

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: S3/9/17 S3/13/17
A Bill

SENATE BILL 589

By: Senator E. Williams
By: Representative Davis

For An Act To Be Entitled

*AN ACT TO CHANGE THE NAME OF THE ARKANSAS STATE
HIGHWAY AND TRANSPORTATION DEPARTMENT; AND FOR OTHER
PURPOSES.*

Subtitle

*TO CHANGE THE NAME OF THE ARKANSAS STATE
HIGHWAY AND TRANSPORTATION DEPARTMENT.*

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

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

(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.

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:

(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



of the permittees and upon the premises of the permittees, from and to one (1) place of business to another place of business of the permittee, provided that the owner of trucks or wagons transporting distilled liquor as aforesaid, excepting trucks and wagons owned and operated by a railroad or 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, or a river transportation company, or by the person permitted by law to manufacture, sell, or transport spirituous liquors, vinous liquors, wines other than Arkansas wines, or beer or malt beverages shall procure a permit to engage in transportation and shall execute a bond satisfactory in amount, form, and as to surety, to be approved by the director, conditioned upon the lawful transportation of spirituous liquors, vinous liquors, wines other than Arkansas wines, or beer or malt beverages.

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

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

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

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

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

follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) An institution of higher education.

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

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

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

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

Transportation may be provided:

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

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

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

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

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

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

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

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

read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This section shall not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19-4-1303. Exemptions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The purpose of acquiring federal matching funds for the purchase of public transportation vehicles;
- (2) Public transit equipment or facilities; and
- (3) The operation of the United States Department of Transportation Federal Transit Administration assistance programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 65. Arkansas Code § 20-76-437 is amended to read as follows:

20-76-437. Reporting – Transitional employment assistance.

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

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

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

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

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

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

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

of Transportation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22-8-204. Applicability.

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

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

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

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

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

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

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

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

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

23-2-201. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23-2-406. Oaths – Testimony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 108. Arkansas Code § 23-3-202 is amended to read as follows:
23-3-202. Requirement for operation under suspended permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23-4-714. Complaints – Investigation.

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

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

23-4-715. Complaints – Hearings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 153. Arkansas Code § 23-11-101 is amended to read as follows:
23-11-101. Enforcement of laws or orders on complaint.

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

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

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

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

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

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

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

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

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

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

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

SECTION 162. Arkansas Code § 23-11-219 is amended to read as follows:
23-11-219. Subscription contracts for sale of stock.

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

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

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

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

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

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

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

corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

writ of mandatory injunction the department to take jurisdiction.

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

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

SECTION 188. Arkansas Code § 23-13-211 is amended to read as follows:
23-13-211. Appeals – Entitlement.

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

SECTION 189. Arkansas Code § 23-13-212 is amended to read as follows:
23-13-212. Appeals – Notice.

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

SECTION 190. Arkansas Code § 23-13-213 is amended to read as follows:
23-13-213. Appeals – Stay of operating authority pending appeal.

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

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

transcripts for appeals, is amended to read as follows:

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

SECTION 192. Arkansas Code § 23-13-215 is amended to read as follows:
23-13-215. Appeals – Filing fees.

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

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

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

SECTION 194. Arkansas Code § 23-13-218 is amended to read as follows:
23-13-218. Certificate of public convenience and necessity –
Requirement.

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

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

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

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

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

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

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

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

SECTION 198. Arkansas Code § 23-13-222 is amended to read as follows:

23-13-222. Permits for contract carriers – Requirement.

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

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

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

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

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

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

23-13-226. Dual operation.

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

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

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

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

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

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

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

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

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

SECTION 209. Arkansas Code § 23-13-238 is amended to read as follows:

23-13-238. Common carriers – Rates, fares, rules, regulations, etc. – Complaints.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23-13-302. Authority of department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

or of the refusal to testify therein.

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

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

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

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

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

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

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

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

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

~~(4) —“Department” means the Arkansas State Highway and Transportation Department;~~

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

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

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

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

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

23-14-106. Control, supervision, and regulation by department.

~~Every~~ A person engaging in air commerce is declared to be subject to control, supervision, and regulation by the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

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

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

provisions of this chapter.

SECTION 238. Arkansas Code § 23-14-108 is amended to read as follows:

23-14-108. Pecuniary interest by employees prohibited.

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

SECTION 239. Arkansas Code § 23-14-109 is amended to read as follows:

23-14-109. Certificates required.

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

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

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

SECTION 241. Arkansas Code § 23-14-111 is amended to read as follows:

23-14-111. Temporary certificates.

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

SECTION 242. Arkansas Code § 23-14-112 is amended to read as follows:

23-14-112. Certificates – Security for the protection of the public required.

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

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

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

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

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

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

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

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

Every common carrier by aircraft shall furnish reasonable and adequate

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

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

23-14-119. Extension of service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23-16-510. Penalties.

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

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

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

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

- (1) The nature, circumstances, extent, and gravity of the violation;
- (2) The degree of culpability, history of prior offenses, ability to pay, and effect on the ability to continue to do business of the person found to have committed a violation; and
- (3) Other circumstances as justice may require.

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

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

of Transportation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) The Director of State Highways and Transportation;
- (B) The Treasurer of State;
- (C) The Director of the Department of Finance and

Administration;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

retirement is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 297. Arkansas Code § 26-55-709 is amended to read as follows:
26-55-709. Interstate carrier certificates or permits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~Transportation Department; and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27-2-105. Enforcement.

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

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

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

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

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

27-2-108. Conformity with Arkansas Administrative Procedure Act.

All rules and regulations proposed and adopted by the Arkansas ~~State Highway and Transportation~~ Department of Transportation ~~pursuant to~~ under this chapter and all other actions of the department taken ~~pursuant to~~ under the authority and responsibility prescribed in this chapter shall be in conformity with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 318. Arkansas Code § 27-3-102 is amended to read as follows:

27-3-102. Legislative determination.

Adequate and efficient public transportation is essential to the well-being of many of our state's citizens and the economic growth of both urban and rural areas. It is the purpose and intent of this chapter to have a general public transportation policy which encourages the planning, development, implementation, operation, and evaluation of efficient and coordinated transportation systems, both public and private. While the leadership and coordination in the development of public transportation policy and programs is vested in the Arkansas ~~State Highway and Transportation~~ Department of Transportation by statutory authority, a number of departments, agencies, and other legally constituted bodies are involved in the implementation and operation of public transportation services, and the policy and programs should be developed with their advice and recommendations.

SECTION 319. Arkansas Code § 27-3-104(3), concerning definitions used in the Arkansas Public Transportation Coordination Act, is repealed.

~~(3) "Department" means the Arkansas State Highway and Transportation Department;~~

SECTION 320. Arkansas Code § 27-3-105(a), concerning the rights and responsibilities of the Arkansas Public Transportation Coordination Council, is amended to read as follows:

27-3-105. Purpose – Rights and responsibilities.

(a) The Arkansas Public Transportation Coordination Council, by and through the Arkansas ~~State Highway and Transportation~~ Department of Transportation, is to accomplish the coordination of transportation services provided to the general public, particularly the transportation-disadvantaged.

