uniformed personnel (~~Arkansas Highway Police Patrol Officer through Chief,~~
29 ~~Police Division~~) of the Arkansas Highway Police Division of the Arkansas
30 ~~State Highway and Transportation~~ Department of Transportation.

31
32 SECTION 374. Arkansas Code § 27-65-140 is amended to read as follows:
33 27-65-140. Tool allowance.

34 (a) The State Highway Commission is hereby authorized to pay from
35 funds appropriated for maintenance and operation a tool allowance of four
36 hundred eighty dollars (\$480) per annum for each mechanic, electrical,

1 plumbing, and mechanical repairer, welder, or body repairer and painter
2 employed by the Arkansas ~~State Highway and Transportation~~ Department of of
3 Transportation who works on highway equipment and facilities.

4 (b) The aforementioned allowance shall be equated to forty dollars
5 (\$40.00) per month for each month of employment for the eligible personnel of
6 the department.

7
8 SECTION 375. Arkansas Code § 27-65-141 is amended to read as follows:

9 27-65-141. Payment of claims for damages to personal property.

10 The Arkansas ~~State Highway and Transportation~~ Department of of
11 Transportation is hereby authorized to pay amounts not to exceed twenty-five
12 thousand dollars (\$25,000) per claim for damages to personal property of
13 others resulting from the operation of any motor vehicle or other motorized
14 equipment of the department upon determination by the Arkansas State Claims
15 Commission that the claim is valid after hearing the facts thereof and after
16 prior review by the Legislative Claims ~~Committee~~ Subcommittee and the
17 Legislative Council.

18
19 SECTION 376. Arkansas Code § 27-65-142 is amended to read as follows:

20 27-65-142. Moving expense.

21 The State Highway Commission is hereby authorized to pay from funds
22 appropriated from maintenance and operation the actual expense of moving the
23 household and personal property of those employees of the Arkansas ~~State~~
24 ~~Highway and Transportation~~ Department of of Transportation who because of their
25 job assignments are required to move their places of residence by the
26 commission by the Director of State Highways and Transportation, subject to
27 the approval by the director for each move so required.

28
29 SECTION 377. Arkansas Code § 27-65-143 is amended to read as follows:

30 27-65-143. Award of pistol, shotgun, or both upon retirement or death.

31 When a highway police patrol officer of the Arkansas Highway Police
32 Division of the Arkansas ~~State Highway and Transportation~~ Department of of
33 Transportation retires from service or dies while still employed with the
34 Arkansas ~~State Highway and Transportation~~ Department of of Transportation, in
35 recognition of and appreciation for the service of the retiring or deceased
36 officer, the State Highway Commission may award the pistol or the shotgun, or

1 both, carried or used by the officer while on duty at the time of his or her
2 death or retirement from service to:

- 3 (1) The officer upon retirement; or
4 (2) The officer's spouse if the officer is deceased and the
5 spouse is eligible under applicable state and federal laws to possess a
6 firearm.

7
8 SECTION 378. Arkansas Code § 27-65-144(a), concerning additional
9 annual reporting by the Arkansas State Highway and Transportation Department,
10 is amended to read as follows:

11 (a) The Arkansas ~~State Highway and Transportation~~ Department of of
12 Transportation shall analyze all reported wrong-way crashes on interstate
13 highways and other freeways that are a part of the state highway system to
14 determine whether the installation of additional traffic control devices is
15 warranted and feasible in order to reduce the possibility of future wrong-way
16 crashes.

17
18 SECTION 379. Arkansas Code § 27-66-102 is amended to read as follows:
19 27-66-102. Maintenance of roads under supervision of federal agency.

20 If and when it becomes necessary, the Arkansas ~~State Highway and~~
21 ~~Transportation~~ Department of of Transportation will be permitted to expend
22 highway maintenance funds for the maintenance and repair of highways not in
23 the state highway system and ~~which that~~ are constructed with public funds
24 expended under the supervision of the Federal Highway Administration.

25
26 SECTION 380. Arkansas Code § 27-66-501(c)(2), concerning the
27 classification of roads by weight of vehicles used thereon, is amended to
28 read as follows:

29 (2) A person or an owner operating a motor vehicle, an object,
30 or a contrivance under an overweight permit issued by the Arkansas ~~State~~
31 ~~Highway and Transportation~~ Department of of Transportation is exempt from
32 penalty under subdivision (c)(1) of this section.

33
34 SECTION 381. Arkansas Code § 27-66-501(e), concerning the
35 classification of roads by weight of vehicles used thereon, is amended to
36 read as follows:

1 (e) Even if authorized by an overweight permit issued by the Arkansas
2 ~~State Highway and Transportation~~ Department of Transportation, a person or an
3 owner operating, driving, or moving a vehicle, an object, or a contrivance
4 upon a public bridge shall be liable for all damage that the public bridge
5 may sustain as a result of:

6 (1) Careless, negligent, or illegal operation, driving, or
7 moving of a vehicle, an object, or a contrivance; or

8 (2) Operation, driving, or moving of a vehicle, object, or
9 contrivance of excessive width or weighing in excess of the maximum weight
10 limits in this chapter.

