

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

A Bill

HOUSE BILL 1305

5 By: Representative Davis
6 By: Senator Hester
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE TRANSFORMATION AND EFFICIENCIES
10 ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS;
11 TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF LABOR
12 AND LICENSING; TO TRANSFER VARIOUS STATE AGENCIES; TO
13 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO CREATE THE TRANSFORMATION AND
17 EFFICIENCIES ACT OF 2019; TO ESTABLISH
18 CABINET-LEVEL DEPARTMENTS; TO ESTABLISH
19 THE CABINET-LEVEL DEPARTMENT OF LABOR AND
20 LICENSING; TO TRANSFER VARIOUS STATE
21 AGENCIES; AND TO DECLARE AN EMERGENCY.
22
23
24

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

27 SECTION 1. Arkansas Code Title 25, Chapter 43, is amended to add an
28 additional subchapter to read as follows:

29 Subchapter 11 – Department of Labor and Licensing

30
31 25-43-401. Department of Labor and Licensing.

32 There is created the Department of Labor and Licensing as a cabinet-
33 level department.
34

35 25-43-402. State entities transferred to the Department of Labor and
36 Licensing.



1 (a) The administrative functions of the following state entities are
2 transferred to the Department of Labor and Licensing pursuant to a cabinet-
3 level department transfer as set out in the Transforming State Government Act
4 of 2019:

5 (1) Arkansas Abstracters' Board, created under § 17-11-401;

6 (2) Arkansas Appraiser Licensing and Certification Board,
7 created under § 17-14-201;

8 (3) Arkansas Fire Protection Licensing Board, created under §
9 20-22-606;

10 (4) Arkansas Home Inspector Registration Board, created under §
11 17-52-304;

12 (5) Arkansas Manufactured Home Commission, created under § 20-
13 25-105;

14 (6) Arkansas Mediation and Conciliation Service, defined under §
15 11-2-203;

16 (7) Arkansas Motor Vehicle Commission, created under § 23-112-
17 201;

18 (8) Arkansas Real Estate Commission, created under § 17-42-201;

19 (9) Arkansas State Board of Architects, Landscape Architects,
20 and Interior Designers, created under § 17-15-201;

21 (10) Arkansas State Board of Public Accountancy, created under §
22 17-12-201;

23 (11) Arkansas Towing and Recovery Board, created under § 27-50-
24 1203;

25 (12) Auctioneer's Licensing Board, created under § 17-17-201;

26 (13) Board of Electrical Examiners of the State of Arkansas,
27 created under § 17-28-201;

28 (14) Contractors Licensing Board, created under § 17-25-201;

29 (15) Division of Labor, created under § 25-43-404;

30 (16) Elevator Inspection and Permits "Elevator Safety Board" is
31 § 20-24-105;

32 (17) HVACR Licensing Board, created under § 17-33-201;

33 (18) Pawnbroker Licensure Commission, created under § 17-56-201;

34 (19) Professional Bail Bond Company and Professional Bail
35 Bondsman Licensing Board, created under § 17-19-106;

36 (20) State Athletic Commission, created under § 17-22-201;

1 (21) State Board of Barber Examiners, created under § 17-20-201;

2 (22) State Board of Collection Agencies, created under § 17-24-
 3 201;

4 (23) State Board of Licensure for Professional Engineers and
 5 Professional Surveyors, created under § 17-30-201;

6 (24) State Board of Registration for Professional Geologists,
 7 created under § 17-32-201; and

8 (25) Workers' Compensation Commission, created under § 11-9-201.

9 (b) Each entity transferred shall retain its specified statutory
 10 duties.

11
 12 25-43-403. Organization.

13 (a)(1) The executive head of the Department of Labor and Licensing
 14 shall be the Secretary of the Department of Labor and Licensing.

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

17 (b) The department shall consist of those divisions which existed as
 18 of July 1, 2019, those state entities transferred to the department pursuant
 19 to § 25-43-402, and any other divisions or state entities which may be
 20 created by law and placed under the department.

21 (c)(1) Members of a statutory board or commission shall continue to be
 22 selected in the manner and serve for the terms provided by the statutes
 23 applicable to that board or commission as such statutes may from time to time
 24 be amended.

25 (d) Nothing in this section shall be so construed as to reduce any
 26 right which an employee of the department or the employee of any board or
 27 commission transferred to the department, may have under any civil service or
 28 merit system.

29 (e) Each division of the department shall be under the direction,
 30 control, and supervision of the secretary. The secretary may delegate his or
 31 her functions, powers, and duties to various divisions or employees of the
 32 department as he or she shall deem desirable and necessary for the effective
 33 and efficient operation of the department.

34
 35 25-43-404. Division of Labor.

36 (a) There is created a Division of Labor within the Department of

1 Labor and Licensing.

2 (b) The Secretary of the Department of Labor and Licensing may
 3 delegate any duties and responsibilities to the Division of Labor.

4 (c) The Division of Labor shall retain the statutory duties delegated
 5 to the division.

6 (D) The Secretary of the Department of Labor and Licensing may employ
 7 a Director of the Division of Labor.

8
 9 25-43-405. Division of Occupational and Professional Licensing Boards
 10 and Commissions.

11 (a) There is created a Division of Occupational and Professional
 12 Licensing Boards and Commissions, within the Department of Labor and
 13 Licensing.

14 (b) The Secretary of the Department of Labor and Licensing may
 15 delegate any duties and responsibilities to the Division of Occupational and
 16 Professional Licensing Boards and Commissions.

17 (c) The Secretary of the Department of Labor and Licensing may employ
 18 a Director of the Division of Occupational and Professional Licensing Boards
 19 and Commissions.

20
 21 SECTION 2. Arkansas Code § 5-64-1301 is amended to read as follows:

22 5-64-1301. Possession of anhydrous ammonia in unlawful container.

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

27
 28 SECTION 3. Arkansas Code § 6-52-204(b)(2), concerning the State
 29 Apprenticeship Coordination Steering Committee, is amended to read as
 30 follows:

31 (2) One (1) person designated by and representing the ~~Department~~
 32 Division of Labor;

33
 34 SECTION 4. Arkansas Code § 8-7-1003(a)(2), concerning the definition
 35 of "director" under the Public Employees' Chemical Right to Know Act, is
 36 amended to read as follows:

1 (2) "Director" means the Director of the ~~Department~~ Division of
2 Labor or his or her designee;

3
4 SECTION 5. Arkansas Code § 8-7-1004(1), concerning the duties of
5 public employers under the Public Employees' Chemical Right to Know Act, is
6 amended to read as follows:

7 (1) Post adequate notice, as provided by the Director of the
8 ~~Department~~ Division of Labor, at locations where notices are normally posted,
9 informing public employees about their rights under this subchapter;

10
11 SECTION 6. Arkansas Code § 8-7-1006(e), concerning material safety
12 data sheets under the Public Employees' Chemical Right to Know Act, is
13 amended to read as follows:

14 (e) A public employer, chemical manufacturer, or distributor shall
15 provide a copy of a material safety data sheet to the Director of the
16 ~~Department~~ Division of Labor upon request.

17
18 SECTION 7. Arkansas Code § 8-7-1007(b), concerning workplace chemical
19 lists under the Public Employees' Chemical Right to Know Act, is amended to
20 read as follows:

21 (b) Each public employer shall file the workplace chemical list with
22 the Director of the ~~Department~~ Division of Labor no later than ninety (90)
23 days after July 1, 1991, and shall update the workplace chemical list as
24 necessary, but in any case by July 1 of each subsequent year.

25
26 SECTION 8. Arkansas Code § 8-7-1008(b)(1), concerning employee
27 information and training under the Public Employees' Chemical Right to Know
28 Act, is amended to read as follows:

29 (b)(1) The information and training program provided pursuant to this
30 section shall be developed in accordance with regulations to be promulgated
31 by the Director of the ~~Department~~ Division of Labor pursuant to § 8-7-1011
32 within six (6) months after July 1, 1991.

33
34 SECTION 9. Arkansas Code § 8-7-1009(a), concerning outreach activities
35 of the Director of the Department of Labor under the Public Employees'
36 Chemical Right to Know Act, is amended to read as follows:

1 (a) The Director of the ~~Department~~ Division of Labor shall develop and
2 give each public employer a suitable form of notice providing public
3 employees with information regarding their rights under this subchapter.
4

5 SECTION 10. Arkansas Code § 8-7-1010(b), concerning the rights of
6 public employees under the Public Employees' Chemical Right to Know Act, is
7 amended to read as follows:

8 (b) No public employer shall discharge or cause to be discharged or
9 otherwise discipline or discriminate against a public employee because the
10 public employee has requested information, filed a complaint, assisted an
11 inspector of the Director of the ~~Department~~ Division of Labor, or instituted
12 or caused to be instituted any complaint or proceeding under or related to
13 this subchapter or has testified or is about to testify in any such
14 proceeding or has exercised any rights afforded by this subchapter on behalf
15 of the public employee or other public employees, nor shall any pay,
16 position, seniority, or other benefits to which the public employee may be
17 entitled be lost because the public employee exercised rights afforded by
18 this subchapter.
19

20 SECTION 11. Arkansas Code § 8-7-1011(a), concerning rule-making under
21 the Public Employees' Chemical Right to Know Act, is amended to read as
22 follows:

23 (a) The Director of the ~~Department~~ Division of Labor may promulgate
24 rules and regulations in accordance with the provisions of §§ 11-2-110, 11-2-
25 112, and 11-2-113 to implement the provisions of this subchapter. This
26 authority shall include, but not be limited to, the authority to implement
27 changes corresponding to future amendments to the Hazard Communication
28 Standard to maintain consistency between this subchapter and the Hazard
29 Communication Standard.
30

31 SECTION 12. Arkansas Code § 8-7-1012(a)(4), concerning rule-making
32 under the Public Employees' Chemical Right to Know Act, is amended to read as
33 follows:

34 (4) The specific chemical identity is made available to health
35 professionals, employees, and their designated representatives under the same
36 conditions as are set out in the Hazard Communication Standard, 29 C.F.R. §

1 1910.1200(i)(2)-(7), provided, the information disclosable to the United
2 States Occupational Safety and Health Administration under the Hazard
3 Communication Standard shall also be disclosable to the Director of the
4 ~~Department~~ Division of Labor.

5
6 SECTION 13. Arkansas Code § 8-7-1013(a), concerning complaints and
7 investigations under the Public Employees' Chemical Right to Know Act, is
8 amended to read as follows:

9 (a) Complaints received orally or in writing from public employees,
10 their designated representatives, or public employers related to alleged
11 violations of this subchapter shall be investigated in a timely manner by the
12 Director of the ~~Department~~ Division of Labor.

13
14 SECTION 14. Arkansas Code § 8-7-1014(a), concerning enforcement under
15 the Public Employees' Chemical Right to Know Act, is amended to read as
16 follows:

17 (a) If the Director of the ~~Department~~ Division of Labor determines
18 that a public employer has violated a provision of this subchapter, the
19 director shall issue an order to the official responsible for performing the
20 duties required by this subchapter directing that official to cease and
21 desist the act or omission constituting the violation. Such an order shall
22 constitute prima facie evidence of a violation in any enforcement action
23 filed pursuant to § 8-7-1015.

24
25 SECTION 15. Arkansas Code § 8-7-1015(a), concerning attorney's fees
26 and a cause of action under the Public Employees' Chemical Right to Know Act,
27 is amended to read as follows:

28 (a) Any citizen denied the rights granted to him or her by this
29 subchapter may commence a civil action against a public employer or
30 responsible official of a public employer in the Pulaski County Circuit Court
31 or the circuit court of the residence of the aggrieved party, if an agency of
32 the state is involved, or any of the circuit courts of the appropriate
33 judicial districts when any other public employer is involved. Issuance of a
34 cease and desist order by the Director of the ~~Department~~ Division of Labor
35 shall not be a prerequisite to the commencement of such an action.

36

1 SECTION 16. Arkansas Code § 11-2-101 is amended to read as follows:
2 11-2-101. Purpose.

3 The purpose of the ~~Department~~ Division of Labor shall be to foster,
4 promote, and develop the welfare of the wage earners of Arkansas, to improve
5 their working conditions, and to advance their opportunities for profitable
6 employment.

7
8 SECTION 17. Arkansas Code § 11-2-104(a), concerning penalties for
9 violations of orders of the Director of the Department of Labor, is amended
10 to read as follows:

11 (a) Any employer or owner who violates or fails or refuses to comply
12 with any provision of this subchapter, any lawful order of the Director of
13 the ~~Department~~ Division of Labor, or any judgment or decree made by any court
14 in connection with the provisions of this subchapter for which no penalty has
15 been otherwise provided shall be guilty of a misdemeanor.

16
17 SECTION 18. Arkansas Code § 11-2-105(a)(1), concerning enforcement
18 actions upon request of the Director of the Department of Labor, is amended
19 to read as follows:

20 (a)(1) It shall be the duty of the Attorney General and the several
21 prosecuting attorneys, upon request of the Director of the ~~Department~~
22 Division of Labor, or any of his or her authorized representatives, to
23 prosecute any violation of the law that is the duty of the director to
24 enforce.

25
26 SECTION 19. Arkansas Code § 11-2-106 is repealed.

27 ~~11-2-106. Creation.~~

28 ~~(a) A Department of Labor is created and established under the~~
29 ~~supervision and direction of a director to be known as the Director of the~~
30 ~~Department of Labor.~~

31 ~~(b) The director may set up within the department such divisions as he~~
32 ~~or she may deem necessary for the exercise of the powers and the performance~~
33 ~~of the duties of the department, except as otherwise provided by law.~~

34
35 SECTION 20. Arkansas Code § 11-2-107(a)-(c), concerning the
36 appointment of the Director of the Department of Labor, is amended to read as

1 follows:

2 (a) The Governor shall appoint the Director of the ~~Department~~ Division
 3 of Labor, subject to confirmation by the Senate.

4 (b)(1) The director shall report to the Secretary of the Department of
 5 Labor and Licensing and serve at the pleasure of the Governor and the
 6 secretary.

7 (2) The director shall be a person who, on account of his or her
 8 previous vocation, employment, or affiliation can be classed as a
 9 representative of employees.

10 (3) ~~Any individual chosen to fill a vacancy shall be appointed~~
 11 ~~only for the unexpired portion of the term of the director whom he or she~~
 12 ~~shall succeed, and shall have the same qualifications as the director.~~

13 (4) All appointments made while the Senate is not in regular
 14 session shall be effective ad interim.

15 (c) The director shall give a bond in the sum of two thousand dollars
 16 (\$2,000) with sureties to be approved by the ~~Governor~~ Secretary of the
 17 Department of Labor and Licensing, conditioned for the faithful discharge of
 18 the duties of his or her office.

19

20 SECTION 21. Arkansas Code § 11-2-108 is amended to read as follows:

21 11-2-108. Director – Powers and duties generally.

22 In addition to such other duties and powers as may be conferred upon
 23 him or her by law, the Director of the ~~Department~~ Division of Labor shall
 24 have the power, jurisdiction, and authority:

25 (1) To enforce all labor laws in the State of Arkansas, the
 26 enforcement of which is not otherwise specifically provided for;

27 (2) To administer and enforce all laws, rules, and regulations
 28 that are the duty of the ~~Department~~ Division of Labor to administer and
 29 enforce;

30 (3) To direct, except as otherwise provided, make, or cause to
 31 be made all necessary inspections to see that all laws and rules made
 32 pursuant thereto that the ~~department~~ division has the duty, power, and
 33 authority to enforce are promptly and effectively carried out; and

34 (4) To make investigations, collect and compile statistical
 35 information, and report upon conditions of labor generally and upon all
 36 matters relating to the enforcement and effect of the provisions of this

1 subchapter and of the rules issued under this subchapter.

2
3 SECTION 22. Arkansas Code § 11-2-109 is amended to read as follows:

4 11-2-109. Director – Intervention in and arbitration of labor
5 disputes.

6 (a) In addition to such other duties and powers as may be conferred
7 upon him or her by law, the Director of the ~~Department~~ Division of Labor
8 shall have the power, jurisdiction, and authority:

9 (1)(A) To intervene or authorize his or her representative to
10 intervene in any labor dispute in a strictly conciliatory or mediatory
11 capacity whenever he or she is extended a written invitation to do so by
12 either party to the controversy.

13 (B) However, the ~~Department~~ Division of Labor may proffer
14 its services to both parties when a work stoppage is threatened and neither
15 party requests intervention;

16 (2) To do all in his or her power to promote the voluntary
17 arbitration of disputes between employers and employees and to avoid the
18 necessity of resorting to lockouts, boycotts, blacklists, discriminations,
19 and legal proceedings in matters of employment.

20 (b)(1) In pursuance of his or her duty, whenever both sides to any
21 controversy agree to voluntary arbitration, the director may appoint
22 temporary boards of arbitration, prescribe rules of procedure for the
23 arbitration boards, conduct investigations and hearings, publish reports and
24 advertisements, and do all things convenient and necessary to accomplish the
25 purposes of this subchapter.

26 (2) Members of the boards of arbitration may receive expense
27 reimbursement in accordance with § 25-16-901 et seq.

28 (c)(1) The ~~director~~ secretary may designate an employee of the
29 ~~department~~ division to act as chief mediator and may detail other employees
30 or persons not in the ~~department~~ division from time to time to act as his or
31 her assistants for the purpose of executing these provisions.

32 (2) Employees of the ~~department~~ division shall serve on
33 temporary boards without extra compensation.

34
35 SECTION 23. Arkansas Code § 11-2-110 is amended to read as follows:

36 11-2-110. Director – Rulemaking authority.