SECTION 321. Arkansas Code § 27-3-106(a), concerning administrative support provided by the Arkansas State Highway and Transportation Department, is amended to read as follows:

(a) Administrative support shall be provided by the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 322. Arkansas Code § 27-14-601(a)(3)(H)(viii), concerning fees for registration and licensing of motor vehicles, is amended to read as follows:

(viii) The director shall promulgate such rules and regulations as may be necessary to carry out the intent of this classification and prevent abuse thereof. However, before any such rules or regulations shall be effective, they shall be approved by majority action of the members of the State Highway Commission acting for and in behalf of the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation, which is the agency charged with the principal responsibility of enforcing the motor vehicle license laws of this state.

SECTION 323. Arkansas Code § 27-14-601(e)(2)(B), concerning penalties

for failure to pay fees for registration and licensing of motor vehicles, is amended to read as follows:

(B) An officer of the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation, the fine collected shall be remitted by the tenth day of each month to the Administration of Justice Funds Section of the Office of Administrative Services of the Department of Finance and Administration on a form provided by the Administration of Justice Funds Section of the Office of Administrative Services of the Department of Finance and Administration for deposit into the State Highway and Transportation Department Fund, to be used for the purchase and maintenance of highway police vehicles;

SECTION 324. Arkansas Code § 27-14-611(a)(2)(B), concerning registration for nonprofit motor vehicle fleets, is amended to read as follows:

(B) Is eligible to participate in the federal transit grant programs administered through the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 325. Arkansas Code § 27-14-1403(a), concerning community or farm-to-market buses, is amended to read as follows:

(a) As used in this section, "community or farm-to-market bus" means any bus operating under and by authority of the Arkansas ~~State Highway and Transportation~~ Department of Transportation, which is privileged to operate as a common carrier for hire within the State of Arkansas and which has a home office that is domiciled within this state, and where the privilege does not extend beyond the territory of fifty (50) miles for any operation, shall be termed a "community or farm-to-market bus".

SECTION 326. Arkansas Code § 27-23-120 is amended to read as follows:
27-23-120. Rulemaking authority.

The Office of Driver Services and the Department of Arkansas State Police shall have the authority to adopt rules and regulations after consulting with, and with the concurrence of, the State Highway Commission and the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation, necessary to carry out the

provisions of this subchapter.

SECTION 327. Arkansas Code § 27-23-122 is amended to read as follows:
27-23-122. Enforcement.

The enforcement personnel of the State Highway Commission, the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation, and any certified law enforcement officer shall have the authority to enforce the provisions of this subchapter.

SECTION 328. Arkansas Code § 27-24-402 is amended to read as follows:
27-24-402. Metal plates required on state highway vehicles.

(a) The State Highway Commission shall not be required to purchase a license plate from the Department of Finance and Administration for a motor vehicle, truck, or trailer owned or leased by the Arkansas ~~State Highway and Transportation~~ Department of Transportation or as otherwise determined by minute order of the commission.

(b)(1) The commission shall procure and place upon each vehicle owned or leased by the Arkansas ~~State Highway and Transportation~~ Department of Transportation a metal plate that contains legible:

(A) Words that state that the vehicle upon which the plate is placed belongs to the Arkansas ~~State Highway and Transportation~~ Department of Transportation; and

(B) Numbers that correlate with a list of all metal plates placed on vehicles that belong to the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

(2) The commission shall keep and maintain a complete list that includes:

(A) The number of all metal plates placed upon vehicles belonging to the Arkansas ~~State Highway and Transportation~~ Department of Transportation; and

(B)(i) A description of the vehicle on which each plate is placed.

(ii) The description shall include the vehicle identification number, the motor number, the model number, or other unique identification of the vehicle.

SECTION 329. Arkansas Code § 27-35-210(a)(2)(D)(iv), concerning definitions that apply to permits for special cargoes, is amended to read as follows:

(iv) Proof of liability insurance for the tow vehicle shall be submitted to the Arkansas ~~State Highway and Transportation~~ Department of Transportation;

SECTION 330. Arkansas Code § 27-35-301(1), concerning definitions that apply to manufactured homes and houses, is repealed.

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

SECTION 331. Arkansas Code § 27-35-303 is amended to read as follows:

27-35-303. Rules and regulations.

The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall promulgate rules and regulations covering the application for, and issuance of, special permits for the safe movement of manufactured home units in accordance with the provisions of this subchapter.

SECTION 332. Arkansas Code § 27-35-304(a)(1), concerning special permit to move fee for manufactured home, is amended to read as follows:

(a)(1) Manufactured home units may be lawfully moved interstate and intrastate on the highways, roads, and streets of this state by procuring a special permit issued by the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 333. Arkansas Code § 27-35-305(a), concerning the issuance of permits, is amended to read as follows:

(a) Special permits shall be issued to any licensed carrier, dealer, or manufacturer who files with the Arkansas ~~State Highway and Transportation~~ Department of Transportation evidence of acceptable insurance coverage.

SECTION 334. Arkansas Code § 27-35-306(a), concerning times and places for moving overwidth or overlength manufactured homes, is amended to read as follows:

(a) Overwidth or overlength manufactured home units shall be moved on

those highways, roads, and streets and at times and under conditions as may be designated by the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 335. Arkansas Code § 27-35-307(a), concerning the payment of fees on a monthly basis, is amended to read as follows:

(a) Persons posting a surety bond with the Arkansas ~~State Highway and Transportation~~ Department of Transportation in the amount of one thousand dollars (\$1,000), payable on default to the State of Arkansas, shall be allowed to pay the fees accruing for permits on a monthly basis.

SECTION 336. Arkansas Code § 27-35-308 is amended to read as follows:
27-35-308. Disposition of fees.

(a) All fees collected under the provisions of this subchapter shall forthwith be deposited into the State Treasury as special revenues.

(b) The net amount shall be credited to the State Highway and Transportation Department Fund, there to be used for the operation and maintenance of the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 337. Arkansas Code § 27-35-309(a), concerning transportation of houses and other structures, is amended to read as follows:

(a) Qualified house or structural movers in this state who have met the financial responsibility requirements of the laws of this state and regulations of the Arkansas ~~State Highway and Transportation~~ Department of Transportation shall be authorized to move upon the public highways of this state houses and other structures up to and including twenty-eight feet six inches (28' 6") in width, exclusive of roof overhang, upon obtaining a permit as required by law.

SECTION 338. Arkansas Code § 27-37-202(b)(3)(A), concerning horns, warning devices, and flashing lights on emergency vehicles, is amended to read as follows:

(3)(A) Every authorized emergency vehicle shall be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet (500") and of a

type approved by the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 339. Arkansas Code § 27-50-201 is amended to read as follows:
27-50-201. Provisions deemed cumulative.