11
12 SECTION 382. Arkansas Code § 27-66-601(c), concerning state inmates
13 working on roads, is amended to read as follows:

14 (c)(1) The commission shall determine the work to be done by
15 inmates, the time, place, and manner of the work, and the number of inmates
16 to work.

17 (2) The work shall be under the direct supervision of the
18 Arkansas ~~State Highway and Transportation~~ Department of Transportation.

19 (3) The Arkansas ~~State Highway and Transportation~~ Department of
20 Transportation shall determine the number of inmates needed and shall
21 prescribe the rules and regulations under which they shall work.

22
23 SECTION 383. Arkansas Code § 27-67-202 is amended to read as follows:
24 27-67-202. Truck route designations.

25 (a) The State Highway Commission is authorized to designate and
26 establish truck routes through cities and towns, which routes shall be
27 properly marked by the commission.

28 (b) Any truck route so established shall become a part of the state
29 highway system, and the Arkansas ~~State Highway and Transportation~~ Department
30 of Transportation shall construct, repair, and maintain the truck route.

31
32 SECTION 384. Arkansas Code § 27-67-203(b)(1), concerning scenic
33 highway designations, is amended to read as follows:

34 (b)(1) It shall be the responsibility of the Arkansas ~~State Highway~~
35 ~~and Transportation~~ Department of Transportation to place appropriate highway
36 identifying signs on those highways herein that are state highways.

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SECTION 385. Arkansas Code § 27-67-204(d), concerning the designation of roads in and connected to state parks, is amended to read as follows:

(d)(1) The Arkansas ~~State Highway and Transportation~~ Department of Transportation is authorized to construct and maintain public parking areas and parking facilities at the respective state parks.

(2) For the purposes of this subsection, parking areas and facilities constructed by the Arkansas ~~State Highway and Transportation~~ Department of Transportation at the respective state parks shall be deemed to be a part of the state highway system.

(3) The Department of Parks and Tourism shall study the needs for public parking areas and parking facilities at the respective state parks and shall notify the Arkansas ~~State Highway and Transportation~~ Department of Transportation thereof.

(4) The Arkansas ~~State Highway and Transportation~~ Department of Transportation may cooperate with the Department of Parks and Tourism in the construction and maintenance of such facilities.

SECTION 386. Arkansas Code § 27-67-210 is amended to read as follows:
27-67-210. Sales and severance tax exemption – Sand and gravel.

When the Arkansas ~~State Highway and Transportation~~ Department of Transportation, by lease or by oral or written agreement with the landowner, enters upon the land and severs sand and gravel for the purpose of using the sand and gravel in the repair, maintenance, or construction of state highways, then the department as the producer and the owner of the land shall not be liable for, nor shall they pay to the State of Arkansas, any sales or gross receipts taxes or severance taxes upon the sand and gravel.

SECTION 387. Arkansas Code § 27-67-213(a), concerning white stripes on road edges, is amended to read as follows:

(a) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall paint and maintain white stripes not less than four inches (4") in width on both edges of all hard-surfaced primary and secondary state roads with a ~~twenty foot (20") or more pavement width~~ a pavement width of twenty feet (20") or more and carrying one thousand (1,000) or more vehicles daily, which roads are constructed in this state.

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SECTION 388. Arkansas Code § 27-67-215(a)(1), concerning the maintenance of detour roads, is amended to read as follows:

(a)(1) When the Arkansas ~~State Highway and Transportation~~ Department of Transportation has been forced to bar traffic from a flooded section of a state highway by putting up signs directing the traffic from the state highway or by stationing state highway employees on the state highway to direct traffic from the state highway over a road surfaced with gravel, crushed stone, or other type of surfacing or pavement, and when it appears that the detour road will continue to be needed, the Arkansas ~~State Highway and Transportation~~ Department of Transportation shall have authority, as it deems right and proper, to do any repair to the surfacing of the road over which traffic is diverted by the department, as may equal, in the judgment of the department, the amount of wear and tear that is caused to the road by the traffic diverted over it.

SECTION 389. Arkansas Code § 27-67-216 is amended to read as follows:
27-67-216. Repair of county roads damaged in construction or maintenance of state highway.

The Arkansas ~~State Highway and Transportation~~ Department of Transportation is authorized to make any necessary repairs to a county road to restore the road to its former condition of repair in those instances where damages to the county road may have been occasioned by the department in connection with the construction or maintenance of a state highway or by any contractor performing work upon any state highway under contract with the department.

SECTION 390. Arkansas Code § 27-67-217 is amended to read as follows:
27-67-217. Direction signs to institutions of higher education.

The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall design, erect, and maintain signs at the closest and all other proper exits and intersections of state and federal highways designating exits to any and all institutions of higher education and postsecondary vocational and technical schools, whether public or private, upon the request of the institution.