1 (a) In addition to such other powers and duties as may be conferred
 2 upon him or her by law, the Director of the ~~Department~~ Division of Labor
 3 shall have the power to make, modify, and repeal reasonable rules for the
 4 prevention of accidents or industrial or occupational diseases in every
 5 employment or place of employment and to make, modify, and repeal reasonable
 6 rules for the construction, repair, and maintenance of places of employment,
 7 places of public assembly, and public buildings which shall render them safe.

8 (b) The director shall have the power to make, modify, or repeal such
 9 rules, or changes in rules, as he or she may deem necessary to carry out the
 10 provisions of this subchapter.

11 (c) The director may appoint committees composed of employers,
 12 employees, and experts to suggest rules or changes therein.

13 (d) The rules of the director shall have the force and effect of law
 14 and shall be enforced by the director in the same manner as the provisions of
 15 this subchapter.

16
 17 SECTION 24. Arkansas Code § 11-2-111 is amended to read as follows:

18 11-2-111. Office – Employees – Location of hearings.

19 (a) The ~~Director~~ Secretary of the Department of Labor and Licensing is
 20 authorized to appoint a deputy director, a secretary, the heads of divisions,
 21 and such other employees as may be necessary. He or she is authorized to
 22 assign them to their duties and recommend to the General Assembly the
 23 salaries that are to be fixed by appropriation.

24 (b) The ~~Department~~ Division of Labor shall keep an office in ~~the City~~
 25 ~~of Little Rock~~ Pulaski County and shall maintain such other office as shall
 26 meet the convenience of the ~~department~~ division and the public.

27 (c) The members, employees, and agents of the ~~department~~ division
 28 shall be entitled to receive from the state their necessary and actual
 29 expenses while traveling on the business of the ~~department~~ division either
 30 within or without the State of Arkansas.

31 (d) The ~~director~~ secretary and his or her authorized representatives
 32 may hold hearings at any place other than the Capitol when the convenience of
 33 the ~~department~~ division and of the interested parties requires.

34
 35 SECTION 25. Arkansas Code § 11-2-112 is amended to read as follows:

36 11-2-112. Promulgation of rules.

1 (a) Before any rule is adopted, amended, or repealed, there shall be a
2 public hearing thereon, notice of which shall be published at least once and
3 not less than ten (10) days prior to the public hearing in such newspaper as
4 the Director of the ~~Department~~ Division of Labor may prescribe.

5 (b)(1) All rules and all amendments and repeals thereof shall, unless
6 otherwise prescribed by the director, take effect thirty (30) days after the
7 first publication thereof, and certified copies shall be filed in the office
8 of the Secretary of State.

9 (2) Every rule adopted and every amendment or repeal shall be
10 published in such manner as the director may determine, and the director
11 shall deliver a copy to every person making application therefor. The
12 director shall include the text of each rule or amendment in an appendix to
13 the annual report of the ~~department~~ Division of Labor next following the
14 adoption or amendment of the rule.

15
16 SECTION 26. Arkansas Code § 11-2-113(a), concerning variation of rules
17 of the Department of Labor due to difficulties or hardship, is amended to
18 read as follows:

19 (a) If there shall be practical difficulties or unnecessary hardships
20 in carrying out a rule of the Director of the ~~Department~~ Division of Labor,
21 the director may, after public hearing, make a variation from such
22 requirement if the spirit of the rule and law shall be observed.

23
24 SECTION 27. Arkansas Code § 11-2-114(a)(1), concerning judicial review
25 of rules of the Director of the Division of Labor, is amended to read as
26 follows:

27 (a)(1) Any person aggrieved by a rule of the Director of the
28 ~~Department~~ Division of Labor made pursuant to § 11-2-112 may commence an
29 action in the Pulaski County Circuit Court against the ~~Department~~ Division of
30 Labor, as defendant, to set aside the rule on the ground that it is unlawful
31 or unreasonable.

32
33 SECTION 28. Arkansas Code § 11-2-115(a)(1), concerning the inspection
34 of employer records, is amended to read as follows:

35 (a)(1) Every employer or owner shall furnish to the Director of the
36 ~~Department~~ Division of Labor any information that the director is authorized

1 to require and shall make true and specific answers to all questions, whether
2 submitted orally or in writing, authorized to be put to the employer or
3 owner.

4
5 SECTION 29. Arkansas Code § 11-2-115(b), concerning the inspection of
6 employer records, is amended to read as follows:

7 (b) The director and any authorized representative of the ~~Department~~
8 Division of Labor shall, for the purpose of examination, have access to and
9 the right to copy from any book, account, record, payroll, paper, or
10 documents relating to the employment of workers.

11
12 SECTION 30. Arkansas Code § 11-2-116(a), concerning the authority to
13 enter and inspect workplaces, is amended to read as follows:

14 (a) The Director of the ~~Department~~ Division of Labor and his or her
15 authorized representatives shall have the power and authority to enter any
16 place of employment, place of public assembly, or public building for the
17 purpose of collecting facts and statistics relating to the employment of
18 workers and of making inspections for the proper enforcement of all labor
19 laws of the state.

20
21 SECTION 31. Arkansas Code § 11-2-117(c), concerning the duties of an
22 employer to provide a safe place of employment, is amended to read as
23 follows:

24 (c) If the Director of the ~~Department~~ Division of Labor or his or her
25 authorized representative finds that any machine, tool, or equipment, or any
26 part thereof, is in a dangerous condition, is not properly guarded, or is
27 dangerously placed, he or she shall attach to the machine, tool, or equipment
28 a notice warning all persons against its use and setting out in complete
29 detail the conditions that render the machine, tool, or equipment unfit for
30 service. The machine, tool, or equipment shall not be used until it is made
31 safe, the required safeguards or safety appliances or devices as set forth in
32 the certificate attached thereto have been fully corrected, and notice of the
33 correction is sent to the ~~Department~~ Division of Labor by registered mail,
34 accompanied by a certificate from a competent mechanic certifying correction
35 of the defects.

36

1 SECTION 32. Arkansas Code § 11-2-118 is amended to read as follows:
2 11-2-118. Oaths, certifications, subpoenas, etc. – Enforcement by
3 contempt.

4 (a) The Director of the ~~Department~~ Division of Labor and any officer
5 of the ~~Department~~ Division of Labor designated by the director, in the
6 performance of any duty or the execution of any power prescribed by law,
7 shall have the power to administer oaths, certify to official acts, take and
8 cause to be taken depositions of witnesses, issue subpoenas, and compel the
9 attendance of witnesses and the production of papers, books, accounts,
10 payrolls, documents, records, and testimony.

11 (b) In case of failure of any person to comply with any subpoena
12 lawfully issued or on the refusal of any witness to produce evidence or to
13 testify to any matter regarding which he or she may be lawfully interrogated,
14 it shall be the duty of any court of competent jurisdiction or the judge
15 thereof, upon application of the director or any officer or agent of the
16 ~~department~~ division, to compel obedience by attachment proceedings for
17 contempt, as in the case of disobedience of the requirements of a subpoena
18 issued for the court or a refusal to testify therein.

19
20 SECTION 33. Arkansas Code § 11-2-119 is amended to read as follows:

21 11-2-119. False statements made under oath deemed perjury.

22 Any employer or owner who shall knowingly testify falsely, under oath,
23 or shall knowingly make, give, or produce any false statements or false
24 evidence, under oath, to the Director of the ~~Department~~ Division of Labor or
25 his or her authorized representatives shall be deemed guilty of perjury.

26
27 SECTION 34. Arkansas Code § 11-2-120 is amended to read as follows:

28 11-2-120. Annual report.

29 (a) The Director of the ~~Department~~ Division of Labor shall annually,
30 on or before January 1, file with the ~~Governor~~ Secretary of Labor and
31 Licensing a report covering the activities of the ~~Department~~ Division of
32 Labor, accompanied by recommendations with reference to such changes in the
33 law, applying to and affecting industrial and labor conditions, as the
34 director may deem advisable.

35 (b) The report of the director shall be printed and distributed in
36 such manner as the ~~Governor~~ Secretary of the Department of Labor and

1 Licensing shall authorize.

2
 3 SECTION 35. Arkansas Code § 11-2-121 is amended to read as follows:
 4 11-2-121. Agreements with government agencies.

5 (a) The Director of the ~~Department~~ Division of Labor is authorized to
 6 enter into agreements with the United States Government and any and all other
 7 state governments for assistance and cooperation in enforcing and
 8 implementing state and federal laws and projects in fields related to the
 9 ~~Department~~ Divison of Labor.

10 (b)(1) The ~~department~~ division may accept payment or reimbursement for
 11 its services as provided by the acts of Congress or the legislature of any
 12 other state.

13 (2) All payments or funds received by the ~~department~~ division
 14 under this section shall be deposited into the State Treasury, to be expended
 15 as provided by law.

16
 17 SECTION 36. Arkansas Code § 11-2-122(b), concerning the disclosure of
 18 the availability of health benefits to employees, is amended to read as
 19 follows:

20 (b) The notification shall be made at such time and in such manner as
 21 prescribed by regulation promulgated by the Director of the ~~Department~~
 22 Division of Labor.

23
 24 SECTION 37. Arkansas Code § 11-2-123(a), concerning the employment
 25 training and placement programs for ex-offenders, is amended to read as
 26 follows:

27 (a) In order to help facilitate the restoration of an ex-offender's
 28 responsibility and self-sufficiency, the ~~Department~~ Division of Labor shall
 29 work in conjunction with other appropriate state agencies, the private
 30 sector, and labor organizations to promulgate rules for implementing
 31 placement and training programs for ex-offenders.

32
 33 SECTION 38. Arkansas Code § 11-2-203 is amended to read as follows:
 34 11-2-203. ~~Definitions~~ Definition.

35 For the purpose of this subchapter, unless the context otherwise
 36 requires the term+

1 ~~(1) "Director" means the Director of the Department of Labor;~~

2 ~~(2) "Person person" means one (1) or more individuals, joint~~
 3 ventures, partnerships, associations, corporations, states, municipalities,
 4 business trusts, legal representatives, or any organized group of employees;

5 ~~(3) "Service" means the Arkansas Mediation and Conciliation~~
 6 ~~Service of the Department of Labor; and~~

7 ~~(4) "State" means the State of Arkansas.~~

8
 9 SECTION 39. Arkansas Code § 11-2-204(a), concerning the confidential
 10 records and information of the Arkansas Mediation and Conciliation Service,
 11 is amended to read as follows:

12 (a) All files, reports, letters, memoranda, minutes, documents, or
 13 other papers in the official custody of the Arkansas Mediation and
 14 Conciliation Service or any of its employees, or any other information,
 15 whether written or not, obtained in the course of any employee's official
 16 duties, relating to or acquired in its or their official activities under the
 17 labor laws of the state or the rules and regulations lawfully promulgated by
 18 the Director of the ~~Department~~ Division of Labor, are confidential.

19
 20 SECTION 40. Arkansas Code § 11-2-205(b)(2), concerning the compliance
 21 with subpoenas by the Arkansas Mediation and Conciliation Service, is amended
 22 to read as follows:

23 (2) Immediately upon receipt of the subpoena, the mediator or
 24 former mediator or employee should contact the Director of the ~~Department~~
 25 Division of Labor, who shall immediately notify the staff attorneys of the
 26 Department of Labor and Licensing of the state to ensure that the procedures
 27 set forth in this subchapter will be followed. The director then shall
 28 instruct the staff attorneys to appear in behalf of the mediator and protect
 29 the service from any disclosure that violates the provisions contained in
 30 this subchapter.

31
 32 SECTION 41. Arkansas Code § 11-2-206(a)(1), concerning judicial review
 33 of orders of the Arkansas Mediation and Conciliation Service, is amended to
 34 read as follows:

35 (a)(1) The mediator or the Director of the ~~Department~~ Division of
 36 Labor on his or her behalf or the Attorney General on his or her behalf may

1 obtain a review of the order requiring him or her to testify.

2
 3 SECTION 42. Arkansas Code § 11-3-203(a)(3), concerning medical
 4 examination as a condition for employment, is amended to read as follows:

5 (3) Notwithstanding subdivision (a)(1) of this section, if an
 6 employee tests positive for an illegal drug as defined by rule of the
 7 ~~Department~~ Division of Labor, the employer and employee may agree in writing
 8 who will bear the cost of future drug tests or screens required as a
 9 condition of continued employment.

10
 11 SECTION 43. Arkansas Code § 11-3-203(c), concerning medical
 12 examination as a condition for employment, is amended to read as follows:

13 (c) The Director of the ~~Department~~ Division of Labor shall administer
 14 and enforce this section, including without limitation, by:

- 15 (1) Adopting administrative rules; and
- 16 (2) Demanding payment and seeking recovery in a court of
 17 competent jurisdiction for charges, fees, wage deductions, or other payments
 18 made by employees as a result of an employer's violation of this section.

19
 20 SECTION 44. Arkansas Code § 11-4-203(1), concerning the definition of
 21 "director" under the laws governing minimum wages, is repealed.

22 ~~(1) "Director" means the Director of the Department Division of~~
 23 ~~Labor;~~

24
 25 SECTION 45. Arkansas Code § 11-4-203(3)(R)(ii)(b), concerning the
 26 definition of "employee" under the laws governing minimum wages, is amended
 27 to read as follows:

28 (b) The retroactive effect of this subdivision
 29 (3)(R) does not impose liability on the ~~Department~~ Division of Labor or on an
 30 employee to repay damages, back wages, civil money penalties, or other moneys
 31 collected or paid by the ~~department~~ division or received by an employee;

32
 33 SECTION 46. Arkansas Code § 11-4-206(a)(1), concerning the penalties
 34 under the laws governing minimum wages, is amended to read as follows:

35 (a)(1) Any employer who willfully hinders or delays the Director of
 36 the ~~Department~~ Division of Labor or his or her authorized representative in

1 the performance of his or her duties in the enforcement of this subchapter,
2 willfully refuses to admit the director or his or her authorized
3 representative to any place of employment, willfully fails to make, keep, and
4 preserve any records as required under the provisions of this subchapter,
5 willfully falsifies any such record, willfully refuses to make the record
6 accessible to the director or his or her authorized representative upon
7 demand, willfully refuses to furnish a sworn statement of the record or any
8 other information required for the proper enforcement of this subchapter to
9 the director or his or her authorized representative upon demand, willfully
10 fails to post a summary of this subchapter or a copy of any applicable
11 regulations as required by § 11-4-216, pays or agrees to pay minimum wages at
12 a rate less than the rate applicable under this subchapter, or otherwise
13 willfully violates any provision of this subchapter or of any regulation
14 issued under this subchapter shall be deemed in violation of this subchapter
15 and shall be subject to a civil penalty of not less than fifty dollars
16 (\$50.00) and not more than one thousand dollars (\$1,000) for each violation.

17
18 SECTION 47. Arkansas Code § 11-4-206(g), concerning the penalties
19 under the laws governing minimum wages, is amended to read as follows:

20 (g) Sums collected under this section shall be paid into the
21 Department of Labor and Licensing Special Fund.

22
23 SECTION 48. Arkansas Code § 11-4-209(a), concerning the powers and
24 duties of the Director of the Division of Labor, is amended to read as
25 follows:

26 (a) For any occupation, the Director of the ~~Department~~ Division of
27 Labor shall make and revise such administrative regulations, including
28 definitions of terms, as he or she may deem appropriate to carry out the
29 purposes of this subchapter or necessary to prevent the circumvention or
30 evasion thereof and to safeguard the minimum wage rates established.

31
32 SECTION 49. Arkansas Code § 11-4-211(g), the introductory language of
33 subsection (g) concerning overtime, is amended to read as follows:

34 (g) By rule or regulation, the Director of the ~~Department~~ Division of
35 Labor may authorize employment in excess of the standard set by subsection
36 (a) of this section or may authorize the calculation of overtime on a basis

1 other than the regular rate of pay required by subsection (a) of this section
2 for employment:

3
4 SECTION 50. Arkansas Code § 11-4-212(b), concerning the allowance for
5 gratuities, is amended to read as follows:

6 (b) In determining whether an employee received in gratuities the
7 amount claimed, the Director of the ~~Department~~ Division of Labor may require
8 the employee to show to the satisfaction of the director that the actual
9 amount of gratuities received by him or her during any work week was less
10 than the amount determined by the employer as the amount by which the wage
11 paid the employee was deemed to be increased under this section.

12
13 SECTION 51. Arkansas Code § 11-4-213(b), concerning the allowance for
14 furnishing board, lodging, apparel, and other items, is amended to read as
15 follows:

16 (b) In determining whether an employee received board, lodging,
17 apparel, or other items and services having a reasonable value of less than
18 thirty cents (30¢) per hour during any work week, the Director of the
19 ~~Department~~ Division of Labor may require the employee to show to the
20 satisfaction of the director that the reasonable value of items and services
21 received by the employee was less than the amount determined by the employer
22 as the amount by which the wage paid the employee was deemed to be increased
23 under this section.

24
25 SECTION 52. Arkansas Code § 11-4-214(a), concerning handicapped
26 workers, is amended to read as follows:

27 (a) Any person handicapped by lack of skill, age, or physical or
28 mental deficiency or injury in any way that his or her earning capacity is
29 impaired shall be granted a temporary special exemption license or permit
30 authorizing the employment of the person at wages lower than the minimum
31 prescribed in this subchapter until such time as the Director of the
32 ~~Department~~ Division of Labor shall hold a hearing and prescribe regulations
33 regarding exemption of these persons as authorized in this section.