This subchapter shall be cumulative to the laws in force relating to the functions and duties imposed upon the Department of Arkansas State Police under the provisions of Acts 1953, No. 122, and acts amendatory thereto. It shall also be cumulative to laws in effect ~~which~~ that were in effect prior to the enactment of Acts 1953, No. 122, which imposed duties upon the Arkansas ~~State Highway and Transportation~~ Department of Transportation and the Director of the Department of Finance and Administration, which were transferred to the Department of Arkansas State Police under the provisions of Acts 1953, No. 122, as amended.

SECTION 340. Arkansas Code § 27-50-202 is amended to read as follows:
27-50-202. Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation – Creation.

The Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation is created.

SECTION 341. Arkansas Code § 27-50-203 is amended to read as follows:
27-50-203. Appointment of director.

The State Highway Commission shall appoint a Director of the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation who shall serve at the pleasure of the commission.

SECTION 342. Arkansas Code § 27-50-204(a)(1), concerning the rules and regulations governing employees of the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department, is amended to read as follows:

(a)(1) The State Highway Commission shall establish rules and regulations governing employees of the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 343. Arkansas Code § 27-50-205(a), concerning the powers of the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department, is amended to read as follows:

(a) The Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation shall have the power and authority to enforce all laws pertaining to the unlawful operation of motor vehicles over the highways of this state.

SECTION 344. Arkansas Code § 27-50-408(a), concerning fines for moving traffic violations in a highway work zone, is amended to read as follows:

(a) As used in this section, unless the context otherwise requires:

(1) "Construction personnel" means employees of the Arkansas ~~State Highway and Transportation~~ Department of Transportation or the counties or the municipalities of this state or any contractors of the State Highway Commission or the counties or municipalities;

(2) "Conviction" means a formal declaration that a person is guilty of a violation of law determined when a person ~~who is~~ charged with a violation of law ~~and who~~ pleads guilty or nolo contendere, is found guilty, or forfeits a bond in lieu of a plea or trial; and

(3) ~~"Department" means the Arkansas State Highway and Transportation Department; and~~

~~(4)~~ "Highway work zone" means any area upon or adjacent to any highway, road, or street of this state where construction, reconstruction, maintenance, or any other type of work is being performed or is in progress by employees of the Arkansas ~~State Highway and Transportation~~ Department of Transportation, the counties or the municipalities of this state, or any contractors of the State Highway Commission or the counties or municipalities.

SECTION 345. Arkansas Code § 27-50-1212(b), concerning criminal penalties for removal or immobilization of unattended or abandoned vehicles, is amended to read as follows:

(b) The Department of Arkansas State Police, the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation, and county and municipal authorities may enforce § 27-50-1101 et seq. and § 27-50-1201 et seq.

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

(a) of this section unless a special traffic engineering study for a specific school zone produces other recommendations for that school zone.

SECTION 350. Arkansas Code § 27-51-301(c)(1), concerning the exceptions to vehicles to be driven on the right side of the roadway, is amended to read as follows:

(c)(1) The Arkansas ~~State Highway and Transportation~~ Department of Transportation may designate certain multilane highways or portions of multilane highways as prohibiting continuous driving in the left lane except in those instances described in subsection (a) of this section.

SECTION 351. Arkansas Code § 27-51-310(a)(2), concerning the passing of an authorized vehicle stopped on a highway, is amended to read as follows:

- (2) Is one (1) of the following:
- (A) An emergency response vehicle;
 - (B) A law enforcement vehicle;
 - (C) An Arkansas ~~State Highway and Transportation~~ Department of Transportation vehicle;
 - (D) An Arkansas ~~State Highway and Transportation~~ Department of Transportation contractor vehicle;
 - (E) A utility company vehicle; or
 - (F) A vehicle used in a towing operation as defined under § 27-51-904.

SECTION 352. Arkansas Code § 27-51-1303(a)(3)(A), concerning the stopping, standing, or parking outside of a business or residence district, is amended to read as follows:

(A) Employees or vehicles of the Arkansas ~~State Highway and Transportation~~ Department of Transportation engaged in necessary construction, maintenance, or repair of the highways;

SECTION 353. Arkansas Code § 27-51-1602(5), concerning the definition of "highway worker" used in the Fewer Distractions Mean Safer Driving Act, is amended to read as follows:

(5) "Highway worker" means an employee of any of the following who is present in a highway work zone:

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

(B) A county;

(C) A municipality; or

(D) A contractor or subcontractor of the State Highway
Commission or a county or municipality that is performing duties related to
the highway work zone;

SECTION 354. Arkansas Code § 27-52-110(d), concerning an automated
enforcement device operated by a county government or a department of state
government operating outside a municipality, is amended to read as follows:

(d) This section shall not prevent the Arkansas Highway Police
Division of the Arkansas ~~State Highway and Transportation~~ Department of
Transportation from using automated enforcement devices to enforce state or
federal motor carrier laws.

SECTION 355. Arkansas Code § 27-52-111(d), concerning an automated
enforcement device operated by a municipality or a department of state
government operating within the boundaries of a municipality, is amended to
read as follows:

(d) This section shall not prevent the Arkansas Highway Police
Division of the Arkansas ~~State Highway and Transportation~~ Department of
Transportation from using automated enforcement devices to enforce state or
federal motor carrier laws.

SECTION 356. Arkansas Code § 27-53-207(b), concerning tabulation and
analysis, is amended to read as follows:

(b) After its annual report on the number and circumstances of traffic
accidents, the ~~department~~ Department of Arkansas State Police shall further
report to the Arkansas ~~State Highway and Transportation~~ Department of
Transportation the location of all accidents occurring within the preceding
twelve-month period on the state highway system which resulted in a human
fatality and where two (2) or more accidents involving a personal bodily
injury occurred at the same location.

SECTION 357. Arkansas Code § 27-53-211 is amended to read as follows:

27-53-211. Inspection of accident scenes for safety improvements.

(a)(1) It shall be the duty of the Arkansas ~~State Highway and Transportation~~ Department of Transportation to inspect all accident locations on the state highway system in Arkansas, as reported to the Arkansas ~~State Highway and Transportation~~ Department of Transportation by the Department of Arkansas State Police pursuant to under § 27-53-207(b), where accidents which resulted in a human fatality occurred within the preceding twelve-month period and where two (2) or more accidents involving a personal bodily injury occurred at the same location.

(2) The inspections shall determine, within the judgment of Arkansas ~~State Highway and Transportation~~ Department of Transportation personnel, whether safety improvements, increased visibility, warning signs, traffic control devices, or any other safety improvements are warranted which could reduce or prevent the future occurrence of any similar accidents at the same locations.

(b) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall develop a schedule for and implement those safety improvements deemed warranted by ~~that department~~ the Arkansas Department of Transportation.