1 SECTION 391. Arkansas Code § 27-67-219(c), concerning the John Paul
2 Hammerschmidt Highway, is amended to read as follows:

3 (c) It shall be the responsibility of the Arkansas ~~State Highway and~~
4 ~~Transportation~~ Department of Transportation to place appropriate highway
5 identifying signs on the highway.

6
7 SECTION 392. Arkansas Code § 27-67-220 is amended to read as follows:
8 27-67-220. The Highway of Hope.

9 (a) The route along U.S. 67 and State 7 between Hope and Hot Springs
10 regularly traveled by the Honorable Bill Clinton, 42nd President of the
11 United States, during his childhood, is hereby designated "The Highway of
12 Hope".

13 (b) The Arkansas ~~State Highway and Transportation~~ Department of
14 Transportation shall erect appropriate signs along U.S. 67 and State 7
15 between Hope and Hot Springs designating the route as "The Highway of Hope".

16
17 SECTION 393. Arkansas Code § 27-67-221 is amended to read as follows:
18 27-67-221. Authority of ~~Highway Department~~ Arkansas Department of
19 Transportation to inform amateur radio operators of high frequency radio
20 repeaters.

21 (a) The Arkansas ~~State Highway and Transportation~~ Department of
22 Transportation is authorized to post signs along the public streets and
23 highways of Arkansas to inform persons who are licensed amateur radio
24 operators of the existence of a high frequency radio repeater within a
25 specific local area, provided such signs do not conflict with any rules or
26 regulations of the United States Department of Transportation or the Manual
27 on Uniform Traffic Control Devices.

28 (b)(1) The Arkansas ~~State Highway and Transportation~~ Department of
29 Transportation is authorized to develop and adopt the appropriate signs
30 showing "TWO-METER RADIO REPEATER AREA" or "AMATEUR RADIO FREQUENCY
31 MONITORED" for use in the designated areas along the public streets and
32 highways under its jurisdiction.

33 (2) The signs may include the radio frequency of these local
34 repeaters or the frequency being monitored by local radios.

35 (3)(A) Any local amateur radio operators or any amateur radio
36 club wishing to participate in this program shall be responsible for the

1 costs of preparing and purchasing these signs.

2 (B)(i) The Arkansas ~~State Highway and Transportation~~
3 Department of Transportation is authorized to enter into an agreement with
4 the participants to recover those costs.

5 (ii) The Arkansas ~~State Highway and Transportation~~
6 Department of Transportation is authorized to prepare and furnish the signs
7 to the local participating radio clubs or operators at cost.

8 (iii) The Arkansas ~~State Highway and Transportation~~
9 Department of Transportation is further authorized to erect and maintain the
10 signs at no cost to the local radio clubs or operators.

11 (c)(1) The Arkansas ~~State Highway and Transportation~~ Department of
12 Transportation is authorized to contact all local amateur radio operators and
13 any amateur radio clubs in Arkansas to inform them of this service.

14 (2) Any amateur radio operator or radio club ~~which~~ that wishes
15 to participate in this program shall notify the Arkansas ~~State Highway and~~
16 ~~Transportation~~ Department of Transportation of its interest and shall inform
17 the Arkansas ~~State Highway and Transportation~~ Department of Transportation of
18 the radio frequencies which are monitored in its immediate area and the time
19 periods during which they are monitored.

20 (d)(1) The Arkansas ~~State Highway and Transportation~~ Department of
21 Transportation shall ensure the signs correlate with and, so far as possible,
22 conform to the system of traffic-control devices ~~which~~ that are currently in
23 use by the ~~department~~ Arkansas Department of Transportation.

24 (2) The Arkansas ~~State Highway and Transportation~~ Department of
25 Transportation is authorized to erect the signs and review, at least
26 biennially, all areas with signs within its jurisdiction to ensure the area
27 still qualifies for having the signs posted.

28 (e) The Director of the Arkansas ~~State Highway and Transportation~~
29 ~~Department~~ Highways and Transportation shall have the authority to promulgate
30 any necessary rules and regulations to implement this section and establish
31 any conditions and guidelines for participation by any local amateur radio
32 operators or clubs.

33 ~~(f) For purposes of this section, "HF" means all bands of high~~
34 ~~frequencies.~~

35
36 SECTION 394. Arkansas Code § 27-67-222(c), concerning the state police

1 officer highway dedication program, is amended to read as follows:

2 (c) The Arkansas ~~State Highway and Transportation~~ Department of of
3 Transportation shall designate a one-mile portion of a highway as the Trooper
4 Memorial Highway by placing and maintaining appropriate identifying signs
5 with a blue background and reflective silver lettering on the highway.

6

7 SECTION 395. Arkansas Code § 27-67-223 is amended to read as follows:
8 27-67-223. Rock 'n' Roll Highway 67.

9 (a) The route along Highway 67 through Jackson County, Lawrence
10 County, Randolph County, and White County regularly traveled by the great
11 legends of early rock 'n' roll is hereby designated "Rock 'n' Roll Highway
12 67".