34
35 SECTION 53. Arkansas Code § 11-4-215(a), concerning learners,
36 apprentices, and full-time students, is amended to read as follows:

1 (a) For any occupation, the Director of the ~~Department~~ Division of
2 Labor may provide, by regulation, after a public hearing at which any person
3 may be heard, for the employment in the occupation of learners, apprentices,
4 and full-time students at wages lower than the minimum wage rate provided in
5 § 11-4-210(b) as he or she may find appropriate to prevent curtailment of
6 opportunities for employment and to safeguard the minimum wage rate under
7 this subchapter.

8
9 SECTION 54. Arkansas Code § 11-4-216(a), concerning the posting of
10 laws, is amended to read as follows:

11 (a) Every employer subject to any provisions of this subchapter or of
12 any regulations issued under this subchapter shall keep a summary of this
13 subchapter, approved by the Director of the ~~Department~~ Division of Labor, and
14 copies of any applicable regulations issued under this subchapter, or a
15 summary of the regulations approved by the director, posted in a conspicuous
16 and accessible place in or about the premises wherein any person subject
17 thereto is employed.

18
19 SECTION 55. Arkansas Code § 11-4-217(a), concerning records kept by
20 employers, is amended to read as follows:

21 (a) Every employer subject to any provision of this subchapter or of
22 any regulation issued under this subchapter shall make and keep for a period
23 of not less than three (3) years in or about the premises wherein any
24 employee is employed a record of the name, address, and occupation of each of
25 his or her employees, the rate of pay, the amount paid each pay period to
26 each employee, and such other information as the Director of the ~~Department~~
27 Division of Labor shall prescribe by regulation as necessary or appropriate
28 for the enforcement of the provisions of this subchapter or of the
29 regulations under this subchapter.

30
31 SECTION 56. Arkansas Code § 11-4-218(d)(1), concerning an employee's
32 remedies, is amended to read as follows:

33 (d)(1) The Director of the ~~Department~~ Division of Labor shall have the
34 authority to fully enforce this subchapter by instituting legal action to
35 recover any wages that he or she determines to be due to employees under this
36 subchapter.

1
2 SECTION 57. Arkansas Code § 11-4-219(b), concerning judicial review of
3 an administrative regulation, is amended to read as follows:

4 (b) A copy of the petition shall be served upon the Director of the
5 ~~Department~~ Division of Labor.

6
7 SECTION 58. Arkansas Code § 11-4-220(a), concerning the filing of
8 claims with the Director of the Department of Labor, is amended to read as
9 follows:

10 (a) Any employee covered by this subchapter may file a claim with the
11 Director of the ~~Department~~ Division of Labor charging that an employer has
12 violated § 11-4-210 or § 11-4-211 as to any employee or other person.

13
14 SECTION 59. Arkansas Code § 11-4-303 is amended to read as follows:

15 11-4-303. Director of ~~Department~~ Division of Labor to conduct hearing.

16 (a) Upon application of either employer or employee, the Director of
17 the ~~Department~~ Division of Labor or any person authorized by the director
18 shall have authority to inquire into, hear, and decide disputes arising from
19 wages earned and shall allow or reject any deduction from wages.

20 (b) Upon motion of either employer or employee, the amount found to be
21 due may be paid in the presence of the director or person designated by him
22 or her, and after final hearing by the director or person appointed by him or
23 her, he or she shall file in the office of the ~~Department~~ Division of Labor a
24 copy of findings and facts and his or her award.

25 (c) The amount of the award of the director shall be presumed to be
26 the amount of wages, if any, due and unpaid to the employee.

27
28 SECTION 60. Arkansas Code § 11-4-304 is amended to read as follows:

29 11-4-304. Judicial review.

30 (a) If either employer or employee shall fail or refuse to accept the
31 findings of the Director of the ~~Department~~ Division of Labor, then either
32 shall have the right to proceed at law as provided.

33 (b) If the claim is meritorious, and if within the discretion of the
34 director the claimant's lack of financial ability entitles him or her to the
35 services of the ~~department~~ Division of Labor, the director in the name of the
36 State of Arkansas, for the benefit of the claimant, may institute action in

1 any court of competent jurisdiction, without paying costs or giving bond for
2 costs, and shall be entitled to all remedies available to litigants in the
3 prosecution of actions and their enforcement, if successful.

4 (c) Nothing in this section shall be construed so as to relieve an
5 unsuccessful defendant from paying costs.

6
7 SECTION 61. Arkansas Code § 11-4-306 is amended to read as follows:
8 11-4-306. Fees prohibited.

9 The Director of the ~~Department~~ Division of Labor or any person
10 designated by him or her shall not charge or be permitted to accept any fees
11 or remuneration whatsoever from any person for the performance of any duties
12 under this subchapter.

13
14 SECTION 62. Arkansas Code § 11-4-402(b)(3), concerning payments made
15 in currency and discounts for advance payment, is amended to read as follows:

16 (3) This subsection (b) does not apply to any demand or claim by
17 the ~~Department~~ Division of Labor.

18
19 SECTION 63. Arkansas Code § 11-4-608 is amended to read as follows:
20 11-4-608. Penalties for violation of §§ 11-4-607 – 11-4-612.

21 Any employer who violates any provision of §§ 11-4-607 – 11-4-612, or
22 who discharges or in any other manner discriminates against any employee
23 because the employee has made a complaint to his or her employer, the
24 Director of the ~~Department~~ Division of Labor, or any other person, has
25 instituted or caused to be instituted any proceedings under or related to §§
26 11-4-607 – 11-4-612, or has testified or is about to testify in any such
27 proceeding shall be fined not more than five hundred dollars (\$500) nor
28 imprisoned more than one (1) year, or both.

29
30 SECTION 64. Arkansas Code § 11-4-609 is amended to read as follows:
31 11-4-609. Administration of §§ 11-4-607 – 11-4-612.

32 The Director of the ~~Department~~ Division of Labor shall have the power
33 and it shall be his or her duty to carry out and administer the provisions of
34 §§ 11-4-607 – 11-4-612.

35
36 SECTION 65. Arkansas Code § 11-4-611(b)(4), concerning an action to

1 collect unpaid wages, is amended to read as follows:

2 (4) At the request of any employee paid less than the wage to
3 which he or she is entitled under §§ 11-4-607 – 11-4-612, the Director of the
4 ~~Department~~ Division of Labor may take an assignment of the wage claim in
5 trust for the employee and shall bring any legal action necessary to collect
6 the claim. The director shall not be required to pay any court costs in
7 connection with the action.

8
9 SECTION 66. Arkansas Code § 11-5-101(c), concerning the suitable
10 temperature, humidity, and air space required, is amended to read as follows:

11 (c) In every room, apartment, or building used as a factory, mill,
12 workshop, mercantile establishment, laundry, or other place of employment,
13 sufficient air space shall be provided for every employee which in the
14 judgment of the Director of the ~~Department~~ Division of Labor or of his or her
15 deputies and inspectors is sufficient for the employees health and welfare.

16
17 SECTION 67. Arkansas Code § 11-5-107(a), concerning the inspection of
18 a working place, is amended to read as follows:

19 (a) The Director of the ~~Department~~ Division of Labor or any of his or
20 her deputies or inspectors shall have the right to enter any factory, mill,
21 workshop, mercantile establishment, laundry, or other establishment where
22 three (3) or more persons are employed for the purpose of making inspections
23 and enforcing the provisions of §§ 11-5-101 – 11-5-111.

24
25 SECTION 68. Arkansas Code § 11-5-108 is amended to read as follows:

26 11-5-108. Order to correct conditions – Issuance.

27 (a) The Director of the ~~Department~~ Division of Labor or any of his or
28 her deputies or inspectors may issue a written order to the owner, manager,
29 superintendent, or other person in control or management of the place or
30 establishment for the correction of any condition caused or permitted in or
31 about the place or establishment in violation of any of the requirements of
32 §§ 11-5-101 – 11-5-111, or of any condition, practice, plan, or method used
33 therein or thereabouts in supposed compliance with any requirement of §§ 11-
34 5-101 – 11-5-111 but which are found to be inadequate or insufficient, in any
35 respect, to comply therewith, and shall state in the order how the
36 conditions, practices, plans, or methods, in any case, shall be corrected and

1 the time within which they shall be corrected, a reasonable time being given
2 in the order therefor.

3 (b) One (1) copy of the order shall be delivered to the owner,
4 manager, superintendent, or other person in control or management of the
5 place or establishment, and one (1) copy shall be filed in the office of the
6 ~~Department~~ Division of Labor.

7
8 SECTION 69. Arkansas Code § 11-5-109(b)(1), concerning the
9 conclusiveness of an order to correct conditions, is amended to read as
10 follows:

11 (b)(1) The owner or owners, manager, superintendent, or other person
12 in control or management of any place or establishment covered by this
13 chapter, and directly affected by any finding or order provided for in §§ 11-
14 5-107 and 11-5-108, may, within fifteen (15) days from the date of the
15 delivery to him, her, or them of a copy of the order as provided for in §§
16 11-5-107 and 11-5-108, file a petition setting forth the particular cause of
17 objection to the order and findings in a court of competent jurisdiction
18 against the Director of the ~~Department~~ Division of Labor.

19
20 SECTION 70. Arkansas Code § 11-5-110(a), concerning the penalties for
21 noncompliance with an order to correct conditions, is amended to read as
22 follows:

23 (a) Upon the failure or refusal of the owner, manager, superintendent,
24 or other person in control or management of a place or establishment, to
25 comply with an order issued pursuant to § 11-5-108 within the time therein
26 specified, unless it has been attacked and suspended or set aside as provided
27 for in § 11-5-109, the Director of the ~~Department~~ Division of Labor or his or
28 her deputy or inspectors shall have full authority and power to close the
29 place or establishment, or any part of it that may be in an unsanitary or
30 dangerous condition or contain immoral influences in violation of any
31 requirement of §§ 11-5-101 – 11-5-110 or order, until such time as the
32 condition, practice, or method is corrected.

33
34 SECTION 71. Arkansas Code § 11-5-112(b)(1), concerning the requirement
35 of separate toilet rooms for males and females, is amended to read as
36 follows:

1 (b)(1) The Director of the ~~Department~~ Division of Labor shall enforce
2 the provisions of this section and shall give notice in writing to employers
3 violating it.

4
5 SECTION 72. Arkansas Code § 11-5-307(a)(1), concerning a notification
6 of an overhead electrical line or conductor, is amended to read as follows:

7 (a)(1) When any person, firm, or corporation desires to temporarily
8 carry on any function, activity, work, or operation in closer proximity to
9 any energized overhead electrical line or conductor than permitted by this
10 subchapter, the person or persons responsible for the work to be done shall
11 promptly notify the Director of the ~~Department~~ Division of Labor and the
12 operator or owner of the electrical lines in writing of the work to be
13 performed and make appropriate arrangements with the operator of the
14 electrical lines before proceeding with any work which would impair the
15 clearances required by this subchapter.

16
17 SECTION 73. Arkansas Code § 11-5-308(c)(4), concerning prohibited
18 acts, is amended to read as follows:

19 (4) In addition to the requirements of subdivisions (c)(1)(A)
20 and (B) of this section, there shall be installed an insulated cage-type
21 guard or protective device, approved by the Director of the ~~Department~~
22 Division of Labor, about the boom or arm of all equipment, except backhoes or
23 dippers. Where the equipment includes a lifting hook device also approved by
24 the director, all lifting lines shall be equipped with insulator links on the
25 lift hook connection.

26
27 SECTION 74. Arkansas Code § 11-6-103(b), concerning the disposition of
28 fines and penalties, is amended to read as follows:

29 (b) The Director of the ~~Department~~ Division of Labor shall determine
30 the amount of such penalty and shall consider the appropriateness of such
31 penalty to the size of the business and the gravity of the violation.

32
33 SECTION 75. Arkansas Code § 11-6-103(e), concerning the disposition of
34 fines and penalties, is amended to read as follows:

35 (e) Sums collected under this section shall be paid into the
36 Department of Labor and Licensing Special Fund.

1
2 SECTION 76. Arkansas Code § 11-6-107(b)(1), concerning prohibitions
3 against certain kinds and places of work for children under sixteen (16)
4 years of age, is amended to read as follows:

5 (b)(1) The Director of the ~~Department~~ Division of Labor may, from time
6 to time after a hearing duly had, determine what other occupations are
7 sufficiently dangerous to the life or limb or injurious to the health or
8 morals of children under sixteen (16) years to justify their exclusion
9 therefrom. No child under sixteen (16) years of age shall be employed or
10 permitted to work in any occupation thus determined to be dangerous or
11 injurious.

12
13 SECTION 77. Arkansas Code § 11-6-109(a), concerning children under age
14 sixteen (16) years and the requirement of an employment certificate, is
15 amended to read as follows:

16 (a) No person, firm, or corporation shall employ or permit any child
17 under sixteen (16) years to work in or in connection with any establishment
18 or occupation unless the person, firm, or corporation employing the child
19 procures and keeps on file, accessible to the ~~Department~~ Division of Labor
20 and the Department of Education, or local school officials, an employment
21 certificate as provided in this section.

22
23 SECTION 78. Arkansas Code § 11-6-109(b)(1), concerning children under
24 age sixteen (16) years and the requirement of an employment certificate, is
25 amended to read as follows:

26 (b)(1) The employment certificate shall be issued only by the Director
27 of the ~~Department~~ Division of Labor.

28
29 SECTION 79. Arkansas Code § 11-6-111(a), concerning the prosecution of
30 violators and the right to inspect a workplace, is amended to read as
31 follows:

32 (a) The Director of the ~~Department~~ Division of Labor or his or her
33 designee shall have the right to enter any building or premises for the
34 purpose of inspection to ascertain whether any child is employed or permitted
35 to work in violation of the provisions of this subchapter.

36

1 SECTION 80. Arkansas Code § 11-6-115(a), concerning domestic labor and
2 child care in connection with church functions permitted, is amended to read
3 as follows:

4 (a) As used in this section, "domestic labor" means any occasional,
5 irregular, or incidental work related to and in or around private residences,
6 including, but not limited to babysitting, pet sitting, similar household
7 chores, and manual yard work. This definition specifically excludes
8 industrial homework, work for a third party such as a sitting service, and
9 any activity determined by the Director of the ~~Department~~ Division of Labor
10 to be hazardous pursuant to the provisions of § 11-6-107(b).

11
12 SECTION 81. Arkansas Code § 11-7-204(c), concerning the appointment,
13 term, and qualifications of the State Mine Inspector, is amended to read as
14 follows:

15 (c) The Governor ~~alone~~ and the Secretary of the Department of Labor
16 and Licensing shall have the power to remove a mine inspector for cause.

17
18 SECTION 82. Arkansas Code § 11-7-204(e), concerning the appointment,
19 term, and qualifications of the State Mine Inspector, is amended to add an
20 additional subsection to read as follows:

21 (e) The State Mine Inspector shall report to the Secretary of Labor
22 and Licensing and shall be an employee of the Department of Labor and
23 Licensing.

24
25 SECTION 83. Arkansas Code § 11-7-207(g), concerning the Assistant
26 State Mine Inspector, is amended to add an additional subsection to read as
27 follows:

28 (g) The Assistant State Mine Inspector shall report to the Secretary
29 of the Department of Labor and Licensing and shall be an employee of the
30 Department of Labor and Licensing.

31
32 SECTION 84. Arkansas Code § 11-7-402(a), concerning the power to
33 administer oaths, is amended to read as follows:

34 (a) To more effectively carry out the intentions and purposes of this
35 section and §§ 11-7-409 – 11-7-414, the Director of the ~~Department~~ Division
36 of Labor may administer oaths to all persons who are applicants, or who may

1 vouch, in any manner, for the previous service or qualifications of an
2 applicant to obtain for him or her a certificate under this section and §§
3 11-7-409 – 11-7-414.

4
5 SECTION 85. Arkansas Code § 11-7-403(a)-(c), concerning employee
6 qualification, are amended to read as follows:

7 (a) No fire bosses, hoisting engineers, or mine foremen shall be
8 employed in any mine in the State of Arkansas unless they have been examined
9 by the ~~Department~~ Division of Labor or the ~~department~~ division determines
10 that comparable testing criteria have been met in another jurisdiction.

11 (b) No one shall act as State Mine Inspector or Assistant State Mine
12 Inspector unless he or she has been examined by the ~~department~~ division, as
13 provided in this section.

14 (c) Applicants for examination shall be able to read and write the
15 English language and shall satisfy the ~~department~~ division that they are of
16 good moral character and are not users of intoxicating liquors and are
17 citizens of the United States.

18
19 SECTION 86. Arkansas Code § 11-7-403(f), concerning the payment of
20 fees for examination, is amended to read as follows:

21 (f)(1) Applicants for certificates as mine inspector shall, before
22 examination, pay to the ~~department~~ division a fee of four dollars (\$4.00)
23 and, if successful, a further fee of six dollars (\$6.00) for a certificate.

24 (2) Applicants for certificates as assistant mine inspector
25 shall, before examination, pay to the ~~department~~ division a fee of three
26 dollars (\$3.00) and, if successful, a further fee of four dollars and fifty
27 cents (\$4.50) for a certificate.

28 (3) Applicants for certificates as mine foremen and hoisting
29 engineers shall, before examination, pay to the ~~department~~ division a fee of
30 two dollars (\$2.00) and, if successful, a further fee of three dollars
31 (\$3.00) for a certificate.

32 (4) Other applicants shall, before examination, pay to the
33 ~~department~~ division of examiners a fee of one dollar (\$1.00) and, if
34 successful, a further fee of two dollars (\$2.00) for a certificate.