SECTION 358. Arkansas Code § 27-53-304(a), concerning traffic accident report forms, is amended to read as follows:

(a) All traffic accident investigation reports shall be made upon forms prescribed, approved, and supplied by the Department of Arkansas State Police, with the concurrence of the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 359. Arkansas Code § 27-64-101(1), concerning air rights over highways, roads, and streets, is amended to read as follows:

(1) The Arkansas ~~State Highway and Transportation~~ Department of Transportation with respect to state highways;

SECTION 360. Arkansas Code § 27-64-103(a)(1), concerning mowing, installing, and maintaining sprinkler system on rights-of-way by adjoining landowner, is amended to read as follows:

(a)(1) The owners of properties which abut the right-of-way of

interstate, federal-aid primary, state, or county roads or highways in this state may enter upon and mow grass, weeds, and other vegetation on the portion of the right-of-way adjoining the property unless the Arkansas ~~State Highway and Transportation~~ Department of Transportation or the county has installed barriers designed to prohibit entry or unless the property owner has received notice from the department or the county restricting or prohibiting mowing grass, weeds, and other vegetation.

SECTION 361. Arkansas Code § 27-65-102 is amended to read as follows:

27-65-102. Administration of department.

The administrative control of the Arkansas ~~State Highway and Transportation~~ Department of Transportation shall be vested in the State Highway Commission.

SECTION 362. Arkansas Code § 27-65-103 is amended to read as follows:

27-65-103. Office locations.

(a) The main office of the State Highway Commission shall be located in the City of Little Rock.

(b) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall have its office in Little Rock, where complete records shall be kept.

SECTION 363. Arkansas Code § 27-65-107(a)(7), concerning the powers of the State Highway Commission, is amended to read as follows:

(7) To investigate highway conditions and official conduct of Arkansas ~~State Highway and Transportation~~ Department of Transportation personnel;

SECTION 364. Arkansas Code § 27-65-122(c)(4), concerning the Director of State Highways and Transportation, is amended to read as follows:

(4) Be the chief executive officer of the Arkansas ~~State Highway and Transportation~~ Department of Transportation and, subject to the approval of the commission, have direct and full control and management of the affairs relating to the state highways; and

SECTION 365. Arkansas Code § 27-65-123(a), concerning the secretary

serving the State Highway Commission, is amended to read as follows:

(a) The Arkansas ~~State Highway and Transportation~~ Department of Transportation, with the advice and consent of the State Highway Commission, shall appoint an assistant who shall serve as secretary to the commission.

SECTION 366. Arkansas Code § 27-65-129 is amended to read as follows:
27-65-129. Oaths.

(a) The members of the State Highway Commission and the Director of State Highways and Transportation, before entering upon the discharge of their duties, shall take oaths that they will faithfully and honestly execute the duties of their offices during their continuance therein.

(b) All employees of the commission shall take the following oath before assuming the duties of their employment:

“I do solemnly swear (or affirm) that so long as I am an employee of the State Highway Commission of the State of Arkansas or of the Arkansas ~~State Highway and Transportation~~ Department of Transportation, I will give my entire and undivided time to the work of the department, and that I will not accept other employment while in the employ of the department, nor will I be interested, either directly or indirectly, in any of the contracts, work, or other activity of the Arkansas ~~State Highway and Transportation~~ Department of Transportation other than as employee of the department, nor in the purchase or sale of any material, machinery, or equipment bought for or sold by the department while an employee of the department; that I will not be interested otherwise than as an employee of the state in adding any road to the state highway system or in the improving of any road by the Arkansas ~~State Highway and Transportation~~ Department of Transportation, nor in the appointment of any person to any position in connection therewith; and that I will diligently and impartially execute the duties of my employment, and I will never use any information or influence that I may have, by reason of my employment, to gain any pecuniary reward for myself, directly or indirectly, nor will I disclose information so that it may be used by others, so help me God.”

(c) All suits involving the validity of subsection (b) of this section or any portion thereof shall be deemed matters of public interest and shall be advanced and disposed of at the earliest possible moment, and appeals in these suits must be taken and perfected within thirty (30) days from the date

of the judgment or decree.

SECTION 367. Arkansas Code § 27-65-130 is amended to read as follows:
27-65-130. Bonds – Commissioner and director.

(a) Each commissioner of the State Highway Commission shall give bond, as required by law.

(b) Upon appointment, the Arkansas ~~State Highway and Transportation~~ Department of Transportation shall execute a bond to the State of Arkansas in the sum of twenty-five thousand dollars (\$25,000) for faithful performance of his or her duties.

(c) The premium on these bonds shall be paid out of the State Treasury from the annual appropriation for the commission.

SECTION 368. Arkansas Code § 27-65-134(a), concerning the venue for suits against state highway officers, is amended to read as follows:

(a) Suits against any state officer involving any act done or proposed to be done in the administration of the Arkansas ~~State Highway and Transportation~~ Department of Transportation or of any law pertaining to the state highway system shall be brought only at the seat of government, in Pulaski County.

SECTION 369. Arkansas Code § 27-65-135(a), concerning the fiscal year, is amended to read as follows:

(a) The fiscal year of the Arkansas ~~State Highway and Transportation~~ Department of Transportation shall be from July 1 to June 30 of each year.

SECTION 370. Arkansas Code § 27-65-136(a), concerning the prohibition on increasing number of employees before election, is amended to read as follows:

(a) Within ninety (90) days preceding any primary election, the Arkansas ~~State Highway~~ Department of Transportation shall not increase the number of its employees beyond the average number ~~which were employed by it and under its supervision~~ of employees the department employed and supervised during the twelve (12) months prior to the primary election, except in case of floods.

SECTION 371. Arkansas Code § 27-65-137(b), concerning special expense allowances, is amended to read as follows:

(b) The commission shall provide for an expense allowance of up to two thousand dollars (\$2,000) per annum for each chief, captain, first lieutenant, second lieutenant, sergeant, corporal, patrolman first class, patrolman, and motor carrier safety inspector of the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 372. Arkansas Code § 27-65-138(a), concerning the acquisition of property by the Arkansas State Highway and Transportation Department, is amended to read as follows:

(a) Notwithstanding the provisions of any laws to the contrary, the Arkansas ~~State Highway and Transportation~~ Department of Transportation, acting on behalf of the State Highway Commission, is hereby authorized, on acquiring whole taxable parcels of property upon which real estate taxes or assessments are due and payable or which shall become due and payable for any time period prior to the acquisition, to collect from the owner or owners of such property such taxes or assessments and to remit such taxes or assessments to the appropriate taxing or assessing authorities.

SECTION 373. Arkansas Code § 27-65-139(a)(1), concerning uniform allowance for the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department, is amended to read as follows:

(a)(1) The State Highway Commission is hereby authorized to pay from funds appropriated for maintenance and operation a uniform allowance not to exceed one thousand eight hundred dollars (\$1,800) per annum for all uniformed personnel (~~Arkansas Highway Police Patrol Officer through Chief, Police Division~~) of the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 374. Arkansas Code § 27-65-140 is amended to read as follows:
27-65-140. Tool allowance.

(a) The State Highway Commission is hereby authorized to pay from funds appropriated for maintenance and operation a tool allowance of four hundred eighty dollars (\$480) per annum for each mechanic, electrical,

plumbing, and mechanical repairer, welder, or body repairer and painter employed by the Arkansas ~~State Highway and Transportation~~ Department of Transportation who works on highway equipment and facilities.