13 (b) The Arkansas ~~State Highway and Transportation~~ Department of of
14 Transportation shall erect appropriate signs along Highway 67 through Jackson
15 County, Lawrence County, Randolph County, and White County designating the
16 route as "Rock 'n' Roll Highway 67".

17

18 SECTION 396. Arkansas Code § 27-67-224 is amended to read as follows:
19 27-67-224. The Arkansas Wine Country Trail.

20 (a)(1) To provide more detailed directions on highways, roads, and
21 streets to agritourism vineyards and wineries in the State of Arkansas, the
22 Arkansas Wine Country Trail is established.

23 (2)(A) The Arkansas Wine Country Trail shall include the
24 highways, roads, and streets that lead to the wineries permitted by the
25 Alcoholic Beverage Control Division of the Department of Finance and
26 Administration that produce wine from Arkansas-grown fruits and vegetables.

27 (B) The Arkansas ~~State Highway and Transportation~~
28 Department of of Transportation shall determine the location of the Arkansas
29 Wine Country Trail in consultation with the Department of Parks and Tourism.

30 (3) A winery is eligible to have signs near its facility if it:

31 (A) Is a winery permitted by the division; and

32 (B) Offers tours.

33 (4) The signs shall be of size and shape and of materials
34 designated by the Arkansas ~~State Highway and Transportation~~ Department of of
35 Transportation in consultation with the Department of Parks and Tourism.

36 (b)(1) The sign for the Arkansas Wine Country Trail shall have on it a

1 cluster of grapes in front of a classic bottle of Bordeaux wine with a
2 statement approved by the Arkansas ~~State Highway and Transportation~~
3 Department of Transportation, a directional arrow, and of one (1) of the
4 following phrases:

- 5 (A) "Winery Tours";
6 (B) "Winery and Vineyard Tours";
7 (C) "Wine Cellar Tours"; or
8 (D) "Wine Cellar and Vineyard Tours".

9 (2) Information for proper placement will be made available by
10 the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

11 (3) This sign, but on a smaller scale, shall be used as the
12 symbol on the state highway map and in all tourism literature published by
13 the Department of Parks and Tourism to indicate the Arkansas Wine Country
14 Trail or individual vineyards, wineries, or cellars that are part of the
15 ~~trail~~ Arkansas Wine Country Trail.

16
17 SECTION 397. Arkansas Code § 27-67-225 is amended to read as follows:

18 27-67-225. The Gold Star Families Highway.

19 (a) The route along Highway 163 North from its intersection with
20 Highway 42 to its intersection with Highway 310 is designated the "Gold Star
21 Families Highway" to honor Arkansas's fallen service members who have served
22 this great country in the United States Armed Forces and their families.

23 (b) The Arkansas ~~State Highway and Transportation~~ Department of
24 Transportation shall erect appropriate signs along Highway 163 North from its
25 intersection with Highway 42 to its intersection with Highway 310 designating
26 the route as "Gold Star Families Highway".

27
28 SECTION 398. The introductory language of Arkansas Code § 27-67-
29 303(a), concerning entry for suitability studies for the acquisition,
30 condemnation, and disposition of property, is amended to read as follows:

31 (a) The Arkansas ~~State Highway and Transportation~~ Department of
32 Transportation and its agents and employees may enter upon real property and
33 make surveys, examinations, photographs, tests, and samplings, or engage in
34 other activities for the purpose of appraising the property or determining
35 whether it is suitable and within the power of the condemnor to take for
36 public use, if the entry is:

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SECTION 399. Arkansas Code § 27-67-311(e), concerning notice of condemnation petition, is amended to read as follows:

(e) Where the immediate possession of lands and property is sought to be obtained, the Arkansas ~~State Highway and Transportation~~ Department of Transportation may file a declaration of taking, as provided by § 27-67-312, at any time before judgment or together with the condemnation petition.

SECTION 400. Arkansas Code § 27-67-316(a), concerning condemnation proceedings and judgment, is amended to read as follows:

(a) It shall be the duty of the circuit court to impanel a jury of twelve (12) persons, as in other civil cases, to ascertain the amount of compensation ~~which the Arkansas State Highway and Transportation~~ Department of Transportation shall pay.

SECTION 401. Arkansas Code § 27-67-318(a), concerning hearing on amount of deposit, is amended to read as follows:

(a) If, after due notice, any party in interest should feel aggrieved at the amount of the estimated compensation as deposited by the Arkansas ~~State Highway and Transportation~~ Department of Transportation in the registry of the circuit court, the party shall be entitled to a hearing, at which time evidence may be heard and received concerning the adequacy of the deposit.

SECTION 402. Arkansas Code § 27-67-321(d), concerning the sale of surplus highway property, is amended to read as follows:

(d) When the sale is approved by a resolution of the commission, then the chairman or other presiding officer of the commission is authorized to execute to the person, company, or corporation purchasing the real estate or other property, a deed conveying all the right, title, interest, and equity of the commission, the Arkansas ~~State Highway and Transportation~~ Department of Transportation, and the State of Arkansas in and to the lands.