35
36 SECTION 87. Arkansas Code § 11-7-404(a)(1), concerning the certificate

1 and grades of fire bosses and mine foremen, is amended to read as follows:

2 (a)(1) The Director of the ~~Department~~ Division of Labor shall grant
3 certificates after examination by the ~~Department~~ Division of Labor or a
4 determination by the ~~department~~ division that the testing requirements have
5 been satisfied in another jurisdiction.

6
7 SECTION 88. Arkansas Code § 11-7-405 is amended to read as follows:

8 11-7-405. Fire bosses, mine foremen, etc. – Duplicate certificate.

9 In case of loss or destruction of a certificate, the Director of the
10 ~~Department~~ Division of Labor, upon satisfactory proof of the loss or
11 destruction, may issue a duplicate on the payment of the sum of one dollar
12 (\$1.00).

13
14 SECTION 89. Arkansas Code § 11-7-406(a), concerning the revocation of
15 certificates, is amended to read as follows:

16 (a) All certificates issued pursuant to this subchapter may be revoked
17 by the Director of the ~~Department~~ Division of Labor after a hearing upon due
18 notice to the holder of the certificate and upon written charges preferred by
19 the director or by some interested person for violation of this section and
20 §§ 11-7-403 – 11-7-405 and 11-7-407.

21
22 SECTION 90. Arkansas Code § 11-7-410(a), concerning coal miners'
23 certificates, is amended to read as follows:

24 (a) It shall be unlawful for any person to work as a coal miner in any
25 coal mine in this state without first having a certificate of qualification
26 and competency to do so from the Director of the ~~Department~~ Division of
27 Labor, nor shall any person, firm, or corporation employ as a coal miner in
28 his or her coal mine in the State of Arkansas any person who does not hold a
29 certificate, nor shall any mine foreman, overseer, or superintendent permit
30 or suffer any person to be employed under him or her, or in any coal mine
31 under his or her charge or supervision, as a coal miner in this state, except
32 as provided in this act, who does not hold a certificate of qualification.

33
34 SECTION 91. Arkansas Code § 11-7-411(a), concerning coal miners'
35 examinations, qualifications, and certificates, is amended to read as
36 follows:

1 (a) The Director of the ~~Department~~ Division of Labor shall hold
2 sufficient examinations each year in places to be determined by the director,
3 which, in his or her opinion, will be most convenient to applicants desiring
4 to engage in the business of coal mining.

5
6 SECTION 92. Arkansas Code § 11-7-412(a), concerning coal miners'
7 temporary permits and grandfather clause, is amended to read as follows:

8 (a) A person making application for a coal miner's certificate of
9 competency and qualification shall be granted a temporary permit to work
10 until such time as an examination is held by the Director of the ~~Department~~
11 Division of Labor and if, in the judgment of the director, he or she is so
12 qualified.

13
14 SECTION 93. Arkansas Code § 11-7-414 is amended to read as follows:

15 11-7-414. Coal miners – Duplicate certificate – Revocation of
16 certificate.

17 The Director of the ~~Department~~ Division of Labor shall possess powers
18 to issue duplicate certificates and revoke certificates in all cases as
19 provided in §§ 11-7-405 and 11-7-406.

20
21 SECTION 94. Arkansas Code § 11-9-205(b)(1) and (2), resulting from
22 Initiated Act 4 of 1948, concerning the administration of the Workers'
23 Compensation Law, are amended to read as follows:

24 (b)(1) The commission may appoint as many persons as may be necessary
25 to be administrative law judges and in addition may appoint such examiners,
26 rate experts, investigators, medical examiners, clerks, and other employees
27 as it deems necessary to effectuate the provisions of this chapter, provided
28 that the appointment of all rate experts shall be made by the ~~Insurance~~
29 ~~Commissioner~~ Secretary of the Department of Labor and Licensing, whose duty
30 it is to approve the rates charged.

31 (2) Rate experts shall be considered employees of the commission
32 and the ~~Insurance Commissioner~~ Department of Labor and Licensing and shall be
33 paid from the Workers' Compensation Fund.

34
35 SECTION 95. Arkansas Code § 11-9-207(a)(12), resulting from Initiated
36 Act 4 of 1948 and concerning the powers and duties of the Workers'

1 Compensation Commission, is amended to read as follows:

2 (12) To make available all records in connection with all cases
3 of personal injury to the ~~Director~~ Secretary of the Department of Labor and
4 Licensing. The ~~director~~ secretary may propose rules for the prevention of
5 injuries and transmit the rules to the commission. The commission may
6 recommend proposed rules for prevention of injuries to the ~~director~~
7 secretary;

8
9 SECTION 96. Arkansas Code § 11-9-209, resulting from Initiated Act 4
10 of 1948, is amended to read as follows:

11 11-9-209. Statistical data collection.

12 (a) The Workers' Compensation Commission shall publish annually, on an
13 aggregate basis, information pertaining to the distribution of workers'
14 compensation insurance premiums, losses, expenses, and net income to be
15 compiled from reports required to be filed with the ~~Insurance Commissioner~~
16 Secretary of the Department of Labor and Licensing pursuant to § 23-63-216,
17 as amended, or any similar information required to be filed by the ~~Insurance~~
18 ~~Commissioner~~ secretary regarding workers' compensation insurance.

19 (b) The commission shall also publish in that same annual report
20 information regarding aggregate workers' compensation benefit distribution to
21 claimants, medical providers, and attorneys if that specific information or
22 similar information becomes available from revised or additional reporting
23 requirements that may be required by the ~~Insurance Commissioner~~ secretary.

24
25 SECTION 97. Arkansas Code § 11-9-409, is amended to read as follows:

26 11-9-409. Safety and health loss control consultative services.

27 (a) Workers' Health and Safety Division.

28 (1) The Workers' Compensation Commission shall establish a
29 Workers' Health and Safety Division, hereinafter referred to as the
30 "division".

31 (2) The division shall collect and serve as a repository for
32 statistical information on workers' health and safety. In cooperation with
33 and with the assistance of the Department of Labor and Licensing and the
34 State Insurance Department, the division shall analyze and use the
35 information to identify and assign priorities to safety needs and to better
36 coordinate the safety services provided by public or private organizations,

1 including insurance carriers. In cooperation with and with the assistance of
2 the Department of Labor and Licensing and the State Insurance Department, the
3 division shall promote workers' health and safety through educational
4 programs and other innovative programs developed by the division.

5 (3) In cooperation with and with the assistance of the
6 Department of Labor and Licensing and the State Insurance Department, the
7 division shall coordinate or supervise the collection of information relating
8 to job safety.

9 (4) The Chair of the Workers' Compensation Commission, the
10 ~~Director~~ Secretary of the Department of Labor and Licensing, and the
11 Insurance Commissioner shall function as an advisory committee to resolve
12 questions regarding duplication of efforts, assignment of new programs, and
13 other matters that need cooperation and coordination.

14 (5)(A) In cooperation with and with the assistance of the
15 Department of Labor and Licensing and the State Insurance Department, the
16 division shall publish or procure and issue educational books, pamphlets,
17 brochures, films, videotapes, and other informational and educational
18 material. Specific educational material shall be directed to high-risk
19 industries and jobs and shall specifically address means and methods of
20 avoiding high frequency but preventable workers' injuries. Other educational
21 material shall be directed to business and industry generally and shall
22 specifically address means and methods of avoiding common workers' injuries.

23 (B) Specific decisions as to what issues and problems
24 should be addressed by such information shall be made by the division in
25 cooperation and with the assistance of the Department of Labor and Licensing
26 and the State Insurance Department and with commission approval after
27 assigning appropriate priorities based on frequency of injuries, degree of
28 hazard, severity of injuries, and similar considerations.

29 (C) Such educational materials shall include specific
30 references to the requirements of state and federal laws and regulations, to
31 recommendations and practices of business, industry, and trade associations,
32 and, where needed, to recommended work practices based on recommendations
33 made by the division, in cooperation and with the assistance of the
34 Department of Labor and Licensing and the State Insurance Department, for the
35 prevention of injury.

36 (6) In cooperation with and with the assistance of the

1 Department of Labor and Licensing and the State Insurance Department, the
2 division shall cooperate with employers and employees to develop means and
3 methods of educating employees and employers with regard to workplace safety.

4 (7) In cooperation with and with the assistance of the
5 Department of Labor and Licensing and the State Insurance Department, the
6 division shall encourage other entities to develop safety courses, safety
7 plans, and safety programs.

8 (8) In cooperation with and with the assistance of the
9 Department of Labor and Licensing and the State Insurance Department, the
10 division shall certify safe employers to provide peer review safety programs.

11 (9) In cooperation with and with the assistance of the
12 Department of Labor and Licensing and the State Insurance Department, the
13 division shall advise insurance carrier loss control service organizations of
14 hazard classifications, specific employers, industries, occupations, or
15 geographic regions to which loss control services should be directed or of
16 the identity and types of injuries or occupational diseases for prevention of
17 the same to which loss control services should be directed and shall advise
18 insurance carrier loss control service organizations of safety needs and
19 priorities recommended by the division in cooperation with and with the
20 assistance of the Department of Labor and Licensing and the State Insurance
21 Department.

22 (b) Job Safety Information System.

23 (1) In cooperation with and with the assistance of the
24 Department of Labor and Licensing and the State Insurance Department, the
25 division shall establish and maintain a job safety information system.

26 (2)(A) The job safety information system shall include a
27 comprehensive data base that incorporates all pertinent information relating
28 to each reported injury.

29 (B) The identity of the employee is confidential and may
30 not be disclosed as part of the job safety information system.

31 (3) Employers shall file with the commission such reports as may
32 be necessary. The commission shall promulgate rules and prescribe the form
33 and manner of the reports.

34 (4) In cooperation with and with the assistance of the
35 Department of Labor and Licensing and the State Insurance Department, the
36 division is authorized, empowered, and directed to obtain, from any state

1 agency, data and statistics, including those compiled for the purpose of rate
2 making.

3 (5) The division shall consult the Department of Labor and
4 Licensing and any other affected state agencies in the design of data
5 information and retrieval systems that will accomplish the mutual purposes of
6 those agencies and of the division.

7 (c) Extra-Hazardous Employer Program.

8 (1)(A) In cooperation with and with the assistance of the
9 Department of Labor and Licensing and the State Insurance Department, the
10 division shall develop a program, including injury frequency, to identify
11 extra-hazardous employers. The term "extra-hazardous employer" includes an
12 employer whose injury frequencies substantially exceed those that may
13 reasonably be expected in that employer's business or industry, an employer
14 whose experience modifier is identified by the commission as too high, and
15 such other employers as may, following a public hearing, be identified as
16 extra-hazardous.

17 (B) The division shall notify each identified extra-
18 hazardous employer or the carrier for the employer that the employer has been
19 identified as an extra-hazardous employer.

20 (2)(A) An employer who receives notification under subdivision
21 (c)(1)(B) of this section must obtain a safety consultation within thirty
22 (30) days from the Department of Labor and Licensing, the employer's
23 insurance carrier, or another professional source approved by the division
24 for that purpose.

25 (B) The safety consultant shall file a written report with
26 the division and the employer setting out any hazardous conditions or
27 practices identified by the safety consultation.

28 (3) The employer and the consultant shall formulate a specific
29 accident prevention plan that addresses the hazards identified by the
30 consultant. The employer shall comply with the accident prevention plan.

31 (4) The division may investigate accidents occurring at the work
32 sites of an employer for whom a plan has been formulated under subdivision
33 (c)(3) of this section, and the division may otherwise monitor the
34 implementation of the accident prevention plan as it finds necessary.

35 (5)(A) Six (6) months after the formulation of an accident
36 prevention plan prescribed by subdivision (c)(3) of this section, the

1 division shall conduct a follow-up inspection of the employer's premises. The
2 division may require the participation of the safety consultant who performed
3 the initial consultation and formulated the safety plan.

4 (B) If the division determines that the employer has
5 complied with the terms of the accident prevention plan or has implemented
6 other acceptable corrective measures, the division shall so certify.

7 (C) An employer who the division determines has failed or
8 refused to implement the accident prevention plan or other suitable hazard
9 abatement measures is subject to civil penalties as follows:

10 (i) The commission may assess a civil penalty
11 against an employer who fails or refuses to implement the accident prevention
12 plan or other suitable hazard abatement procedures in an amount up to one
13 thousand dollars (\$1,000) per day of violation payable to the Death and
14 Permanent Total Disability Trust Fund; and

15 (ii) Furthermore, the commission may petition the
16 Pulaski County Circuit Court, or of the county where the business is located,
17 for an order enjoining the employer from engaging in further employment until
18 such time as the employer implements the prevention plan or abatement measure
19 described above or makes payment of all civil penalties.

20 (6) If, at the time of the inspection required under subdivision
21 (c)(5)(A) of this section, the employer continues to exceed the injury
22 frequencies that may reasonably be expected in that employer's business or
23 industry, the division shall continue to monitor the safety conditions at the
24 work site and may formulate additional safety plans reasonably calculated to
25 abate hazards. The employer shall comply with the plans and may be subject to
26 additional penalties for failure to implement the plan or plans.

27 (7) An employer may request a hearing before the full commission
28 to contest findings made by the division under this section.

29 (8) The identification as an extra-hazardous employer under this
30 section is not admissible in any judicial proceeding unless the commission
31 has determined that the employer is not in compliance with this section and
32 unless that determination has not been reversed or superseded at the time of
33 the event giving rise to the judicial proceeding.

34 (d) Accident Prevention Services.

35 (1) Any insurance company licensed to provide casualty insurance
36 in the State of Arkansas and desiring to write workers' compensation

1 insurance in Arkansas shall maintain or provide accident prevention services
2 as a prerequisite to write workers' compensation insurance. The services
3 shall be adequate to furnish accident prevention programs required by the
4 nature of its policyholders' operations and shall include surveys,
5 recommendations, training programs, consultations, analyses of accident
6 causes, industrial hygiene, and industrial health services to implement the
7 program of accident prevention services.

8 (2) Notice that services are available to the policyholder from
9 the insurance company must appear in no less than ten-point bold type on the
10 front of each workers' compensation insurance policy delivered or issued for
11 delivery in the state.

12 (3) At least once each year, each insurance company writing
13 workers' compensation insurance in Arkansas must submit to the division
14 detailed information on the type of accident prevention services offered to
15 that insurance company's policyholders. The information must include any
16 additional information required by the commission.

17 (4) In cooperation with and with the assistance of the
18 Department of Labor and Licensing and the State Insurance Department, the
19 division shall conduct inspections to determine the adequacy of the accident
20 prevention services required by subdivision (d)(1) of this section at least
21 every two (2) years for each insurance company writing workers' compensation
22 insurance in Arkansas.

23 (5) If the insurance company does not maintain or provide the
24 accident prevention services required by this subsection or if the insurance
25 company does not use the services in a reasonable manner to prevent injury to
26 employees of its policyholders, the insurance company may be subjected to the
27 same civil penalties as are assessable and enforceable against employers as
28 set forth above in subdivision (c)(5)(C) of this section and shall be subject
29 to suspension or revocation of license to do business in this state by the
30 Insurance Commissioner.

31 (6) The commission shall employ the qualified personnel
32 necessary to enforce this section.

33 (e) Immunity from Certain Liability.

34 (1) Except as provided in subdivision (d)(5) of this section,
35 the insurance company, the agent, servant, or employee of the insurance
36 company or self-insured employer, or a safety consultant who performs a

1 safety consultation under this section shall have no liability with respect
2 to any accident based on the allegation that the accident was caused or could
3 have been prevented by a program, inspection, or other activity or service
4 undertaken by the insurance company or self-insured employer for the
5 prevention of accidents in connection with operations of the employer.

6 (2) Provided, however, this immunity shall not affect the
7 liability of the insurance carrier or self-insured employer for compensation
8 or as otherwise provided in this chapter.

9 (f) Exclusive Remedy. This section does not create an independent
10 cause of action at law or in equity.

11
12 SECTION 98. Arkansas Code § 11-9-503(a)(1), resulting from Initiated
13 Act 4 of 1948 and concerning a violation of safety provisions, is amended to
14 read as follows:

15 (a)(1) Notwithstanding any other definition of extra-hazardous
16 employer as provided by § 11-9-409(c), any employer who fails to utilize the
17 consultative safety services available through the ~~Department~~ Division of
18 Labor, its own insurance carrier, or a private safety consultant shall be
19 identified as an extra-hazardous employer if it is established by a
20 preponderance of the evidence that an injury or death is caused in
21 substantial part by the failure of the employer to comply with any Arkansas
22 statute or official regulation pertaining to the health or safety of
23 employees or fails to follow safety consultant recommendations.

24
25 SECTION 99. The introductory language of Arkansas Code § 11-11-101(a),
26 concerning recruitment of labor by foreign labor agents, is amended to read
27 as follows:

28 (a) No foreign labor agent, labor bureau or employment agency, or any
29 other person shall enter this state and attempt to hire, induce, or take from
30 this state any labor, singularly or in groups, for any purpose, whether or
31 not a fee or charge is extracted from the worker, without first applying to
32 the Director of the ~~Department~~ Division of Labor for a license to do so and
33 filing with the director:

34
35 SECTION 100. Arkansas Code § 11-11-202(3) and (4), concerning
36 definitions under the laws governing private employment agencies, are

1 repealed.

2 ~~(3) "Department" means the Department of Labor;~~

3 ~~(4) "Director" means the Director of the Department of Labor;~~

4

5 SECTION 101. Arkansas Code § 11-11-203(a), concerning penalties under
6 the laws governing private employment agencies, is amended to read as
7 follows:

8 (a) The Director of the ~~Department~~ Division of Labor shall have
9 authority to impose a fine of not less than twenty-five dollars (\$25.00) nor
10 more than five hundred dollars (\$500) for violation of the provisions of this
11 subchapter by an employment agency or its employees or agents.