(b) The aforementioned allowance shall be equated to forty dollars (\$40.00) per month for each month of employment for the eligible personnel of the department.

SECTION 375. Arkansas Code § 27-65-141 is amended to read as follows:

27-65-141. Payment of claims for damages to personal property.

The Arkansas ~~State Highway and Transportation~~ Department of Transportation is hereby authorized to pay amounts not to exceed twenty-five thousand dollars (\$25,000) per claim for damages to personal property of others resulting from the operation of any motor vehicle or other motorized equipment of the department upon determination by the Arkansas State Claims Commission that the claim is valid after hearing the facts thereof and after prior review by the Legislative Claims ~~Committee~~ Subcommittee and the Legislative Council.

SECTION 376. Arkansas Code § 27-65-142 is amended to read as follows:

27-65-142. Moving expense.

The State Highway Commission is hereby authorized to pay from funds appropriated from maintenance and operation the actual expense of moving the household and personal property of those employees of the Arkansas ~~State Highway and Transportation~~ Department of Transportation who because of their job assignments are required to move their places of residence by the commission by the Director of State Highways and Transportation, subject to the approval by the director for each move so required.

SECTION 377. Arkansas Code § 27-65-143 is amended to read as follows:

27-65-143. Award of pistol, shotgun, or both upon retirement or death.

When a highway police patrol officer of the Arkansas Highway Police Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation retires from service or dies while still employed with the Arkansas ~~State Highway and Transportation~~ Department of Transportation, in recognition of and appreciation for the service of the retiring or deceased officer, the State Highway Commission may award the pistol or the shotgun, or

both, carried or used by the officer while on duty at the time of his or her death or retirement from service to:

- (1) The officer upon retirement; or
- (2) The officer's spouse if the officer is deceased and the spouse is eligible under applicable state and federal laws to possess a firearm.

SECTION 378. Arkansas Code § 27-65-144(a), concerning additional annual reporting by the Arkansas State Highway and Transportation Department, is amended to read as follows:

(a) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall analyze all reported wrong-way crashes on interstate highways and other freeways that are a part of the state highway system to determine whether the installation of additional traffic control devices is warranted and feasible in order to reduce the possibility of future wrong-way crashes.

SECTION 379. Arkansas Code § 27-66-102 is amended to read as follows:
27-66-102. Maintenance of roads under supervision of federal agency.

If and when it becomes necessary, the Arkansas ~~State Highway and Transportation~~ Department of Transportation will be permitted to expend highway maintenance funds for the maintenance and repair of highways not in the state highway system and ~~which~~ that are constructed with public funds expended under the supervision of the Federal Highway Administration.

SECTION 380. Arkansas Code § 27-66-501(c)(2), concerning the classification of roads by weight of vehicles used thereon, is amended to read as follows:

(2) A person or an owner operating a motor vehicle, an object, or a contrivance under an overweight permit issued by the Arkansas ~~State Highway and Transportation~~ Department of Transportation is exempt from penalty under subdivision (c)(1) of this section.

SECTION 381. Arkansas Code § 27-66-501(e), concerning the classification of roads by weight of vehicles used thereon, is amended to read as follows:

(e) Even if authorized by an overweight permit issued by the Arkansas ~~State Highway and Transportation~~ Department of Transportation, a person or an owner operating, driving, or moving a vehicle, an object, or a contrivance upon a public bridge shall be liable for all damage that the public bridge may sustain as a result of:

(1) Careless, negligent, or illegal operation, driving, or moving of a vehicle, an object, or a contrivance; or

(2) Operation, driving, or moving of a vehicle, object, or contrivance of excessive width or weighing in excess of the maximum weight limits in this chapter.

SECTION 382. Arkansas Code § 27-66-601(c), concerning state inmates working on roads, is amended to read as follows:

(c)(1) The commission shall determine the work to be done by inmates, the time, place, and manner of the work, and the number of inmates to work.

(2) The work shall be under the direct supervision of the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

(3) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall determine the number of inmates needed and shall prescribe the rules and regulations under which they shall work.

SECTION 383. Arkansas Code § 27-67-202 is amended to read as follows:
27-67-202. Truck route designations.

(a) The State Highway Commission is authorized to designate and establish truck routes through cities and towns, which routes shall be properly marked by the commission.

(b) Any truck route so established shall become a part of the state highway system, and the Arkansas ~~State Highway and Transportation~~ Department of Transportation shall construct, repair, and maintain the truck route.

SECTION 384. Arkansas Code § 27-67-203(b)(1), concerning scenic highway designations, is amended to read as follows:

(b)(1) It shall be the responsibility of the Arkansas ~~State Highway and Transportation~~ Department of Transportation to place appropriate highway identifying signs on those highways herein that are state highways.

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.

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.

SECTION 391. Arkansas Code § 27-67-219(c), concerning the John Paul Hammerschmidt Highway, is amended to read as follows:

(c) It shall be the responsibility of the Arkansas ~~State Highway and Transportation~~ Department of Transportation to place appropriate highway identifying signs on the highway.

SECTION 392. Arkansas Code § 27-67-220 is amended to read as follows:
27-67-220. The Highway of Hope.

(a) The route along U.S. 67 and State 7 between Hope and Hot Springs regularly traveled by the Honorable Bill Clinton, 42nd President of the United States, during his childhood, is hereby designated "The Highway of Hope".

(b) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall erect appropriate signs along U.S. 67 and State 7 between Hope and Hot Springs designating the route as "The Highway of Hope".

SECTION 393. Arkansas Code § 27-67-221 is amended to read as follows:
27-67-221. Authority of ~~Highway Department~~ Arkansas Department of Transportation to inform amateur radio operators of high frequency radio repeaters.

(a) The Arkansas ~~State Highway and Transportation~~ Department of Transportation is authorized to post signs along the public streets and highways of Arkansas to inform persons who are licensed amateur radio operators of the existence of a high frequency radio repeater within a specific local area, provided such signs do not conflict with any rules or regulations of the United States Department of Transportation or the Manual on Uniform Traffic Control Devices.

(b)(1) The Arkansas ~~State Highway and Transportation~~ Department of Transportation is authorized to develop and adopt the appropriate signs showing "TWO-METER RADIO REPEATER AREA" or "AMATEUR RADIO FREQUENCY MONITORED" for use in the designated areas along the public streets and highways under its jurisdiction.

(2) The signs may include the radio frequency of these local repeaters or the frequency being monitored by local radios.

(3)(A) Any local amateur radio operators or any amateur radio club wishing to participate in this program shall be responsible for the

costs of preparing and purchasing these signs.

(B)(i) The Arkansas ~~State Highway and Transportation~~ Department of Transportation is authorized to enter into an agreement with the participants to recover those costs.

(ii) The Arkansas ~~State Highway and Transportation~~ Department of Transportation is authorized to prepare and furnish the signs to the local participating radio clubs or operators at cost.

(iii) The Arkansas ~~State Highway and Transportation~~ Department of Transportation is further authorized to erect and maintain the signs at no cost to the local radio clubs or operators.