SECTION 403. Arkansas Code § 27-69-102(a), concerning acquisition of land and conveyance to the United States, is amended to read as follows:

(a) The Arkansas ~~State Highway and Transportation~~ Department of Transportation is designated, authorized, and directed as the state agency of

1 this state to acquire by gift, purchase, or condemnation as a public highway
2 and convey to the United States all parkway lands and easements as and when
3 required by surveys and maps hereafter approved by the United States
4 Secretary of the Interior.

5
6 SECTION 404. The introductory language of Arkansas Code § 27-69-104,
7 concerning the powers of state agencies, is amended to read as follows:

8 The Arkansas ~~State Highway and Transportation~~ Department of of
9 Transportation or other departments of the state are authorized to:

10
11 SECTION 405. Arkansas Code § 27-69-107(b), concerning the use of
12 existing or projected highways, is amended to read as follows:

13 (b) In the event it is determined that the connecting links of
14 highways should provide for other than passenger car traffic, a cooperative
15 agreement with respect to use and the reconstruction, maintenance, and
16 control thereof may be entered into by the United States Secretary of the
17 Interior with the Arkansas ~~State Highway and Transportation~~ Department of of
18 Transportation or local public authorities concerned.

19
20 SECTION 406. Arkansas Code § 27-69-204 is amended to read as follows:

21 27-69-204. National affiliation – Advisory capacity.

22 (a) The Mississippi River Parkway Commission of Arkansas created
23 herein shall be an affiliate of the National Mississippi River Parkway
24 ~~Planning~~ Commission and shall cooperate with and assist the national
25 commission in promoting interest in, and the development and use of, the
26 Great River Road as designated by the ~~Federal Bureau of Roads~~ Federal Highway
27 Administration. It shall also serve in an advisory capacity to the Arkansas
28 ~~State Highway and Transportation~~ Department of of Transportation in regard to
29 the exercise of the powers and duties granted the department by § 27-69-101
30 et seq.

31 (b) The Chair of the Mississippi River Parkway Commission of Arkansas
32 shall be the Arkansas representative on the national commission.

33
34 SECTION 407. Arkansas Code § 27-69-205 is amended to read as follows:

35 27-69-205. Advisors and assistants.

36 The Director of State Highways and Transportation shall designate one

1 (1) employee of the Arkansas ~~State Highway and Transportation~~ Department of of
2 Transportation who is an engineer or who has engineering experience, and the
3 Director of the Department of Parks and Tourism shall appoint one (1) member
4 of his or her staff, who shall advise and assist the Mississippi River
5 Parkway Commission of Arkansas in carrying out its functions and duties under
6 this subchapter.

7
8 SECTION 408. Arkansas Code § 27-70-101 is amended to read as follows:

9 27-70-101. Certification of vouchers, etc.

10 (a) The designated disbursing officers for the Arkansas ~~State Highway~~
11 ~~and Transportation~~ Department of Transportation are hereby authorized to
12 complete and sign one (1) certification for each state voucher or other
13 designated document that authorizes the Auditor of State, or other official,
14 to draw a state warrant or check on a fund administered by the Arkansas ~~State~~
15 ~~Highway and Transportation~~ Department of Transportation.

16 (b) The voucher or other authorizing document can consist of one (1)
17 or more pages and in the event that more than one (1) page is used, then the
18 designated disbursing officer is to manually sign the last page only, and any
19 certification is to be so worded that it will apply to all pages of the
20 document.

21
22 SECTION 409. Arkansas Code § 27-70-102 is amended to read as follows:

23 27-70-102. Certification of amounts due – Distribution.

24 (a) The Arkansas ~~State Highway and Transportation~~ Department of
25 Transportation, through its director, is authorized to certify to the
26 Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the
27 State any amount that is due the department from a city or county of this
28 state.

29 (b) Upon certification, the Treasurer of State, Auditor of State, and
30 the Chief Fiscal Officer of the State shall record and transfer the amount so
31 certified from the funds next to be distributed to the designated city or
32 county, under the provisions of the Arkansas Highway Revenue Distribution
33 Law, to the fund designated by the department. The amount may be a lump sum
34 or in installments, as instructed by the department.

35
36 SECTION 410. Arkansas Code § 27-70-204 is amended to read as follows:

1 27-70-204. Interest on ~~state highway department~~ funds of the Arkansas
2 Department of Transportation.

3 (a) On the first day of business of the month, the Treasurer of State
4 shall compute the average daily balance of the State Highway and
5 Transportation Department Fund, including all internal accounts and funds,
6 including, but not limited to, the State Highway Special Construction
7 Account, the State Aid Road Fund, the State Aid Street Fund, the State
8 Highway and Transportation Department Fund, and any other funds administered
9 by the Arkansas ~~State Highway and Transportation~~ Department of Transportation
10 during the preceding month and shall transfer on that day to the State
11 Highway and Transportation Department Fund interest on the average daily
12 balance to be computed at a rate equivalent to the average rate of interest
13 earned on all State Treasury funds invested, excluding the interest rate paid
14 on open account deposits, during the preceding month.