12

13 SECTION 102. Arkansas Code § 11-11-204 is amended to read as follows:
14 11-11-204. Director and ~~department~~ division – Powers and duties.

15 (a) It shall be the duty of the ~~Department~~ Division of Labor, and it
16 shall have the power, jurisdiction, and authority to administer and enforce
17 the provisions of this subchapter.

18 (b) The Director of the ~~Department~~ Division of Labor shall have the
19 power, jurisdiction, and authority to issue licenses to employment agencies,
20 agency managers, and counselors and to refuse to issue, revoke, or suspend
21 the licenses when, after due investigation, and in compliance with the
22 procedures set forth in §§ 11-11-221 and 11-11-222, the director finds that
23 the applicant is for good and sufficient cause unfit to be an employment
24 agent, agency manager, or counselor within the meaning of this subchapter or
25 any rules, regulations, or orders lawfully promulgated under this subchapter.

26 (c)(1) Complaints against any person, employment agent, agency
27 manager, or counselor may be made to the ~~department~~ division orally or in
28 writing.

29 (2) The director shall have the power to compel attendance of
30 witnesses by issuance of subpoenas, administer oaths, direct production of
31 documents and records, and direct taking of testimony and evidence concerning
32 all matters within the jurisdiction of the ~~department~~ division.

33 (3) The director may order testimony to be taken by deposition
34 in any proceeding pending before the ~~department~~ division at any stage of the
35 proceeding.

36 (4) The director or his or her duly authorized agent shall at

1 all reasonable times have access to, for the purpose of examination and
2 copying, the books, records, papers, and documents of any person being
3 investigated or proceeded against under the provisions of this subchapter, so
4 long as the books, records, papers, or documents sought to be inspected or
5 copied are reasonably related to the investigation or proceeding being
6 conducted by the director.

7 (5) The director or his or her authorized agent shall, upon
8 application of any party to proceedings before the director, issue to the
9 party subpoenas requiring the attendance and testimony of witnesses or the
10 production of any books, records, papers, or documents reasonably related to
11 issues involved in proceedings before the director or an investigation
12 conducted by the director.

13 (6) If any person in proceedings before the director or in
14 investigations conducted by the director disobeys or resists any lawful order
15 or process issued by the director or his or her authorized agents, or fails
16 to produce, after being lawfully directed to do so, any book, paper, record,
17 or document, or refuses to appear and testify after being subpoenaed to do
18 so, the director shall certify the facts to any court of competent
19 jurisdiction in the state or to the Pulaski County Circuit Court.

20 (7) The court shall have authority to conduct hearings and
21 punish any person for failure or refusal to testify or produce books, papers,
22 documents, or records subpoenaed or ordered by the director as though the
23 conduct constituted contempt of court.

24 (8) Witnesses summoned by the director or his or her authorized
25 agent shall be paid the same fees and mileage paid to witnesses in the courts
26 of this state.

27 (d)(1) The director may prescribe such rules and regulations for the
28 conduct of the business of private employment agencies as necessary to
29 implement this subchapter.

30 (2) These rules shall have the force and effect of law and shall
31 be enforced by the director in the same manner as the provisions of this
32 subchapter.

33 (3) Adoption of rules and regulations pursuant to this
34 subsection shall be carried out in compliance with the Arkansas
35 Administrative Procedure Act, § 25-15-201 et seq.

36 (e) The ~~department~~ division shall have authority to investigate

1 employment agents, agency managers, and counselors. The ~~department~~ division
2 shall have the right to examine records required by law to be kept and
3 maintained by employment agents, agency managers, and counselors and to
4 examine the offices where the business is or shall be conducted by them.

5 (f) The ~~department~~ division may seek to recover in a court of
6 competent jurisdiction fees charged or collected in violation of this
7 subchapter.

8
9 SECTION 103. Arkansas Code § 11-11-208(a), concerning penalties for a
10 violation of provisions requiring licenses for employment offices and
11 agencies, is amended to read as follows:

12 (a) No person shall engage in the business of or act as an employment
13 agent, agency manager, or counselor unless he or she first obtains a license
14 from the ~~Department~~ Division of Labor.

15
16 SECTION 104. Arkansas Code § 11-11-209(a), concerning the certificate
17 of exemption required for certain organizations, is amended to read as
18 follows:

19 (a) Bona fide nursing schools, nurses' registries, management
20 consulting firms, business schools, vocational schools whose primary function
21 and purpose is training and education, and resume services shall obtain from
22 the Director of the ~~Department~~ Division of Labor a certificate of exemption
23 from the requirements of this subchapter.

24
25 SECTION 105. Arkansas Code § 11-11-210(b)(1), concerning the
26 qualifications and application for an employment counselor's license, is
27 amended to read as follows:

28 (b)(1) Every applicant for an initial license for employment counselor
29 shall file with the ~~Department~~ Division of Labor a written application on a
30 form prescribed and furnished by the Director of the ~~Department~~ Division of
31 Labor.

32
33 SECTION 106. Arkansas Code § 11-11-211(a)(5), concerning the
34 qualifications and application for an agency manager license, is amended to
35 read as follows:

36 (5) A person who has completed the twelfth grade, except that

1 the Director of the ~~Department~~ Division of Labor may establish proof
2 necessary to him or her that the applicant is possessed of a twelfth-grade
3 education in terms of intellectual competency, judgment, and achievement; and
4

5 SECTION 107. Arkansas Code § 11-11-211(b)(1), concerning the
6 qualifications and application for an agency manager license, is amended to
7 read as follows:

8 (b)(1) Every applicant for an initial license for agency manager shall
9 file with the ~~Department~~ Division of Labor a written application on a form
10 prescribed and furnished by the director.
11

12 SECTION 108. Arkansas Code § 11-11-212(a)(5), concerning the
13 qualifications and application to hold an employment agency license, is
14 amended to read as follows:

15 (5) A person who has completed the twelfth grade, except that
16 the Director of the ~~Department~~ Division of Labor may establish proof
17 necessary to him or her that the applicant is possessed of a twelfth-grade
18 education in terms of intellectual competency, judgment, and achievement; and
19

20 SECTION 109. Arkansas Code § 11-11-213(a)(2), concerning the bond
21 required for an employment agency license, is amended to read as follows:

22 (2) The terms and conditions of the bond shall be approved by
23 the Director of the ~~Department~~ Division of Labor.
24

25 SECTION 110. Arkansas Code § 11-11-213(d)(1), concerning the bond
26 required for an employment agency license, is amended to read as follows:

27 (d)(1) If any licensee fails to file a new bond with the ~~Department~~
28 Division of Labor within thirty (30) days after notice of cancellation by the
29 surety of the bond required by this section, the license issued to the
30 principal under the bond is suspended until such time as a new surety bond is
31 filed with and approved by the director.
32

33 SECTION 111. Arkansas Code § 11-11-214(a), concerning the
34 investigation of an applicant's license, is amended to read as follows:

35 (a) Upon filing of an application for a license as provided in this
36 subchapter, the Director of the ~~Department~~ Division of Labor shall cause an

1 investigation to be made regarding the character, business integrity, and
2 financial responsibility of the license applicant.

3
4 SECTION 112. Arkansas Code § 11-11-215(b), concerning the change of an
5 employment agency license, is amended to read as follows:

6 (b) No employment agent shall permit any person not mentioned in the
7 license or license application to become a member, officer, director,
8 shareholder, or partner in the conduct of the business of the employment
9 agent unless written consent of the Director of the ~~Department~~ Division of
10 Labor and written consent of the surety on the bond required by this
11 subchapter shall first be obtained.

12
13 SECTION 113. Arkansas Code § 11-11-215(d), concerning the change of an
14 employment agency license, is amended to read as follows:

15 (d) A charge of ten dollars (\$10.00) shall be made by the ~~Department~~
16 Division of Labor for the recording of authorization for each change of
17 office location authorized by this section.

18
19 SECTION 114. Arkansas Code § 11-11-216(a)(1)(A), concerning the
20 examination for a license, is amended to read as follows:

21 (a)(1)(A) Before the Director of the ~~Department~~ Division of Labor
22 issues a license to an applicant for a permanent employment agent's,
23 permanent agency manager's, or permanent counselor's license, the applicant
24 shall be required to successfully complete a written examination prepared by
25 the director.

26
27 SECTION 115. Arkansas Code § 11-11-216(b), concerning the timing of
28 examinations, is amended to read as follows:

29 (b) The ~~Department~~ Division of Labor shall hold examinations at such
30 times and places as it shall reasonably determine, except that examinations
31 shall be given to license applicants at least once every sixty (60) days.

32
33 SECTION 116. Arkansas Code § 11-11-216(c)(2), concerning the
34 examination fee, is amended to read as follows:

35 (2) The examination fee shall be retained by the ~~department~~
36 division, whether or not the applicant successfully completes the

1 examination.

2
3 SECTION 117. The introductory language of Arkansas Code § 11-11-
4 218(a)(1), concerning temporary licenses of private employment agencies, is
5 amended to read as follows:

6 (a)(1) The Director of the ~~Department~~ Division of Labor shall have
7 authority to issue a temporary license for operation of a private employment
8 agency, which shall be valid for no more than ninety (90) days, upon
9 submission by the applicant for the license of:

10
11 SECTION 118. Arkansas Code § 11-11-219(b), concerning renewal of
12 licenses, is amended to read as follows:

13 (b) Applications for renewal of all licenses provided by this
14 subchapter must be filed with the Director of the ~~Department~~ Division of
15 Labor no later than thirty (30) days prior to expiration of the license.

16
17 SECTION 119. Arkansas Code § 11-11-220 is amended to read as follows:
18 11-11-220. Cessation of business by licensee.

19 (a)(1) If an employment agent ceases business operations, the agent
20 shall, as soon as reasonably possible, notify the ~~Department~~ Division of
21 Labor and shall deliver or forward by mail the agent's license to the
22 ~~department~~ division. Failure to give notice, or failure to deliver such
23 employment agent's license, shall be a violation of § 11-11-208.

24 (2)(A) When one (1) or more individuals, on the basis of whose
25 qualifications an agency license has been obtained, ceases to be connected
26 with the licensed business for any reason whatsoever, the agency business may
27 be carried on for a temporary period not to exceed thirty (30) days, under
28 such terms and conditions as the Director of the ~~Department~~ Division of Labor
29 shall provide by regulation for the orderly closing of the business or the
30 replacement and qualification of a new member, partner, or corporate officer,
31 director, or shareholder.

32 (B) The agency's authorization to continue to do business
33 under this subchapter beyond the thirty-day period provided in this
34 subdivision (a)(2) shall be contingent upon approval by the ~~director~~ Director
35 of the Division of Labor of any new member, principal, partner, officer,
36 director, or shareholder.

1 (b)(1) If an agency manager terminates his or her employment with an
2 employment agency by which he or she is employed, the agency shall notify the
3 ~~department~~ division, as soon as is reasonably possible, to enable the
4 ~~department~~ division to know at all times the identity of the person charged
5 with the general management of each of the agency's office locations.

6 (2) The employment agency shall also deliver or forward by mail
7 the agency manager's license, together with the reasons why the agency
8 manager has terminated his or her position with the employment agency.

9 (c) If an employment counselor terminates his or her employment with
10 the employment agency by which he or she is employed, the agency shall, as
11 soon as is reasonably possible, notify the ~~department~~ division and deliver or
12 forward by mail the employment counselor's license to the ~~department~~
13 division, together with the reasons for his or her termination.

14
15 SECTION 120. Arkansas Code § 11-11-221(a), concerning the grounds for
16 the issuance, refusal, suspension, or revocation of a license, is amended to
17 read as follows:

18 (a) The Director of the ~~Department~~ Division of Labor shall issue a
19 license as an employment agent, agency manager, or counselor to any person
20 who qualifies for the license under the terms of this subchapter.

21
22 SECTION 121. Arkansas Code § 11-11-222(a)(1), concerning the notice
23 and hearing required for the refusal, suspension, or revocation of a license,
24 is amended to read as follows:

25 (a)(1) The Director of the ~~Department~~ Division of Labor may not refuse
26 to issue a license or suspend or revoke a license unless it furnishes the
27 person, employment agent, agency manager, or employment counselor with a
28 written statement of the charges against him or her and affords him or her an
29 opportunity to be heard on the charges.

30
31 SECTION 122. Arkansas Code § 11-11-222(c)(1), concerning the notice
32 and hearing required for the refusal, suspension, or revocation of a license,
33 is amended to read as follows:

34 (c)(1) A stenographic record of all proceedings shall be made, and a
35 transcript of the proceedings shall be made if desired by the ~~Department~~
36 Division of Labor or by the accused.

1
2 SECTION 123. Arkansas Code § 11-11-223(a), concerning judicial review
3 of the director's administrative orders, is amended to read as follows:

4 (a) If the Director of the ~~Department~~ Division of Labor refuses to
5 grant a license, suspends or revokes a license that has been granted, or
6 imposes an administrative fine as provided in §§ 11-11-213, 11-11-221, and
7 11-11-222, the person adversely affected or aggrieved by the order of the
8 director issued pursuant to the provisions of §§ 11-11-221 and 11-11-222 may
9 obtain a review of the order.

10
11 SECTION 124. Arkansas Code § 11-11-223(c)(2), concerning judicial
12 review of the director's administrative orders, is amended to read as
13 follows:

14 (2)(A) A copy of the petition shall be forthwith transmitted by
15 the clerk of the court to the ~~Department~~ Division of Labor.

16 (B) Thereupon, the ~~department~~ division shall file in the
17 court the record of proceedings before the ~~department~~ division.

18
19 SECTION 125. Arkansas Code § 11-11-223(i)(1), concerning judicial
20 review of the director's administrative orders, is amended to read as
21 follows:

22 (i)(1) The ~~department~~ division shall certify the record of its
23 proceedings if the party commencing the proceedings shall pay to it the cost
24 of preparing and certifying the records, including the recording and
25 transcribing of all testimony introduced in the proceedings.

26
27 SECTION 126. Arkansas Code § 11-11-225(8)(A), concerning miscellaneous
28 restrictions and requirements for employment agencies, is amended to read as
29 follows:

30 (8)(A) Every employment agency shall inform the public by a
31 conspicuous sign or poster that the employment agency is subject to the
32 requirements of this subchapter, which is administered and enforced by the
33 ~~Department~~ Division of Labor.

34 (B) The ~~department~~ division shall prepare and distribute
35 the sign or poster to be used by agencies to comply with this subdivision
36 (8);

1
2 SECTION 127. Arkansas Code § 11-11-227(c)(1), concerning fee
3 restrictions and requirements, is amended to read as follows:

4 (c)(1) When a dispute concerning a fee exists, the ~~Department~~ Division
5 of Labor may conduct an investigation to determine all of the facts
6 concerning the dispute. Thereafter, the Director of the ~~Department~~ Division
7 of Labor shall issue a decision and order resolving the dispute.

8
9 SECTION 128. Arkansas Code § 11-11-228(a), concerning filing of fee
10 schedules, forms, and contracts required for an employment agency, is amended
11 to read as follows:

12 (a) It shall be the duty of every employment agency to file with the
13 ~~Department~~ Division of Labor a schedule of all fees, charges, and commissions
14 that the agency expects to charge and collect for its service, together with
15 a copy of all forms and contracts to be used in dealings with the public in
16 the operation of its business.

17
18 SECTION 129. Arkansas Code § 11-11-229(e), concerning the records to
19 be kept by an employment agency, is amended to read as follows:

20 (e) All of the records listed in this section shall be kept in the
21 employment agency office and shall be open during office hours to inspection
22 by the ~~Department~~ Division of Labor and its duly authorized agents.

23
24 SECTION 130. Arkansas Code § 11-12-102(1), concerning the definition
25 of "director" under the laws regulating the employment of children in the
26 entertainment industry, is repealed:

27 ~~(1) "Director" means the Director of the Department of Labor;~~

28
29 SECTION 131. Arkansas Code § 11-12-104(b)(1), concerning restrictions
30 on employment under the laws regulating the employment of children in the
31 entertainment industry, is amended to read as follows:

32 (1) In a role or in an environment deemed to be hazardous or
33 detrimental to the health, morals, education, or welfare of the child as
34 determined by the Director of the ~~Department~~ Division of Labor;

35
36 SECTION 132. Arkansas Code § 11-12-105 is amended to read as follows:

1 11-12-105. Implementation and enforcement.

2 The Director of the ~~Department~~ Division of Labor shall have the
3 authority to:

4 (1) Promulgate rules and regulations for the implementation of
5 this chapter;

6 (2) Suspend or revoke a permit for the employment of a child in
7 the entertainment industry for cause;

8 (3) Enter or authorize his or her representative to enter and
9 inspect any place of employment where children work, rest, or play; and

10 (4) Otherwise enforce and implement the provisions of this
11 chapter.

12
13 SECTION 133. Arkansas Code § 11-14-112 is amended to read as follows:

14 11-14-112. Rating plans based on drug-free workplace program
15 participation.

16 The Insurance Commissioner shall approve rating plans for workers'
17 compensation insurance that give specific identifiable consideration in the
18 setting of rates to employers that implement a drug-free workplace program
19 pursuant to rules adopted by the Workers' Health and Safety Division of the
20 Workers' Compensation Commission. The plans must take effect January 1, 2000,
21 must be actuarially sound, and must state the savings anticipated to result
22 from the drug testing. The credit shall be at least five percent (5%) unless
23 the Insurance Commissioner determines that five percent (5%) is actuarially
24 unsound. The Insurance Commissioner is also authorized to develop a schedule
25 of premium credits for workers' compensation insurance for employers who have
26 safety programs that attain certain criteria for safety programs. The
27 Insurance Commissioner shall consult with the Director of the ~~Department~~
28 Division of Labor in setting such criteria.