(c)(1) The Arkansas ~~State Highway and Transportation~~ Department of Transportation is authorized to contact all local amateur radio operators and any amateur radio clubs in Arkansas to inform them of this service.

(2) Any amateur radio operator or radio club ~~which~~ that wishes to participate in this program shall notify the Arkansas ~~State Highway and Transportation~~ Department of Transportation of its interest and shall inform the Arkansas ~~State Highway and Transportation~~ Department of Transportation of the radio frequencies which are monitored in its immediate area and the time periods during which they are monitored.

(d)(1) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall ensure the signs correlate with and, so far as possible, conform to the system of traffic-control devices ~~which~~ that are currently in use by the ~~department~~ Arkansas Department of Transportation.

(2) The Arkansas ~~State Highway and Transportation~~ Department of Transportation is authorized to erect the signs and review, at least biennially, all areas with signs within its jurisdiction to ensure the area still qualifies for having the signs posted.

(e) The Director of the Arkansas ~~State Highway and Transportation~~ ~~Department~~ Highways and Transportation shall have the authority to promulgate any necessary rules and regulations to implement this section and establish any conditions and guidelines for participation by any local amateur radio operators or clubs.

~~(f) For purposes of this section, "HF" means all bands of high frequencies.~~

SECTION 394. Arkansas Code § 27-67-222(c), concerning the state police

officer highway dedication program, is amended to read as follows:

(c) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall designate a one-mile portion of a highway as the Trooper Memorial Highway by placing and maintaining appropriate identifying signs with a blue background and reflective silver lettering on the highway.

SECTION 395. Arkansas Code § 27-67-223 is amended to read as follows:
27-67-223. Rock 'n' Roll Highway 67.

(a) The route along Highway 67 through Jackson County, Lawrence County, Randolph County, and White County regularly traveled by the great legends of early rock 'n' roll is hereby designated "Rock 'n' Roll Highway 67".

(b) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall erect appropriate signs along Highway 67 through Jackson County, Lawrence County, Randolph County, and White County designating the route as "Rock 'n' Roll Highway 67".

SECTION 396. Arkansas Code § 27-67-224 is amended to read as follows:
27-67-224. The Arkansas Wine Country Trail.

(a)(1) To provide more detailed directions on highways, roads, and streets to agritourism vineyards and wineries in the State of Arkansas, the Arkansas Wine Country Trail is established.

(2)(A) The Arkansas Wine Country Trail shall include the highways, roads, and streets that lead to the wineries permitted by the Alcoholic Beverage Control Division of the Department of Finance and Administration that produce wine from Arkansas-grown fruits and vegetables.

(B) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall determine the location of the Arkansas Wine Country Trail in consultation with the Department of Parks and Tourism.

(3) A winery is eligible to have signs near its facility if it:

(A) Is a winery permitted by the division; and

(B) Offers tours.

(4) The signs shall be of size and shape and of materials designated by the Arkansas ~~State Highway and Transportation~~ Department of Transportation in consultation with the Department of Parks and Tourism.

(b)(1) The sign for the Arkansas Wine Country Trail shall have on it a

cluster of grapes in front of a classic bottle of Bordeaux wine with a statement approved by the Arkansas ~~State Highway and Transportation~~ Department of Transportation, a directional arrow, and of one (1) of the following phrases:

- (A) "Winery Tours";
- (B) "Winery and Vineyard Tours";
- (C) "Wine Cellar Tours"; or
- (D) "Wine Cellar and Vineyard Tours".

(2) Information for proper placement will be made available by the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

(3) This sign, but on a smaller scale, shall be used as the symbol on the state highway map and in all tourism literature published by the Department of Parks and Tourism to indicate the Arkansas Wine Country Trail or individual vineyards, wineries, or cellars that are part of the ~~trail~~ Arkansas Wine Country Trail.

SECTION 397. Arkansas Code § 27-67-225 is amended to read as follows:

27-67-225. The Gold Star Families Highway.

(a) The route along Highway 163 North from its intersection with Highway 42 to its intersection with Highway 310 is designated the "Gold Star Families Highway" to honor Arkansas's fallen service members who have served this great country in the United States Armed Forces and their families.

(b) The Arkansas ~~State Highway and Transportation~~ Department of Transportation shall erect appropriate signs along Highway 163 North from its intersection with Highway 42 to its intersection with Highway 310 designating the route as "Gold Star Families Highway".

SECTION 398. The introductory language of Arkansas Code § 27-67-303(a), concerning entry for suitability studies for the acquisition, condemnation, and disposition of property, is amended to read as follows:

(a) The Arkansas ~~State Highway and Transportation~~ Department of Transportation and its agents and employees may enter upon real property and make surveys, examinations, photographs, tests, and samplings, or engage in other activities for the purpose of appraising the property or determining whether it is suitable and within the power of the condemnor to take for public use, if the entry is:

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

this state to acquire by gift, purchase, or condemnation as a public highway and convey to the United States all parkway lands and easements as and when required by surveys and maps hereafter approved by the United States Secretary of the Interior.

SECTION 404. The introductory language of Arkansas Code § 27-69-104, concerning the powers of state agencies, is amended to read as follows:

The Arkansas ~~State Highway and Transportation~~ Department of Transportation or other departments of the state are authorized to:

SECTION 405. Arkansas Code § 27-69-107(b), concerning the use of existing or projected highways, is amended to read as follows:

(b) In the event it is determined that the connecting links of highways should provide for other than passenger car traffic, a cooperative agreement with respect to use and the reconstruction, maintenance, and control thereof may be entered into by the United States Secretary of the Interior with the Arkansas ~~State Highway and Transportation~~ Department of Transportation or local public authorities concerned.

SECTION 406. Arkansas Code § 27-69-204 is amended to read as follows:

27-69-204. National affiliation – Advisory capacity.

(a) The Mississippi River Parkway Commission of Arkansas created herein shall be an affiliate of the National Mississippi River Parkway ~~Planning~~ Commission and shall cooperate with and assist the national commission in promoting interest in, and the development and use of, the Great River Road as designated by the ~~Federal Bureau of Roads~~ Federal Highway Administration. It shall also serve in an advisory capacity to the Arkansas ~~State Highway and Transportation~~ Department of Transportation in regard to the exercise of the powers and duties granted the department by § 27-69-101 et seq.

(b) The Chair of the Mississippi River Parkway Commission of Arkansas shall be the Arkansas representative on the national commission.

SECTION 407. Arkansas Code § 27-69-205 is amended to read as follows:

27-69-205. Advisors and assistants.

The Director of State Highways and Transportation shall designate one

(1) employee of the Arkansas ~~State Highway and Transportation~~ Department of Transportation who is an engineer or who has engineering experience, and the Director of the Department of Parks and Tourism shall appoint one (1) member of his or her staff, who shall advise and assist the Mississippi River Parkway Commission of Arkansas in carrying out its functions and duties under this subchapter.

SECTION 408. Arkansas Code § 27-70-101 is amended to read as follows:

27-70-101. Certification of vouchers, etc.