15 (b) All interest earned on the accounts described in subsection (a) of
16 this section shall be classified as special revenues, and the net amount
17 shall be distributed as provided by this subchapter.

18
19 SECTION 411. Arkansas Code § 27-70-207(b)(1)(C), concerning the
20 distribution of highway revenue to county and city funds, is amended to read
21 as follows:

22 (C) A county may use these funds to pay for local projects
23 eligible for funding under state programs of the Arkansas ~~State Highway and~~
24 ~~Transportation~~ Department of Transportation and the State Highway Commission
25 and under federal programs of the Federal Highway Administration and the
26 Federal Transit Administration ~~of the United States Department of~~
27 ~~Transportation~~.

28
29 SECTION 412. Arkansas Code § 27-70-207(d)(2)(A), concerning the
30 distribution of highway revenue to county and city funds, is amended to read
31 as follows:

32 (2)(A) However, the Arkansas ~~State Highway and Transportation~~
33 Department of Transportation may use highway revenues transferred to the
34 State Highway and Transportation Department Fund for the installation,
35 upgrading, or improvement of any highway-railroad crossing safety device,
36 railroad crossing traffic control device, warning lights, crossing gates, or

1 other railroad crossing safety devices at public highway railroad crossings
2 and for the construction, reconstruction, and maintenance of any highway-
3 railroad crossing, including the construction or installation of any
4 underpasses or overpasses.
5

6 SECTION 413. Arkansas Code § 27-70-208 is amended to read as follows:

7 27-70-208. Disposition of gross receipts taxes on gasohol.

8 The gross receipts taxes levied and collected on gasohol, ~~which was~~
9 ~~exempted from the motor fuel tax by Acts 1979, No. 433, § 1E (repealed), and~~
10 ~~from the special motor fuel tax by Acts 1965 (1st Ex. Sess.), No. 40, Ch. 2,~~
11 ~~§ 2 (repealed),~~ shall be used by the Arkansas ~~State Highway and~~
12 ~~Transportation~~ Department of Transportation to defray, in whole or in part,
13 the cost of constructing, widening, reconstructing, maintaining, resurfacing,
14 or repairing the public highways, and retiring highway indebtedness of this
15 state. These taxes shall be remitted to the department in accordance with
16 this subchapter.
17

18 SECTION 414. Arkansas Code § 27-72-101 is amended to read as follows:

19 27-72-101. Plans and engineering services for county federal-aid
20 secondary road projects.

21 (a) The Arkansas ~~State Highway and Transportation~~ Department of
22 Transportation is authorized and directed to furnish, without cost to
23 counties, all plans and engineering services necessary in connection with all
24 county negotiated contracts for federal-aid secondary road projects in all
25 counties of this state.

26 (b) The cost of plans and engineering services shall be included in
27 the cost of projects but shall not be chargeable to the county.
28

29 SECTION 415. Arkansas Code § 27-72-303 is amended to read as follows:

30 27-72-303. Division of State Aid Road Construction.

31 There is created within the Arkansas State Highway and Transportation
32 Department a division to be called the Division of State Aid Road
33 Construction.
34

35 SECTION 416. Arkansas Code § 27-72-304(a), concerning the state aid
36 engineer of the Division of State Aid Road Construction, is amended to read

1 as follows:

2 (a) The Division of State Aid Road Construction of the Arkansas ~~State~~
3 ~~Highway and Transportation~~ Department of Transportation shall be headed by a
4 state aid engineer to be appointed by and to serve at the pleasure of the
5 State Highway Commission.

6

7 SECTION 417. Arkansas Code § 27-72-311(2)(C), concerning the
8 conditions for use of state aid, is amended to read as follows:

9 (C) A county may contract with the Arkansas ~~State Highway~~
10 ~~and Transportation~~ Department of Transportation for engineering services
11 instead of employing a county engineer.

12

13 SECTION 418. Arkansas Code § 27-72-313(d), concerning the use of
14 federal-aid secondary road funds, is amended to read as follows:

15 (d) Federal-aid secondary road funds that are not committed for use on
16 county secondary federal-aid road projects during any current two-year period
17 shall revert to, and may be used by, the Arkansas ~~State Highway and~~
18 ~~Transportation~~ Department of Transportation on state secondary highways.

19

20 SECTION 419. Arkansas Code § 27-72-403 is amended to read as follows:

21 27-72-403. State Aid Division.

22 There is created in the Arkansas ~~State Highway and Transportation~~
23 Department of Transportation a division to be known as the "State Aid
24 Division".