29
30 SECTION 134. Arkansas Code § 12-13-107(d), concerning the duties of
31 the Director of the Department of Arkansas State Police, is amended to read
32 as follows:

33 (d) Nothing in this subchapter shall apply to the inspection of
34 boilers, § 20-23-101 et seq., the administration and enforcement of which is
35 now vested in the ~~Department~~ Division of Labor.

36

1 SECTION 135. Arkansas Code § 12-19-101(b), concerning the State Task
2 Force for the Prevention on Human Trafficking, is amended to read as follows:

3 (b) If established, representatives on the task force shall be
4 appointed by the Attorney General and may include representatives from:

- 5 (1) The office of the Attorney General;
- 6 (2) The office of the Governor;
- 7 (3) The Department of Labor and Licensing;
- 8 (4) The Department of Health;
- 9 (5) The Department of Human Services;
- 10 (6) The Arkansas Association of Chiefs of Police;
- 11 (7) The Arkansas Sheriffs' Association;
- 12 (8) The ~~Department~~ Division of Arkansas State Police;
- 13 (9) The Arkansas Prosecuting Attorneys Association;
- 14 (10) Local law enforcement; and
- 15 (11) Nongovernmental organizations such as:
- 16 (A) Those specializing in the problems of human
17 trafficking;
- 18 (B) Those representing diverse communities
19 disproportionately affected by human trafficking;
- 20 (C) Agencies devoted to child services and runaway
21 services; and
- 22 (D) Academic researchers dedicated to the subject of human
23 trafficking.
- 24

25 SECTION 136. Arkansas Code § 12-19-102(c)(2), concerning posting
26 information about the National Human Trafficking Resource Center Hotline, is
27 amended to read as follows:

- 28 (2) The Department of Labor and Licensing; and
- 29

30 SECTION 137. Arkansas Code § 12-82-104(a)(1)(A), concerning the State
31 Emergency Response Commission, is amended to read as follows:

- 32 (A) The directors of the Department of Health, the
33 ~~Arkansas Department~~ Division of Environmental Quality, the ~~Department~~
34 Division of Arkansas State Police, the ~~Arkansas Department~~ Division of
35 Emergency Management, the ~~Department~~ Division of Labor, the Arkansas Fire
36 Training Academy, and the Arkansas Department of Transportation, and the

1 Adjutant General, or their designated representatives;

2
3 SECTION 138. Arkansas Code § 15-10-304(b)(2), concerning studying the
4 need for changes in the law, is amended to read as follows:

5 (2) The ~~Department~~ Division of Labor, particularly as to
6 hazardous working conditions, if any;

7
8 SECTION 139. Arkansas Code § 17-12-204 is amended to read as follows:
9 17-12-204. Disposition of funds – Reports.

10 (a) All fees and other moneys received by the Arkansas State Board of
11 Public Accountancy pursuant to the provisions of this chapter shall be kept
12 in a separate fund and expended solely for the purposes of this chapter. No
13 part of this special fund shall revert to the general funds of this state.
14 The compensation provided by this chapter and all expenses incurred under
15 this chapter shall be paid from this special fund. No ~~compensation or~~
16 expenses incurred under this chapter shall be a charge against the general
17 funds of this state.

18 (b) The board shall file an annual report of its activities with the
19 ~~Governor~~ Secretary of the Department of Labor and Licensing, and the report
20 shall include a statement of all receipts and disbursements.

21
22 SECTION 140. Arkansas Code § 17-17-203(a), concerning the employees
23 and supplies of the Auctioneer's Licensing Board, is amended to read as
24 follows:

25 (a) The Auctioneer's Licensing Board shall have ~~full~~ authority to
26 employ, in consultation with the Secretary of the Department of Labor and
27 Licensing, and discharge a ~~secretary~~ Director of the Auctioneer's Licensing
28 Board who shall also be the treasurer of the Auctioneer's Licensing Board,
29 and such other personnel as may be necessary to administer and enforce the
30 provisions of this chapter.

31
32 SECTION 141. Arkansas Code § 17-17-203(b), concerning the supplies of
33 the Auctioneer's Licensing Board, is repealed.

34 ~~(b) The board shall obtain office space, furniture, stationery, and~~
35 ~~other proper supplies and conveniences reasonably necessary to carry out the~~
36 ~~provisions of this chapter.~~

1
2 SECTION 142. Arkansas Code § 17-17-204 is amended to read as follows:

3 17-17-204. ~~Secretary-treasurer~~ Director – Disposition of funds.

4 (a) All fees, charges, and penalties collected by the Auctioneer's
5 Licensing Board under the provisions of this chapter shall be paid to the
6 ~~Secretary-treasurer~~ Director of the Auctioneer's Licensing Board, who shall
7 be the custodian of all funds and shall deposit them into a bank or banks to
8 be designated by the board.

9 (b) The ~~secretary-treasurer~~ director shall execute a bond in an amount
10 determined by the State Risk Manager pursuant to the self-insured fidelity
11 program as authorized in § 21-2-701 et seq.

12 (c)(1) The ~~secretary-treasurer~~ director shall pay funds of the board
13 only on vouchers signed by himself or herself and countersigned by the Chair
14 of the Auctioneer's Licensing Board.

15 (2) The total expenses for all purposes and obligations of the
16 board shall not exceed the total fees, charges, penalties, and other funds
17 paid to the board under the provisions of this chapter.

18 (d) The ~~secretary-treasurer~~ director shall make semiannual financial
19 reports in detail to the board not later than January 30 and July 30 of each
20 year, which will be kept on permanent file by the board.

21
22 SECTION 143. Arkansas Code § 17-20-201(a)(1), concerning the creation
23 of the State Board of Barber Examiners, is amended to read as follows:

24 (a)(1) There is created a State Board of Barber Examiners, consisting
25 of the Secretary of the ~~State Board of Health~~ Department of Labor and
26 Licensing, or his or her designee, who shall be an ex officio member of the
27 board, and five (5) members to be appointed by the Governor for a term of six
28 (6) years.

29
30 SECTION 144. Arkansas Code § 17-20-203 is amended to read as follows:

31 17-20-203. ~~Executive secretary~~ Director of the State Board of Barber
32 Examiners.

33 (a)(1) The State Board of Barber Examiners in consultation with the
34 Secretary of the Department of Labor and Licensing may employ a ~~is authorized~~
35 ~~to employ an executive secretary~~ Director of the State Board of Barber
36 Examiners, who shall not be a member of the board and who shall have the

1 responsibility of keeping:

2 (A) A record of the board's proceedings;

3 (B) A record of persons registered as barbers and
 4 apprentices showing the name, place of business, and residence of each and
 5 the date and number of his or her certificate;

6 (C) A record of all certificates issued, refused, renewed,
 7 suspended, or revoked; and

8 (D) Such other records as may be directed by the board or
 9 required by law.

10 (2) The records shall be open to public inspection at all
 11 reasonable times.

12 (b) The ~~executive secretary~~ director shall perform such other
 13 functions and duties as may be prescribed by law or directed by the ~~board~~
 14 secretary.

15 (c) The ~~Executive Secretary of the State Board of Barber Examiners~~
 16 director shall receive such compensation for his or her services as may be
 17 prescribed by the ~~board~~ secretary within the limitations of the biennial
 18 appropriation therefor made by the General Assembly.

19
 20 SECTION 145. Arkansas Code § 17-20-204 is amended to read as follows:
 21 17-20-204. Personnel.

22 The State Board of Barber Examiners is authorized to employ such other
 23 personnel as it deems necessary, and as is approved by the Secretary of the
 24 Department of Labor and Licensing, to carry out the provisions of this
 25 chapter, within such limits as may be provided by biennial appropriation of
 26 the General Assembly. All employees shall work under the direct supervision
 27 of the ~~Executive Secretary~~ Director of the State Board of Barber Examiners.

28
 29 SECTION 146. Arkansas Code § 17-20-208(b)(1), concerning the fees of
 30 the State Board of Barber Examiners, is amended to read as follows:

31 (b) Funds thus realized shall be expended for:

32 (1) The payment of the salary of the ~~Executive Secretary~~
 33 Director of the State Board of Barber Examiners;

34
 35 SECTION 147. Arkansas Code § 17-20-209 is amended to read as follows:
 36 17-20-209. Disposition of funds.

1 (a)(1) All moneys received by the State Board of Barber Examiners
 2 under this chapter shall be paid to the ~~Executive Secretary~~ Director of the
 3 State Board of Barber Examiners, who shall give a proper receipt for those
 4 moneys to the Auditor of State the total amount received by him or her from
 5 all sources under this chapter.

6 (2) The ~~executive secretary~~ director shall at the same time
 7 deposit the entire amount of such receipts with the Treasurer of State, who
 8 shall place them to the credit of a special fund to be created and known as
 9 the "State Board of Barber Examiners Fund".

10 (b)(1) By the Chair of the State Board of Barber Examiners and the
 11 ~~executive secretary~~ director, the board shall from time to time certify to
 12 the Auditor of State the necessary expenses incurred by the board, including
 13 expense reimbursement and stipends as provided in § 25-16-901 et seq. The
 14 Auditor of State shall issue his or her warrant for the expenses, which shall
 15 be paid out of the funds so established for the maintenance of the board.

16 (2) No order shall be drawn by the Auditor of State on any fund
 17 other than the State Board of Barber Examiners Fund for any stipends or
 18 expenses of the board incident to the administration of this chapter.

19 (c) All funds so paid to the Treasurer of State shall remain and be a
 20 separate and permanent fund for the maintenance of the board and the
 21 administration of this chapter.

22
 23 SECTION 148. Arkansas Code § 17-22-203 is amended to read as follows:
 24 17-22-203. Secretary Director of the State Athletic Commission.

25 (a) The State Athletic Commission in consultation with the Secretary
 26 of the Department of Labor and Licensing ~~shall have authority to select~~ may
 27 employ a secretary Director of the State Athletic Commission and fix the
 28 salary thereof at a sum not to exceed the maximum annual salary prescribed
 29 for such a position in the biennial appropriation for the ~~commission~~
 30 Department of Labor and Licensing.

31 (b) The ~~secretary~~ director shall:

32 (1) Keep in the office of the commission a full, complete, and
 33 up-to-date record of all the proceedings of the commission;

34 (2) Keep an up-to-date account of all money received by him or
 35 her on behalf of the commission; and

36 (3) Perform such other duties as shall be prescribed by the

1 ~~commission~~ secretary.

2
3 SECTION 149. Arkansas Code § 17-22-209 is repealed.

4 ~~17-22-209. Transfer of the State Athletic Commission.~~

5 ~~(a)(1) Effective July 1, 2013, the State Athletic Commission is~~
6 ~~transferred to the Department of Health and shall be administered by the~~
7 ~~Director of the Department of Health.~~

8 ~~(2) All authority, powers, duties, functions, records,~~
9 ~~authorized positions, property, unexpended balances of appropriations,~~
10 ~~allocations, or other funds of the commission are transferred to the~~
11 ~~department.~~

12 ~~(b) In order to protect the commission, to allow for continuation of~~
13 ~~necessary procedures, and to provide for a smooth transition to the~~
14 ~~department, the director may not realign the functions and records of the~~
15 ~~commission before July 1, 2014.~~

16
17 SECTION 150. Arkansas Code § 17-25-204 is amended to read as follows:

18 17-25-204. Employees.

19 The Contractors Licensing Board in consultation with the Secretary of
20 the Department of Labor and Licensing may ~~shall~~ employ a chief administrative
21 employee, also known as administrator, who shall possess such qualifications
22 as may be determined by the ~~board~~ Contractors Licensing Board and who shall
23 serve at the pleasure of the board. In addition, the board may employ such
24 additional professional and clerical employees as may be necessary for the
25 operation of the board and its various functions and pay salaries thereto as
26 may be authorized by law.

27
28 SECTION 151. Arkansas Code § 17-25-206(e), concerning the records and
29 reports of the Contractors Licensing Board, is amended to read as follows:

30 (e) On or before August 1 of each year, the board shall submit to the
31 ~~Governor~~ Secretary of the Department of Labor and Licensing a report of its
32 transactions for the preceding year and shall file with the Secretary of
33 State a copy of the report, together with a complete statement of receipts
34 and expenditures of the board attested by the affidavit of the Chair of the
35 Contractors Licensing Board and secretary and a copy of the roster of
36 licensed contractors.

1
2 SECTION 152. Arkansas Code § 17-28-103 is amended to read as follows:
3 17-28-164. Disposition of funds.

4 All funds received by the Board of Electrical Examiners of the State of
5 Arkansas under the provisions of this chapter shall be deposited as special
6 revenues into the State Treasury to the credit of the Department of Labor and
7 Licensing Special Fund, there to be used by the ~~Department~~ Division of Labor
8 in carrying out the functions, powers, and duties as set out in this chapter
9 and to defray the costs of the maintenance, operation, and improvements
10 required by the ~~department~~ division in carrying out the functions, powers,
11 and duties otherwise imposed by law on the ~~department~~ division or the
12 Director of the ~~Department~~ Division of Labor.
13

14 SECTION 153. The introductory language of Arkansas Code § 17-28-
15 201(b), concerning the creation of the Board of Electrical Examiners of the
16 State of Arkansas, is amended to read as follows:

17 (b) The board shall consist of the ~~Director~~ Secretary of the
18 Department of Labor and Licensing or his or her authorized representative and
19 eight (8) other members who shall be residents of this state appointed by the
20 Governor with the advice and consent of the Senate:
21

22 SECTION 154. Arkansas Code § 17-28-202(b), concerning the duties of
23 the Board of Electrical Examiners of the State of Arkansas, is amended to
24 read as follows:

25 (b)(1) It shall be the duty of the Department of Labor and Licensing
26 to administer and enforce the provisions of this chapter.

27 (2) For the enforcement of this chapter, the ~~Director~~ Secretary
28 of the Department of Labor and Licensing or his or her designated employees
29 shall have the authority to enter, during normal business hours, upon any
30 private or public premises with right of access, ingress, and egress for the
31 purpose of ascertaining whether a person has performed electrical work or
32 installed or repaired electrical facilities in accordance with this chapter,
33 the Arkansas Electrical Code Authority Act, § 20-31-101 et seq., and the
34 regulations and standards adopted pursuant thereto.
35

36 SECTION 155. Arkansas Code § 17-28-301(d)(2), concerning the issuance

1 and renewal of an electrician's license, is amended to read as follows:

2 (2) The Director of the ~~Department of Labor~~ Division of
 3 Occupational and Professional Licensing Boards and Commissions may renew a
 4 temporary license as a master electrician or journeyman electrician issued by
 5 the board for more than one (1) additional period of six (6) months, if:

6 (A) The renewal is for work to be performed on a specific
 7 industry project as defined in this chapter;

8 (B) The director determines that the additional renewal is
 9 necessary because:

10 (i) Actual construction will exceed one (1) year;

11 and

12 (ii) An insufficient number of licensed electricians
 13 is available to perform the necessary work;

14 (C) The temporary license is restricted to the industry
 15 project for which it is issued; and

16 (D) A temporary license fee in the amount established in
 17 subsection (a) of this section is paid.

18
 19 SECTION 156. Arkansas Code § 17-28-309 is amended to read as follows:
 20 17-28-309. Penalties.

21 (a) The Director of the ~~Department of Labor~~ Division of Occupational
 22 and Professional Licensing Boards and Commissions is authorized to petition
 23 any court of competent jurisdiction to enjoin or restrain any person who
 24 performs electrical work without a license or who otherwise violates the
 25 provisions of this chapter.

26 (b)(1) A civil penalty may be assessed against any person, firm, or
 27 corporation by the ~~Department of Labor~~ Division of Occupational and
 28 Professional Licensing Boards and Commissions and subject to appeal and
 29 hearing before the Board of Electrical Examiners of the State of Arkansas
 30 according to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,
 31 if it is determined that the person, firm, or corporation has violated any:

32 (A) Provision of this chapter;

33 (B) Provision in the Arkansas Electrical Code Authority
 34 Act, § 20-31-101 et seq.;

35 (C) Rule, regulation, or order issued or promulgated by
 36 the board; or

1 (D) Condition of a license, certificate, or registration
 2 issued by the board.

3 (2) For each violation, the penalty shall not exceed the
 4 following:

5 (A) Two hundred fifty dollars (\$250) for a first offense;

6 (B) Seven hundred fifty dollars (\$750) for a second
 7 offense; or

8 (C) One thousand dollars (\$1000) for a third offense.

9 (3) Each day of a continuing violation is a separate violation
 10 for purposes of penalty assessment.

11 (4) Assessment of a civil penalty by the board shall be made no
 12 later than two (2) years after the date of the occurrence of the violation.

13 (5) If any person, firm, or corporation against whom a civil
 14 penalty has been imposed fails to pay the penalty within sixty (60) days of
 15 the board's decision, the director may file an action in a court of competent
 16 jurisdiction to collect the civil penalty without paying costs or giving bond
 17 for costs.

18 (6) Any penalties collected under this section shall be
 19 deposited as special revenues into the State Treasury to the credit of the
 20 Department of Labor and Licensing Special Fund, there to be used by the
 21 Department of Labor and Licensing in carrying out the functions, powers, and
 22 duties of this chapter.

23
 24 SECTION 157. Arkansas Code § 17-30-202 is amended to read as follows:

25 17-30-202. Officers and ~~employees~~ Director of the State Board of
 26 Licensure for Professional Engineers and Professional Surveyors.