(a) The designated disbursing officers for the Arkansas ~~State Highway and Transportation~~ Department of Transportation are hereby authorized to complete and sign one (1) certification for each state voucher or other designated document that authorizes the Auditor of State, or other official, to draw a state warrant or check on a fund administered by the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

(b) The voucher or other authorizing document can consist of one (1) or more pages and in the event that more than one (1) page is used, then the designated disbursing officer is to manually sign the last page only, and any certification is to be so worded that it will apply to all pages of the document.

SECTION 409. Arkansas Code § 27-70-102 is amended to read as follows:

27-70-102. Certification of amounts due – Distribution.

(a) The Arkansas ~~State Highway and Transportation~~ Department of Transportation, through its director, is authorized to certify to the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State any amount that is due the department from a city or county of this state.

(b) Upon certification, the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State shall record and transfer the amount so certified from the funds next to be distributed to the designated city or county, under the provisions of the Arkansas Highway Revenue Distribution Law, to the fund designated by the department. The amount may be a lump sum or in installments, as instructed by the department.

SECTION 410. Arkansas Code § 27-70-204 is amended to read as follows:

27-70-204. Interest on ~~state highway department~~ funds of the Arkansas Department of Transportation.

(a) On the first day of business of the month, the Treasurer of State shall compute the average daily balance of the State Highway and Transportation Department Fund, including all internal accounts and funds, including, but not limited to, the State Highway Special Construction Account, the State Aid Road Fund, the State Aid Street Fund, the State Highway and Transportation Department Fund, and any other funds administered by the Arkansas ~~State Highway and Transportation~~ Department of Transportation during the preceding month and shall transfer on that day to the State Highway and Transportation Department Fund interest on the average daily balance to be computed at a rate equivalent to the average rate of interest earned on all State Treasury funds invested, excluding the interest rate paid on open account deposits, during the preceding month.

(b) All interest earned on the accounts described in subsection (a) of this section shall be classified as special revenues, and the net amount shall be distributed as provided by this subchapter.

SECTION 411. Arkansas Code § 27-70-207(b)(1)(C), concerning the distribution of highway revenue to county and city funds, is amended to read as follows:

(C) A county may use these funds to pay for local projects eligible for funding under state programs of the Arkansas ~~State Highway and Transportation~~ Department of Transportation and the State Highway Commission and under federal programs of the Federal Highway Administration and the Federal Transit Administration ~~of the United States Department of Transportation~~.

SECTION 412. Arkansas Code § 27-70-207(d)(2)(A), concerning the distribution of highway revenue to county and city funds, is amended to read as follows:

(2)(A) However, the Arkansas ~~State Highway and Transportation~~ Department of Transportation may use highway revenues transferred to the State Highway and Transportation Department Fund for the installation, upgrading, or improvement of any highway-railroad crossing safety device, railroad crossing traffic control device, warning lights, crossing gates, or

other railroad crossing safety devices at public highway railroad crossings and for the construction, reconstruction, and maintenance of any highway-railroad crossing, including the construction or installation of any underpasses or overpasses.

SECTION 413. Arkansas Code § 27-70-208 is amended to read as follows:

27-70-208. Disposition of gross receipts taxes on gasohol.

The gross receipts taxes levied and collected on gasohol, ~~which was exempted from the motor fuel tax by Acts 1979, No. 433, § 1E (repealed), and from the special motor fuel tax by Acts 1965 (1st Ex. Sess.), No. 40, Ch. 2, § 2 (repealed),~~ shall be used by the Arkansas ~~State Highway and Transportation~~ Department of Transportation to defray, in whole or in part, the cost of constructing, widening, reconstructing, maintaining, resurfacing, or repairing the public highways, and retiring highway indebtedness of this state. These taxes shall be remitted to the department in accordance with this subchapter.

SECTION 414. Arkansas Code § 27-72-101 is amended to read as follows:

27-72-101. Plans and engineering services for county federal-aid secondary road projects.

(a) The Arkansas ~~State Highway and Transportation~~ Department of Transportation is authorized and directed to furnish, without cost to counties, all plans and engineering services necessary in connection with all county negotiated contracts for federal-aid secondary road projects in all counties of this state.

(b) The cost of plans and engineering services shall be included in the cost of projects but shall not be chargeable to the county.

SECTION 415. Arkansas Code § 27-72-303 is amended to read as follows:

27-72-303. Division of State Aid Road Construction.

There is created within the Arkansas State Highway and Transportation Department a division to be called the Division of State Aid Road Construction.

SECTION 416. Arkansas Code § 27-72-304(a), concerning the state aid engineer of the Division of State Aid Road Construction, is amended to read

as follows:

(a) The Division of State Aid Road Construction of the Arkansas ~~State Highway and Transportation~~ Department of Transportation shall be headed by a state aid engineer to be appointed by and to serve at the pleasure of the State Highway Commission.

SECTION 417. Arkansas Code § 27-72-311(2)(C), concerning the conditions for use of state aid, is amended to read as follows:

(C) A county may contract with the Arkansas ~~State Highway and Transportation~~ Department of Transportation for engineering services instead of employing a county engineer.

SECTION 418. Arkansas Code § 27-72-313(d), concerning the use of federal-aid secondary road funds, is amended to read as follows:

(d) Federal-aid secondary road funds that are not committed for use on county secondary federal-aid road projects during any current two-year period shall revert to, and may be used by, the Arkansas ~~State Highway and Transportation~~ Department of Transportation on state secondary highways.

SECTION 419. Arkansas Code § 27-72-403 is amended to read as follows:
27-72-403. State Aid Division.

There is created in the Arkansas ~~State Highway and Transportation~~ Department of Transportation a division to be known as the "State Aid Division".

SECTION 420. Arkansas Code § 27-72-405(a), concerning the state aid engineer of the State Aid Division, is amended to read as follows:

(a) The State Aid Division of the Arkansas ~~State Highway and Transportation~~ Department of Transportation shall be headed by a state aid engineer to be appointed by and serve at the pleasure of the State Highway Commission.

SECTION 421. Arkansas Code § 27-72-412 is amended to read as follows:
27-72-412. Expenses paid prior to allocation.

The pro rata salaries of the state aid engineer, his or her assistants, and all other employees of the State Aid Division of the Arkansas ~~State~~

~~Highway and Transportation~~ Department of Transportation, as well as all other expenses incurred by the Arkansas ~~State Highway and Transportation~~ Department of Transportation, shall be paid from the State Aid Street Fund in the State Treasury prior to allocation to the several municipalities.

SECTION 422. Arkansas Code § 27-72-415(2)(B)(ii) is amended to read as follows:

(ii) A municipality may contract with the Arkansas ~~State Highway and Transportation~~ Department of Transportation for engineering services in lieu of employing or retaining a municipal engineer.

SECTION 423. Arkansas Code § 27-74-212(b), concerning the time limit for action on an application for permit, is amended to read as follows:

(b) When an application is filed with the commission or the Arkansas ~~State Highway and Transportation~~ Department of Transportation ~~pursuant to~~ under § 27-74-211 or regulations adopted pursuant thereto for a permit to erect or maintain outdoor advertising, the commission or the department shall either grant or deny such permit within sixty (60) days from the date on which the application was filed with the commission or the department.