25

26 SECTION 420. Arkansas Code § 27-72-405(a), concerning the state aid
27 engineer of the State Aid Division, is amended to read as follows:

28 (a) The State Aid Division of the Arkansas ~~State Highway and~~
29 ~~Transportation~~ Department of Transportation shall be headed by a state aid
30 engineer to be appointed by and serve at the pleasure of the State Highway
31 Commission.

32

33 SECTION 421. Arkansas Code § 27-72-412 is amended to read as follows:

34 27-72-412. Expenses paid prior to allocation.

35 The pro rata salaries of the state aid engineer, his or her assistants,
36 and all other employees of the State Aid Division of the Arkansas ~~State~~

1 ~~Highway and Transportation~~ Department of Transportation, as well as all other
2 expenses incurred by the Arkansas ~~State Highway and Transportation~~ Department
3 of Transportation, shall be paid from the State Aid Street Fund in the State
4 Treasury prior to allocation to the several municipalities.

5
6 SECTION 422. Arkansas Code § 27-72-415(2)(B)(ii) is amended to read as
7 follows:

8 (ii) A municipality may contract with the Arkansas
9 ~~State Highway and Transportation~~ Department of Transportation for engineering
10 services in lieu of employing or retaining a municipal engineer.

11
12 SECTION 423. Arkansas Code § 27-74-212(b), concerning the time limit
13 for action on an application for permit, is amended to read as follows:

14 (b) When an application is filed with the commission or the Arkansas
15 ~~State Highway and Transportation~~ Department of Transportation ~~pursuant to~~
16 under § 27-74-211 or regulations adopted pursuant thereto for a permit to
17 erect or maintain outdoor advertising, the commission or the department shall
18 either grant or deny such permit within sixty (60) days from the date on
19 which the application was filed with the commission or the department.

20
21 SECTION 424. Arkansas Code § 27-76-102 is amended to read as follows:

22 27-76-102. Legislative findings.

23 The General Assembly finds that:

24 (1) Many transportation projects cannot be completed because the
25 transportation construction and maintenance needs of the State of Arkansas
26 far exceed the budget for highway construction and maintenance;

27 (2) Counties and municipalities have limited budgets for
28 transportation construction and maintenance. As a result, they are often
29 unable to be financial partners with the Arkansas ~~State Highway and~~
30 ~~Transportation~~ Department of Transportation;

31 (3) Through the creation of regional mobility authorities
32 throughout the state, counties and municipalities are empowered to become
33 better partners for highway construction and maintenance with the department
34 and the State Highway Commission; and

35 (4) The funding of regional mobility authorities is intended to
36 supplement state and federal transportation funds. Such funding is not

1 intended to substitute for state and federal transportation aid to counties
2 and municipalities.

3

4 SECTION 425. Arkansas Code § 27-76-401(7), concerning the powers of
5 the board of directors of a regional mobility authority, is amended to read
6 as follows:

7 (7) Enter into any agreement with the State Highway Commission
8 and the Arkansas ~~State Highway and Transportation~~ Department of of
9 Transportation;

10

11 SECTION 426. Arkansas Code § 27-76-404(b), concerning actions
12 affecting existing roads, is amended to read as follows:

13 (b) A regional mobility authority shall obtain consent from the
14 Arkansas ~~State Highway and Transportation~~ Department of of Transportation and
15 the State Highway Commission before constructing a grade separation under
16 this section that affects a segment of the state highway system.

17

18 SECTION 427. Arkansas Code § 27-76-410(c), concerning the consistency
19 of planning by a regional mobility authority, is amended to read as follows:

20 (c) Nothing in this section shall interfere with the responsibility
21 and authority of the Arkansas ~~State Highway and Transportation~~ Department of of
22 Transportation and the State Highway Commission to perform transportation
23 systems planning.

24

25 SECTION 428. Arkansas Code § 27-76-611(b)(3), concerning a revolving
26 fund maintained by a regional mobility authority, is amended to read as
27 follows:

28 (3) Funds received from the Arkansas ~~State Highway and Transportation~~
29 Department of of Transportation and the State Highway Commission; and

30

31 SECTION 429. Arkansas Code § 27-76-706 is amended to read as follows:

32 27-76-706. Arkansas ~~State Highway and Transportation~~ Department of of
33 Transportation contributions to toll road projects.

34

35 (a)(1) A regional mobility authority and the Arkansas ~~State Highway~~
36 ~~and Transportation~~ Department of of Transportation and the State Highway

Commission may agree to allow the department to contribute to the payment of

1 costs of any of the following in regards to a toll road:

2 (A) A financial study;

3 (B) An engineering study;

4 (C) A traffic feasibility study; or

5 (D) The design, financing, acquisition, construction,
6 operation, or maintenance of a toll road.

7 (2) The agreement shall not be inconsistent with the rights of
8 the bondholders or persons operating the toll road under a lease or other
9 contract.

10 (b) The department may use its engineering or other personnel,
11 including consulting engineers or traffic engineers, to conduct feasibility
12 studies under subsection (a) of this section.