27 The State Board of Licensure for Professional Engineers and
 28 Professional Surveyors shall:

29 (1) Select its own officers; and

30 (2) Have the power in consultation with the Secretary of the
 31 Department of Labor and Licensing to appoint an executive director to employ
 32 a Director of the State Board of Licensure for Professional Engineers and
 33 Professional Surveyors who shall serve as secretary-treasurer of the board.
 34

35 SECTION 158. Arkansas Code § 17-30-205(c), concerning the duty of the
 36 Attorney General to the State Board of Licensure for Professional Engineers

1 and Professional Surveyors, is amended to read as follows:

2 (c) The board may employ counsel and necessary assistance to aid in
3 the enforcement of this chapter or request assistance from the Department of
4 Labor and Licensing, and the compensation and expenses shall be paid from the
5 funds of the board.

6
7 SECTION 159. Arkansas Code § 17-32-201(h), concerning the creation,
8 members, and compensation of the State Board of Registration for Professional
9 Geologists, is amended to read as follows:

10 (h) The members of the board may receive expense reimbursement in
11 accordance with § 25-16-901 et seq. Board members, ~~except the Secretary-~~
12 ~~treasurer of the State Board of Registration for Professional Geologists,~~
13 shall serve without compensation.

14
15 SECTION 160. Arkansas Code § 17-32-207(b), concerning the official
16 records and registers of the State Board of Registration for Professional
17 Geologists, is amended to read as follows:

18 (b) All official records of the board, or affidavits by the ~~Secretary-~~
19 ~~treasurer~~ Director of the State Board of Registration for Professional
20 Geologists as to the content of such records, shall be prima facie evidence
21 of all matters required to be kept therein.

22
23 SECTION 161. Arkansas Code § 17-32-207(c)(1), concerning the official
24 records and registers of the State Board of Registration for Professional
25 Geologists, is amended to read as follows:

26 (c)(1) A complete roster showing the names, the classification, which
27 will be geologist, specialty, or geologist-in-training, and the last known
28 address of the registered geologists or certified geologists-in-training
29 shall be published by the ~~secretary-treasurer~~ director one (1) time each year
30 or at such intervals as established by board regulations.

31
32 SECTION 162. Arkansas Code § 17-32-207(d), concerning the official
33 records and registers of the State Board of Registration for Professional
34 Geologists, is amended to read as follows:

35 (d) At the end of the fiscal year, the board shall submit to the
36 ~~Governor~~ Secretary of the Department of Labor and Licensing and the General

1 Assembly a complete statement of the receipts and expenditures of the board.

2
3 SECTION 163. Arkansas Code § 17-32-208 is amended to read as follows:

4 17-32-208. ~~Secretary-treasurer, assistants~~ Director of the State Board
5 of Registration for Professional Geologists – Indebtedness.

6 (a)(1) The ~~Secretary-treasurer~~ Director of the State Board of
7 Registration for Professional Geologists shall receive and account for all
8 moneys received in accordance with state law and the regulations of the State
9 Board of Registration for Professional Geologists.

10 (2) These moneys shall be deposited into a financial institution
11 located in this state and shall be disbursed only by the ~~secretary-treasurer~~
12 director.

13 (b) The ~~secretary-treasurer~~ director shall receive such salary as the
14 board in consultation with Secretary of the Department of Labor and Licensing
15 determines within the limits set forth by the General Assembly.

16 (c) The ~~board~~ Department of Labor and Licensing shall employ
17 assistants required to properly perform ~~its~~ the board's work and shall make
18 expenditures from this account for any purpose that, in the opinion of the
19 board, is reasonably necessary to perform its duties under law and its rules
20 and regulations.

21 (d) The board shall have no authority to incur indebtedness.

22
23 SECTION 164. Arkansas Code § 17-33-201(a)(1), concerning the creation
24 and members of the HVACR Licensing Board, is amended to read as follows:

25 (1) The secretary of the board shall be a representative of the
26 Department of ~~Health~~ Labor and Licensing;

27
28 SECTION 165. Arkansas Code § 17-33-201(d), concerning the creation and
29 members of the HVACR Licensing Board, is amended to read as follows:

30 (d) The secretary of the board, who shall be an employee of the
31 Department of ~~Health~~ Labor and Licensing, shall serve at the pleasure of the
32 ~~Governor~~ Secretary of the Department of Labor and Licensing, and all other
33 members shall serve four-year terms.

34
35 SECTION 166. Arkansas Code § 17-33-202(3), concerning the powers and
36 duties of the HVACR Licensing Board, is amended to read as follows:

1 (3) Assist and advise the Department of ~~Health~~ Labor and
2 Licensing on all matters related to the licensing of HVACR maintenance work;

3
4 SECTION 167. Arkansas Code § 17-33-205(a)(2)(A), concerning the
5 disposition of fees and payments collected by the HVACR Licensing Board, is
6 amended to read as follows:

7 (2)(A) All funds deposited into the HVACR Licensing Fund shall
8 be used for the maintenance, operation, and improvement of the HVACR
9 Licensing and Inspection Program of the Department of ~~Health~~ Labor and
10 Licensing.

11
12 SECTION 168. Arkansas Code § 17-33-205(a)(3), concerning the
13 disposition of fees and payments collected by the HVACR Licensing Board, is
14 amended to read as follows:

15 (3) Subject to such rules and regulations as may be implemented
16 by the Chief Fiscal Officer of the State, the disbursing officer for the
17 Department of ~~Health~~ Labor and Licensing is hereby authorized to transfer all
18 unexpended funds relative to the program that pertain to fees collected, as
19 certified by the Chief Fiscal Officer of the State, to be carried forward and
20 made available for expenditures for the same purpose for any following fiscal
21 year.

22
23 SECTION 169. Arkansas Code § 17-33-306 is amended to read as follows:
24 17-33-306. Expiration and renewal.

25 All licenses or registrations issued under this chapter shall expire
26 one (1) year after the date of issuance or at a time specified by the HVACR
27 Licensing Board. To renew a license or registration, the licensee must submit
28 to the Department of ~~Health~~ Labor and Licensing before the expiration date on
29 a form prescribed by the department the appropriate license or registration
30 fees required by this chapter.

31
32 SECTION 170. Arkansas Code § 17-52-306(15), concerning the powers and
33 duties of the Arkansas Home Inspector Registration Board, is repealed.

34 (15)(A) Assume the ~~Secretary of State's~~ Secretary of the
35 Department of Labor and Licensing's responsibilities for home inspector
36 registration by development of or contracting for a support organization to

1 perform the administrative duties required by the board if the fund totals at
2 least fifteen thousand dollars (\$15,000).

3 (B) If the fund totals at least fifteen thousand dollars
4 (\$15,000) and the board votes to transfer the responsibilities of the
5 ~~Secretary of State~~ Secretary of the Department of Labor and Licensing to the
6 board, then the board shall give written notice to the ~~Secretary of State~~
7 Secretary of the Department of Labor and Licensing ninety (90) calendar days
8 before the transfer; and

9
10 SECTION 171. Arkansas Code § 17-52-311 is amended to read as follows:

11 17-52-311. Role of ~~Secretary of State~~ Secretary of the Department of
12 Labor and Licensing.

13 (a)(1) The ~~Secretary of State~~ Secretary of the Department of Labor and
14 Licensing shall be the custodian of permanent, official, home inspector
15 registration files and shall maintain permanent records of all home inspector
16 registration applications received since the enactment of this subchapter.

17 (2) The ~~Secretary of State~~ secretary shall maintain the
18 permanent records of the Arkansas Home Inspector Registration Board.

19 (b) The ~~Secretary of State~~ secretary shall receive and process
20 applications for initial registration and renewal of registration.

21
22 SECTION 172. Arkansas Code § 17-52-312(d), concerning the Arkansas
23 Home Inspectors Registration Fund, is amended to read as follows:

24 (d)(1) Except as provided in subdivision (d)(2) of this section,
25 effective with the 2003 registration and under the provisions of this
26 subchapter, all funds, fees, charges, costs, and collections accruing to or
27 collected by the Secretary of ~~State~~ the Department of Labor and Licensing
28 shall be deposited quarterly into the fund.

29 (2) The ~~Secretary of State~~ secretary shall retain twenty-five
30 dollars (\$25.00) for processing registration applications and renewals until
31 this process is transferred to the Arkansas Home Inspector Registration
32 Board.

33
34 SECTION 173. Arkansas Code § 17-52-316(a)(2), concerning the fees and
35 reimbursements by the Arkansas Home Inspector Registration Board, is amended
36 to read as follows:

1 (2) ~~Within forty five (45) days of the enactment of this~~
 2 ~~section, the~~ The board shall notify the Secretary of State the Department of
 3 Labor and Licensing of the registration fee for the next year and by June 1
 4 every year thereafter until transferred to the board.

5
 6 SECTION 174. Arkansas Code § 17-55-101(c)(2)(C)(iii), concerning the
 7 licensure of electrical inspectors, is amended to read as follows:

8 (iii) ~~The Department of Labor~~ Division of
 9 Occupational and Professional Licensing Boards and Commissions may conduct or
 10 sponsor continuing education classes for electrical inspectors.

11
 12 SECTION 175. Arkansas Code § 17-55-101(d)(2)(A), concerning the
 13 licensure of electrical inspectors, is amended to read as follows:

14 (2)(A) A civil penalty may be assessed against an electrical
 15 inspector by the ~~department~~ Division of Occupational and Professional
 16 Licensing Boards and Commissions and subject to appeal and hearing before the
 17 board according to the Arkansas Administrative Procedure Act, § 25-15-201 et
 18 seq., if it is determined that the electrical inspector has violated a:

- 19 (i) Provision of this chapter;
 20 (ii) Rule, regulation, or order issued or
 21 promulgated by the board; or
 22 (iii) Condition of a license issued by the board.

23
 24 SECTION 176. Arkansas Code § 17-55-101(d)(2)(E) and (F), concerning
 25 the licensure of electrical inspectors, are amended to read as follows:

26 (E) If an electrical inspector against whom a civil
 27 penalty has been imposed fails to pay the penalty within sixty (60) days of
 28 the board's decision, the Director of the ~~Department of Labor~~ Division of
 29 Occupational and Professional Licensing Boards and Commissions may file an
 30 action in a court of competent jurisdiction to collect the civil penalty
 31 without paying costs or giving bond for costs.

32 (F) Any penalties collected under this section shall be
 33 deposited as special revenues into the State Treasury to the credit of the
 34 Department of Labor and Licensing Special Fund, there to be used by the
 35 ~~department~~ Department of Labor and Licensing in carrying out the functions,
 36 powers, and duties of this chapter.

1
2 SECTION 177. Arkansas Code § 17-55-104 is amended to read as follows:
3 17-55-104. Disposition of funds.

4 All funds received by the Board of Electrical Examiners of the State of
5 Arkansas under this chapter shall be deposited as special revenues into the
6 State Treasury to the credit of the Department of Labor and Licensing Special
7 Fund, there to be used by the Department of Labor and Licensing in carrying
8 out the functions, powers, and duties as set out in this chapter, § 17-28-101
9 et seq., and the Arkansas Electrical Code Authority Act, § 20-31-101 et seq.,
10 and to defray the costs of the maintenance, operation, and improvements
11 required by the department in carrying out the functions, powers, and duties
12 otherwise imposed by law on the ~~Director~~ Secretary of the Department of Labor
13 and Licensing.

14
15 SECTION 178. Arkansas Code § 17-55-105(a), concerning the authority to
16 charge fees for continuing education, is amended to read as follows:

17 (a) The Department of Labor and Licensing may charge fees for
18 continuing education classes that it conducts or sponsors for electrical
19 inspectors.

20
21 SECTION 179. Arkansas Code § 17-56-103 is amended to read as follows:
22 17-56-103. Administration.

23 The ~~Arkansas Commission on Law Enforcement Standards and Training~~
24 Department of Labor and Licensing shall administer the provisions of this
25 chapter.

26
27 SECTION 180. Arkansas Code § 19-5-302(7), concerning the State General
28 Government Fund, is amended to read as follows:

29 19-5-302. State General Government Fund.

30 (7) Department of Labor and Licensing Fund Account.

31 (A) The Department of Labor and Licensing Fund Account
32 shall be used for the maintenance, operation, and improvement required by the
33 Department of Labor and Licensing in carrying out those powers, functions,
34 and duties imposed by law upon the ~~Director~~ Secretary of the Department of
35 Labor and Licensing or the Department of Labor and Licensing , or upon the
36 State Mine Inspector as set out in § 11-7-201 et seq., or any other duties

1 that may be imposed by law upon the Department of Labor and Licensing which
 2 was transferred to the Department of Labor and Licensing by § 25-12-101.

3 (B) The Department of Labor and Licensing Fund Account shall
 4 consist of:

5 (i) Those general revenues as may be provided by law; and

6 (ii) Any other funds as may be provided by law, including
 7 federal reimbursement received on account of eligible expenditures by the
 8 various programs of the Department of Labor and Licensing operating from and
 9 having appropriations made payable from the Department of Labor and Licensing
 10 Fund Account;

11
 12 SECTION 181. Arkansas Code § 19-5-1211 is amended to read as follows:

13 19-5-1211. Department of Labor and Licensing Special Fund.

14 (a) There is created on the books of the Treasurer of State, the
 15 Auditor of State, and the Chief Fiscal Officer of the State a special fund to
 16 be known as the “Department of Labor and Licensing Special Fund”.

17 (b) The Department of Labor and Licensing Special Fund shall consist
 18 of:

19 (1) Those special revenues set out in § 19-6-301(25), (36),
 20 (72), (112), (158), (180), and (251); and

21 (2) The fee, penalty, and assessment income and all other
 22 income, the disposition of which is not otherwise provided by law, of the
 23 Department of Labor and Licensing.

24 (c) The Department of Labor and Licensing Special Fund shall be used
 25 for the maintenance, operation, and improvements required by the department
 26 in carrying out the special revenue programs enumerated in subsection (b) of
 27 this section, and to defray the costs of the maintenance, operation, and
 28 improvements required by the department or the ~~Director~~ Secretary of the
 29 Department of Labor and Licensing in carrying out the functions, powers, and
 30 duties imposed by law on the department or the director.

31 (d) The ~~director~~ secretary, with the approval of the Chief Fiscal
 32 Officer of the State, is authorized to transfer funds from the Department of
 33 Labor and Licensing Special Fund to the Department of Labor and Licensing
 34 Fund Account.

35
 36 SECTION 182. Arkansas Code § 20-20-303(3), concerning hand-harvesting

1 by children, is amended to read as follows:

2 (3) An employment certificate has been obtained from the
3 Director of the ~~Department~~ Division of Labor pursuant to § 11-6-109;

4
5 SECTION 183. Arkansas Code § 20-22-605(a), concerning the report and
6 investigation of violations of the rules of the Arkansas Fire Protection
7 Licensing Board, is amended to read as follows:

8 (a) The ~~Department of Labor~~ Division of Occupational and Professional
9 Licensing Boards and Commissions and other state and local agencies and
10 officers may cooperate with and assist the Arkansas Fire Protection Licensing
11 Board in administering and enforcing this subchapter by reporting to the
12 board any violations of this subchapter or any failure to comply with this
13 subchapter or the policies adopted by the board pursuant to the authority
14 granted in this subchapter.

15
16 SECTION 184. Arkansas Code § 20-22-606(c) and (d), concerning the
17 creation of the Arkansas Fire Protection Licensing Board, are amended to read
18 as follows:

19 (c)(1) The board may expend moneys as necessary to reimburse the
20 Department of Labor and Licensing for stationery, office supplies,
21 application forms, equipment, and other materials necessary for the board to
22 carry out its duties.

23 (2) The expense reimbursement and stipends authorized by § 25-
24 16-901 et seq. and the expense for necessary office supplies, forms,
25 equipment, and other necessary materials shall be paid from the fees and
26 fines collected by the board.

27 (d)(1) The ~~board~~ Secretary of the Department of Labor and Licensing
28 shall employ an executive director, chief board investigator, and other staff
29 as necessary whose compensation shall be set by the board.

30 (2) The staff shall be paid from fees and fines collected by the
31 board.

32
33 SECTION 185. Arkansas Code § 20-23-103(a), concerning the enforcement
34 of the laws governing boiler safety, is amended to read as follows:

35 (a) The criminal penalties provided by this chapter shall be enforced
36 by the prosecuting attorney of each judicial district. The administrative

1 penalties provided by this chapter shall be imposed pursuant to regulation of
2 the Director of the ~~Department~~ Division of Labor.

3
4 SECTION 186. Arkansas Code § 20-23-104(a), concerning periodic or
5 regular attendance by a boiler operator, is amended to read as follows:

6 (a) All boilers subject to the provisions of this chapter shall be
7 continuously monitored by mechanical and electronic devices approved by the
8 Director of the ~~Department~~ Division of Labor. When a plant is in operation or
9 when any public building is occupied, the boilers shall be under regular
10 attendance by a boiler operator unless otherwise exempt.

11
12 SECTION 187. Arkansas Code § 20-23-105(a), concerning the disposition
13 of funds, is amended to read as follows:

14 (a) All money received under this chapter shall be paid to the
15 Treasurer of State, who shall place this money to the credit of the
16 Department of Labor and Licensing Special Fund, there to be used by the
17 Department of Labor and Licensing in carrying out the functions, powers, and
18 duties as set out in this chapter and to defray the costs of the maintenance,
19 operation, and improvements required by the department in carrying out the
20 functions, powers, and duties otherwise imposed by law on the department or
21 the Director of the ~~Department~~ Division of Labor.