SECTION 424. Arkansas Code § 27-76-102 is amended to read as follows:

27-76-102. Legislative findings.

The General Assembly finds that:

(1) Many transportation projects cannot be completed because the transportation construction and maintenance needs of the State of Arkansas far exceed the budget for highway construction and maintenance;

(2) Counties and municipalities have limited budgets for transportation construction and maintenance. As a result, they are often unable to be financial partners with the Arkansas ~~State Highway and Transportation~~ Department of Transportation;

(3) Through the creation of regional mobility authorities throughout the state, counties and municipalities are empowered to become better partners for highway construction and maintenance with the department and the State Highway Commission; and

(4) The funding of regional mobility authorities is intended to supplement state and federal transportation funds. Such funding is not

intended to substitute for state and federal transportation aid to counties and municipalities.

SECTION 425. Arkansas Code § 27-76-401(7), concerning the powers of the board of directors of a regional mobility authority, is amended to read as follows:

(7) Enter into any agreement with the State Highway Commission and the Arkansas ~~State Highway and Transportation~~ Department of Transportation;

SECTION 426. Arkansas Code § 27-76-404(b), concerning actions affecting existing roads, is amended to read as follows:

(b) A regional mobility authority shall obtain consent from the Arkansas ~~State Highway and Transportation~~ Department of Transportation and the State Highway Commission before constructing a grade separation under this section that affects a segment of the state highway system.

SECTION 427. Arkansas Code § 27-76-410(c), concerning the consistency of planning by a regional mobility authority, is amended to read as follows:

(c) Nothing in this section shall interfere with the responsibility and authority of the Arkansas ~~State Highway and Transportation~~ Department of Transportation and the State Highway Commission to perform transportation systems planning.

SECTION 428. Arkansas Code § 27-76-611(b)(3), concerning a revolving fund maintained by a regional mobility authority, is amended to read as follows:

(3) Funds received from the Arkansas ~~State Highway and Transportation~~ Department of Transportation and the State Highway Commission; and

SECTION 429. Arkansas Code § 27-76-706 is amended to read as follows:
27-76-706. Arkansas ~~State Highway and Transportation~~ Department of Transportation contributions to toll road projects.

(a)(1) A regional mobility authority and the Arkansas ~~State Highway and Transportation~~ Department of Transportation and the State Highway Commission may agree to allow the department to contribute to the payment of

costs of any of the following in regards to a toll road:

- (A) A financial study;
- (B) An engineering study;
- (C) A traffic feasibility study; or
- (D) The design, financing, acquisition, construction,

operation, or maintenance of a toll road.

(2) The agreement shall not be inconsistent with the rights of the bondholders or persons operating the toll road under a lease or other contract.

(b) The department may use its engineering or other personnel, including consulting engineers or traffic engineers, to conduct feasibility studies under subsection (a) of this section.

(c)(1) An obligation or expense incurred by a regional mobility authority or the department under this section is a part of the cost of the toll road for which the obligation or expense was incurred.

(2) A regional mobility authority may require money contributed under this section to be repaid from tolls or other revenue of the toll road on which the money was spent.

(3) Money repaid as required by a regional mobility authority or the department shall be deposited to the credit of the fund from which the contribution was made.

(d) A regional mobility authority or the department may use federal money for any purpose described by this chapter.

(e) A toll road developed by a regional mobility authority shall not be part of the state highway system unless the regional mobility authority and the commission so agree.

(f)(1) The commission may grant or loan department money to a regional mobility authority for the acquisition of land for the construction, maintenance, or operation of a toll road.

(2) The commission may require the authority to repay money provided under this section from toll revenue or other sources on terms established by the commission.

(g) Money repaid as required by the commission shall be deposited to the credit of the fund from which the money was provided.

SECTION 430. Arkansas Code § 27-85-101 is amended to read as follows:

27-85-101. Conservation of bridges.

It is directed that the administrators of the various public highway, road, and street systems shall make every effort to conserve the safe function of the bridges under their jurisdiction pursuant to the findings and recommendations of the bridge safety inspections by the bridge inspection teams of the Arkansas ~~State Highway and Transportation~~ Department of Transportation in accord with the national bridge inspection standards published in the Federal Register.

SECTION 431. Arkansas Code § 27-86-103(b)(4), concerning lights on toll bridges, is amended to read as follows:

(4) The other end of the toll bridge where the toll house is located shall not have in excess of three (3) bulbs, one (1) in each driveway or on either side of the toll house, including one (1) inside the toll house or left to the discretion of the ~~chief engineer~~ Chief Engineer of the Arkansas ~~State Highway and Transportation~~ Department of Transportation.

SECTION 432. Arkansas Code § 27-89-305 is amended to read as follows:

27-89-305. Use of state funds – Appropriation necessary for construction funds.

The State Highway Commission is authorized to use moneys appropriated for the operation of the Arkansas ~~State Highway and Transportation~~ Department of Transportation for payment of the State of Arkansas's pro rata share of the administrative costs of the compact authority, but shall have no authority to authorize, or contract for, the use of moneys in the State Highway and Transportation Department Fund for the construction of the Arkansas-Mississippi Great River Bridge, except upon specific authorization and appropriation thereof by the General Assembly.

SECTION 433. Arkansas Code § 27-90-204(c)(2), concerning the use of revenues derived from a turnpike project, is amended to read as follows:

(2) Any other revenue shall be transferred to the Treasurer of State, who shall transfer such revenue to the Arkansas ~~State Highway and Transportation~~ Department of Transportation, there to be used for the maintenance, operation, and improvement required by the department in carrying out its functions, powers, and duties.

SECTION 434. Arkansas Code § 27-115-109(b), concerning the construction of landing fields by prisoners, is amended to read as follows:

(b) The Arkansas Department of Aeronautics shall have the authority to use for the construction and development of these fields and for the grading and construction of highways leading thereto, any equipment of the Arkansas ~~State Highway and Transportation~~ Department of Transportation which is not at *that time required for other construction purposes.*

SECTION 435. TEMPORARY LANGUAGE. DO NOT CODIFY.

(a) All authority, powers, duties, and functions as established by law for the Arkansas State Highway and Transportation Department, including all purchasing, budgeting, fiscal, accounting, human resources, payroll, legal, information systems, maintenance, program support, administrative support, and other management functions shall be exercised by the Arkansas Department of Transportation, except as specified in this act.

(b) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds belonging to the Arkansas State Highway and Transportation Department now belong to the Arkansas Department of Transportation.

(c) All powers, duties, and functions, including without limitation rulemaking, regulation, and licensing; promulgation of rules, rates, regulations, and standards; and the rendering of findings, orders, and adjudications as established by law for the Arkansas State Highway and Transportation Department shall be exercised by the Arkansas Department of Transportation, except as specified in this act.

(d) An action, plea, prosecution, or proceeding, civil or criminal, pending on the effective date of this act shall not be affected by this act but shall proceed in all respects as if the change in name had not been effected.

/s/E. Williams