13 (c)(1) An obligation or expense incurred by a regional mobility
14 authority or the department under this section is a part of the cost of the
15 toll road for which the obligation or expense was incurred.

16 (2) A regional mobility authority may require money contributed
17 under this section to be repaid from tolls or other revenue of the toll road
18 on which the money was spent.

19 (3) Money repaid as required by a regional mobility authority or
20 the department shall be deposited to the credit of the fund from which the
21 contribution was made.

22 (d) A regional mobility authority or the department may use federal
23 money for any purpose described by this chapter.

24 (e) A toll road developed by a regional mobility authority shall not
25 be part of the state highway system unless the regional mobility authority
26 and the commission so agree.

27 (f)(1) The commission may grant or loan department money to a regional
28 mobility authority for the acquisition of land for the construction,
29 maintenance, or operation of a toll road.

30 (2) The commission may require the authority to repay money
31 provided under this section from toll revenue or other sources on terms
32 established by the commission.

33 (g) Money repaid as required by the commission shall be deposited to
34 the credit of the fund from which the money was provided.

35
36 SECTION 430. Arkansas Code § 27-85-101 is amended to read as follows:

1 27-85-101. Conservation of bridges.

2 It is directed that the administrators of the various public highway,
3 road, and street systems shall make every effort to conserve the safe
4 function of the bridges under their jurisdiction pursuant to the findings and
5 recommendations of the bridge safety inspections by the bridge inspection
6 teams of the Arkansas ~~State Highway and Transportation~~ Department of of
7 Transportation in accord with the national bridge inspection standards
8 published in the Federal Register.

9
10 SECTION 431. Arkansas Code § 27-86-103(b)(4), concerning lights on
11 toll bridges, is amended to read as follows:

12 (4) The other end of the toll bridge where the toll house is
13 located shall not have in excess of three (3) bulbs, one (1) in each driveway
14 or on either side of the toll house, including one (1) inside the toll house
15 or left to the discretion of the ~~chief engineer~~ Chief Engineer of the Arkansas
16 ~~State Highway and Transportation~~ Department of of Transportation.

17
18 SECTION 432. Arkansas Code § 27-89-305 is amended to read as follows:

19 27-89-305. Use of state funds – Appropriation necessary for
20 construction funds.

21 The State Highway Commission is authorized to use moneys appropriated
22 for the operation of the Arkansas ~~State Highway and Transportation~~ Department
23 of Transportation for payment of the State of Arkansas's pro rata share of
24 the administrative costs of the compact authority, but shall have no
25 authority to authorize, or contract for, the use of moneys in the State
26 Highway and Transportation Department Fund for the construction of the
27 Arkansas-Mississippi Great River Bridge, except upon specific authorization
28 and appropriation thereof by the General Assembly.

29
30 SECTION 433. Arkansas Code § 27-90-204(c)(2), concerning the use of
31 revenues derived from a turnpike project, is amended to read as follows:

32 (2) Any other revenue shall be transferred to the Treasurer of
33 State, who shall transfer such revenue to the Arkansas ~~State Highway and~~
34 ~~Transportation~~ Department of of Transportation, there to be used for the
35 maintenance, operation, and improvement required by the department in
36 carrying out its functions, powers, and duties.

1
2 SECTION 434. Arkansas Code § 27-115-109(b), concerning the
3 construction of landing fields by prisoners, is amended to read as follows:

4 (b) The Arkansas Department of Aeronautics shall have the authority to
5 use for the construction and development of these fields and for the grading
6 and construction of highways leading thereto, any equipment of the Arkansas
7 ~~State Highway and Transportation~~ Department of Transportation which is not at
8 *that time required for other construction purposes.*

9
10 SECTION 435. TEMPORARY LANGUAGE. DO NOT CODIFY.

11 (a) All authority, powers, duties, and functions as established by law
12 for the Arkansas State Highway and Transportation Department, including all
13 purchasing, budgeting, fiscal, accounting, human resources, payroll, legal,
14 information systems, maintenance, program support, administrative support,
15 and other management functions shall be exercised by the Arkansas Department
16 of Transportation, except as specified in this act.

17 (b) All records, personnel, property, unexpended balances of
18 appropriations, allocations, or other funds belonging to the Arkansas State
19 Highway and Transportation Department now belong to the Arkansas Department
20 of Transportation.

21 (c) All powers, duties, and functions, including without limitation
22 rulemaking, regulation, and licensing; promulgation of rules, rates,
23 regulations, and standards; and the rendering of findings, orders, and
24 adjudications as established by law for the Arkansas State Highway and
25 Transportation Department shall be exercised by the Arkansas Department of
26 Transportation, except as specified in this act.

27 (d) An action, plea, prosecution, or proceeding, civil or criminal,
28 pending on the effective date of this act shall not be affected by this act
29 but shall proceed in all respects as if the change in name had not been
30 effected.

31
32 /s/E. Williams

33
34
35 APPROVED: 03/27/2017