22
23 SECTION 188. Arkansas Code § 20-23-202(a)(1), concerning the Chief
24 Inspector of the Boiler Inspection Division, is amended to read as follows:

25 (a)(1) When the office of Chief Inspector of the Boiler Inspection
26 Division becomes vacant, the Director of the ~~Department~~ Division of Labor
27 shall employ a citizen of the State of Arkansas to be chief inspector.

28
29 SECTION 189. Arkansas Code § 20-23-203(c)(1), concerning the Chief
30 Inspector of the Boiler Inspection Division's duty to inspect and enforce, is
31 amended to read as follows:

32 (c)(1) The chief inspector shall enforce the laws of the state
33 governing the use of boilers and unfired pressure vessels. He or she shall
34 examine into and report to the Director of the ~~Department~~ Division of Labor
35 the causes of boiler explosions which occur within the state.

36

1 SECTION 190. Arkansas Code § 20-23-301(a)(1), concerning the
2 application of regulations and standards and certificates of inspection
3 required for boilers, is amended to read as follows:

4 (a)(1) No owner or user of a boiler or pressure vessel or engineer or
5 fireman in charge of a boiler or pressure vessel shall operate or allow the
6 boiler or pressure vessel to be operated without a certificate of inspection
7 issued by the Director of the ~~Department~~ Division of Labor or shall allow a
8 greater pressure in the boiler or pressure vessel than is allowed by the
9 certificate of inspection.

10
11 SECTION 191. Arkansas Code § 20-23-306(a)(1), concerning the issuance
12 of certificates of inspection by the Boiler Inspection Division, is amended
13 to read as follows:

14 (a)(1) Upon receipt by the Boiler Inspection Division of an annual or
15 biennial certificate report of inspection from a state inspector or from an
16 inspector employed by an insurance company that a boiler or pressure vessel
17 is in safe working condition with the required fittings, valves, and
18 appliances properly installed and set, the Director of the ~~Department~~
19 Division of Labor shall issue to the owner of the boiler or pressure vessel a
20 certificate of inspection.

21
22 SECTION 192. Arkansas Code § 20-23-311(b), concerning inspection fees
23 of the Boiler Inspection Division, is amended to read as follows:

24 (b) The rates in subsection (a) of this section may be reduced by the
25 Director of the ~~Department~~ Division of Labor at the beginning of any fiscal
26 year if the rates produce a greater amount of revenue than is required to
27 defray the cost of operation of the ~~division~~ Boiler Inspection Division.

28
29 SECTION 193. Arkansas Code § 20-23-312(a), concerning the collection
30 of inspection fees of the Boiler Inspection Division, is amended to read as
31 follows:

32 (a)(1) In addition to other remedies provided for by this chapter, if
33 after the making of any inspection or accrual of any charge or penalty
34 required or authorized by this chapter, the fee, penalty, or charge is not
35 paid within thirty (30) days after demand upon whoever is liable therefor,
36 the Director of the ~~Department~~ Division of Labor may employ an attorney, who

1 is empowered without payment of costs or giving of bond for costs to
2 institute suit in the name of the State of Arkansas in any court of competent
3 jurisdiction to collect the fees, penalties, costs, and charges.

4 (2)(A) The court where suit is brought pursuant to subdivision
5 (a)(1) of this section for collection of fees, penalties, and charges shall,
6 without limitation, based on the actual amount of the judgment award an
7 attorney's fee equal to the actual cost to the ~~Department~~ Division of Labor
8 or the Boiler Inspection Division for the regular hourly rate of pay of the
9 attorney multiplied by the actual hours, including, but not limited to,
10 travel time, litigation, and case review.

11 (B) Furthermore, the court shall award, without
12 limitation, based on the actual amount of the judgment an amount equal to all
13 costs incurred by the ~~department~~ Division of Labor or the division,
14 including, but not limited to, travel costs, witness fees, sheriff's service
15 fees, or costs incurred pursuant to the collection of any judgment obtained
16 by the ~~department~~ Division of Labor or ~~division~~ Boiler Inspection Division.

17
18 SECTION 194. Arkansas Code § 20-23-314(b)(1), concerning pressure
19 piping inspections by the Boiler Inspection Division, is amended to read as
20 follows

21 (b)(1) Upon completion of the installation of any pressure piping, a
22 final inspection shall be made, and the inspector shall complete a final
23 inspection report on a form approved by the Director of the ~~Department~~
24 Division of Labor.

25
26 SECTION 195. Arkansas Code § 20-23-314(e), concerning pressure piping
27 inspections by the Boiler Inspection Division, is amended to read as follows

28 (e) For each inspection made by an inspector employed by the division
29 and required by subsection (a), subsection (b), or subsection (c) of this
30 section, the holder of the installation permit shall pay the division an
31 inspection fee in the amount of four hundred forty dollars (\$440) per day or
32 two hundred twenty dollars (\$220) per half-day, plus expenses and mileage at
33 the rates authorized for employees of the ~~Department~~ Division of Labor who
34 furnish their own transportation.

35
36 SECTION 196. Arkansas Code § 20-23-402(c), concerning inspectors

1 employed by insurance companies, is amended to read as follows:

2 (c) Within thirty (30) days following each internal inspection made by
3 its inspectors, each insurance company shall file a copy of the internal
4 inspection report and date of the inspection with the division on forms
5 approved by the ~~Department~~ Division of Labor.

6
7 SECTION 197. Arkansas Code § 20-23-404(a)(5), concerning applications
8 for operators by the Boiler Inspection Division, is amended to read as
9 follows:

10 (5) Before the applicant may participate in an examination, he
11 or she shall have had not less than six (6) months of on-the-job training.
12 Proof of this on-the-job training shall be furnished to the ~~Department~~
13 Division of Labor by the employer prior to the examination.

14
15 SECTION 198. Arkansas Code § 20-23-406(a)(1)(B), concerning a
16 certificate of competency and commission and restricted lifetime licenses, is
17 amended to read as follows:

18 (B) The certificate of competency and commission shall be
19 issued upon satisfactory proof of age and upon payment of a fee prescribed by
20 the ~~Department~~ Division of Labor.

21
22 SECTION 199. Arkansas Code § 20-23-407(a), concerning owner or user
23 inspection programs for steam boilers or pressure vessels, is amended to read
24 as follows:

25 (a) Any owner or user of a steam boiler or pressure vessel subject to
26 this chapter may perform any inspections required by this chapter on such
27 vessels owned or operated by the owner or user if the owner or user meets the
28 requirements prescribed by regulation of the Director of the ~~Department~~
29 Division of Labor.

30
31 SECTION 200. Arkansas Code § 20-24-101(2), concerning the definition
32 of "authorized representative" under the laws governing the Elevator Safety
33 Board, is amended to read as follows:

34 (2) "Authorized representative" means the building department of
35 cities, towns, or other governmental subdivisions designated by the
36 ~~Department of Labor~~ Division of Occupational and Professional Licensing

1 Boards and Commissions to enforce certain provisions of this chapter;

2
 3 SECTION 201. Arkansas Code § 20-24-101(5) and (6), concerning
 4 definition of "division" and "director" under the laws governing the Elevator
 5 Safety Board, are repealed.

6 ~~(5) "Department" means the Department of Labor;~~

7 ~~(6) "Director" means the Director of the Department of Labor;~~

8
 9 SECTION 202. Arkansas Code § 20-24-103(b) and (c), concerning the
 10 penalties for violations of the laws governing elevator safety, are amended
 11 to read as follows:

12 (b) An action for recovery of the penalties provided by this section
 13 shall be instituted by the ~~Department of Labor~~ Division of Occupational and
 14 Professional Licensing Boards and Commissions or its authorized
 15 representative and shall be in the form of a civil action before a court of
 16 competent jurisdiction.

17 (c) In addition to the penalties in subsection (a) of this section,
 18 the Director of the ~~Department of Labor~~ Division of Occupational and
 19 Professional Licensing Boards and Commissions may petition a court of
 20 competent jurisdiction to enjoin or restrain violations of this chapter or a
 21 rule adopted by the board.

22
 23 SECTION 203. Arkansas Code § 20-24-104 is amended to read as follows:
 24 20-24-104. Enforcement.

25 (a) Except when otherwise provided, the ~~Department of Labor~~ Division
 26 of Occupational and Professional Licensing Boards and Commissions shall have
 27 the power, and it shall be its duty, to enforce this chapter and the rules
 28 and regulations adopted by the Elevator Safety Board.

29 (b) In cities, towns, or other governmental subdivisions having a
 30 building department with qualified personnel to enforce this chapter or
 31 portions thereof, the Director of the ~~Department of Labor~~ Division of
 32 Occupational and Professional Licensing Boards and Commissions may delegate
 33 the building department as the authorized representative of the ~~Department of~~
 34 ~~Labor~~ Division of Occupational and Professional Licensing Boards and
 35 Commissions to enforce and carry out the provisions of §§ 20-24-112 – 20-24-
 36 116 or any portion thereof as may be designated by him or her.

1
2 SECTION 204. Arkansas Code § 20-24-105(a), concerning the creation of
3 the Elevator Safety Board, is amended to read as follows:

4 (a) There is created the Elevator Safety Board, consisting of six (6)
5 members, one (1) of whom shall be the ~~Director~~ Secretary of the Department of
6 Labor and Licensing, who shall serve continuously, and five (5) of whom shall
7 be appointed by the Governor for terms of four (4) years.

8
9 SECTION 205. Arkansas Code § 20-24-105(d) and (e), concerning the
10 creation of the Elevator Safety Board, are amended to read as follows:

11 (d) The board shall meet at the call of the ~~director~~ secretary who
12 shall designate in the call the time and place of the meeting.

13 (e) The members except the ~~director~~ secretary may receive expense
14 reimbursement and stipends in accordance with § 25-16-901 et seq.

15
16 SECTION 206. Arkansas Code § 20-24-106(e), concerning the powers and
17 duties of the Elevator Safety Board, is amended to read as follows:

18 (e) It shall also be the duty of the board to hear and decide any
19 appeals from the orders or acts of the Department of Labor and Licensing or
20 its authorized representative as provided in § 20-24-119.

21
22 SECTION 207. Arkansas Code § 20-24-107(c)(2)(A), concerning adoption
23 and amendment of rules and regulations of the Elevator Safety Board, is
24 amended to read as follows:

25 (2)(A) Any person engaged in the inspection, alteration,
26 construction, repair, or operation of elevators, dumbwaiters, or escalators,
27 or any owner, insurer, or lessee thereof, may, from time to time, by written
28 petition to the ~~Director~~ Secretary of the Department of Labor and Licensing,
29 request that any rules and regulations adopted by the board under subsection
30 (a) of this section be amended, or the ~~director~~ secretary shall refer the
31 petition to the board for its consideration and recommendation.

32
33 SECTION 208. Arkansas Code § 20-24-108(a)(2)(C)(ii), concerning the
34 qualifications for licenses required by the Elevator Safety Board, is amended
35 to read as follows:

36 (ii) The provision for liability insurance required

1 by subdivision (a)(2)(C)(i) of this section shall not apply to elevator
2 inspectors employed by the ~~Department of Labor~~ Division of Occupational and
3 Professional Licensing Boards and Commissions; and
4

5 SECTION 209. Arkansas Code § 20-24-109(d)(2), concerning the
6 application and examination for license issuance and renewal, is amended to
7 read as follows:

8 (2) Whenever the board determines that there are not enough
9 licensed elevator mechanics available to perform work necessary for the
10 completion of a project for which the ~~Department of Labor~~ Division of
11 Occupational and Professional Licensing Boards and Commissions has issued a
12 permit under § 20-24-115(d), the board may waive the requirements of this
13 chapter and issue a temporary elevator mechanic license that may be valid for
14 no longer than thirty (30) days.
15

16 SECTION 210. Arkansas Code § 20-24-110(d), concerning prohibited
17 activities of inspectors of the Elevator Safety Board, is amended to read as
18 follows:

19 (d) On or before the last day of January of each year, all licensed
20 elevator inspectors shall file with the Department of Labor and Licensing a
21 financial disclosure statement on forms provided by the department and
22 approved by the Elevator Safety Board. Such forms shall include, but not be
23 limited to, the following:

24 (1) The name and address of any corporation, firm, or enterprise
25 in which the person has a direct financial interest of a value in excess of
26 one thousand dollars (\$1,000). Policies of insurance issued to himself or
27 herself or his or her spouse are not to be considered a financial interest;

28 (2) A list of every office or directorship held by himself or
29 herself or his or her spouse, in any corporation, firm, or enterprise subject
30 to the jurisdiction of the board;

31 (3) A list showing the name and address of any person,
32 corporation, firm, or enterprise from which the person received compensation
33 in excess of one thousand five hundred dollars (\$1,500) during the preceding
34 year; and

35 (4) A list showing the name and address of any person,
36 corporation, firm, or enterprise from which the persons received compensation

1 in excess of twelve thousand five hundred dollars (\$12,500) during the
2 preceding year.

3
4 SECTION 211. Arkansas Code § 20-24-112(a)(1)(B), concerning testing
5 and inspection required for elevators, is amended to read as follows:

6 (B) The inspections shall be made by a licensed elevator
7 inspector in the employ of the ~~Department of Labor~~ Division of Occupational
8 and Professional Licensing Boards and Commissions or its authorized
9 representative;

10
11 SECTION 212. Arkansas Code § 20-24-113(a)(1), concerning the reports
12 of inspection of the Elevator Safety Board, is amended to read as follows:

13 (a)(1) A report of every required inspection or safety test shall be
14 filed with the Department of Labor and Licensing or its authorized
15 representative by the inspector making the inspection or witnessing the test
16 on a form approved by the department or its authorized representative within
17 thirty (30) days after the inspection or test has been completed.

18
19 SECTION 213. Arkansas Code § 20-24-114 is amended to read as follows:
20 20-24-114. Additional inspections.

21 In addition to required inspections, the Department of Labor and
22 Licensing or its authorized representative may designate a licensed inspector
23 in its employ to make such additional inspections as may be required to
24 enforce this chapter and the rules adopted by the Elevator Safety Board under
25 § 20-24-107(a) and (b).

26
27 SECTION 214. Arkansas Code § 20-24-115(a)(1), concerning the new
28 construction, relocation, or alteration of elevators, is amended to read as
29 follows:

30 (a)(1) On and after the effective date of rules and regulations
31 adopted by the Elevator Safety Board under § 20-24-107(a) and (b), detailed
32 plans and specifications of the elevator, dumbwaiter, or escalator to be
33 thereafter installed, relocated, or altered shall be submitted by the
34 contractor, or in the absence of an installing contractor, by a person or the
35 owner, to the Department of Labor and Licensing. An application for a
36 construction or alteration permit on forms to be furnished or approved by the

1 department shall be submitted at the same time.

2
 3 SECTION 215. Arkansas Code § 20-24-116(a)(1), concerning the operating
 4 permits for elevators, is amended to read as follows:

5 (a)(1) Operating permits shall be issued by the Department of Labor
 6 and Licensing within the time limits specified in this section to the owner
 7 or lessee of every new or altered elevator, dumbwaiter, and escalator and of
 8 every existing elevator, dumbwaiter, and escalator when the inspection report
 9 indicates compliance with the applicable sections of this chapter.

10
 11 SECTION 216. Arkansas Code § 20-24-117(a), concerning the fees for
 12 elevator installation permits, is amended to read as follows:

13 (a) The following fees shall be paid to the Department of Labor and
 14 Licensing for each passenger, freight, or one-man elevator or dumbwaiter
 15 installation permit:

- | | | | |
|----|---------------------------------|----------|--------|
| 16 | (1) Elevators | \$150.00 | |
| 17 | (2) Escalators and moving walks | | 200.00 |
| 18 | (3) Dumbwaiters | 100.00 | |
| 19 | (4) Wheelchair lifts | 100.00 | |
| 20 | (5) Workmen's hoists | 200.00 | |

21
 22 SECTION 217. Arkansas Code § 20-24-119(a), concerning appeals from
 23 orders or acts of the Department of Labor, is amended to read as follows:

24 (a) Any person aggrieved by an order or act of the Department of Labor
 25 or Licensing or its authorized representative under this chapter may, within
 26 fifteen (15) days after notice thereof, appeal from the order or act to the
 27 Elevator Safety Board, which shall, within thirty (30) days thereafter, hold
 28 a hearing of which at least fifteen (15) days' written notice shall be given
 29 to all interested parties.

30
 31 SECTION 218. Arkansas Code § 20-27-801(b)(1), concerning an exception
 32 to leaving the door on automatic locking devices or items, is amended to read
 33 as follows:

34 (b)(1) The Labor Safety Administrator of the ~~Department~~ Division of
 35 Labor or any of his or her deputies or inspectors shall have the right to
 36 remove the door hinges or to dismantle, if necessary, any icebox,

1 refrigerator, or other container that has an air-tight door or lid, snaplock,
 2 or other locking device that violates this subchapter.

3
 4 SECTION 219. Arkansas Code § 20-27-802 is amended to read as follows:
 5 20-27-802. Inside door handles required on certain walk-in
 6 refrigerators, etc.

7 The Labor Safety Administrator of the ~~Department~~ Division of Labor or
 8 any of his or her deputies or inspectors may require the installation of
 9 inside door handles on any walk-in refrigerator, icebox, freezer, or door of
 10 a cold storage room where in his or her discretion the absence of inside door
 11 handles in the freezing unit may endanger the life of any employee or other
 12 authorized personnel using the unit.

13
 14 SECTION 220. Arkansas Code § 20-27-901(2)(A), concerning the
 15 definition of "hazardous locations" under the laws governing safety glazing
 16 materials, is amended to read as follows:

17 (2)(A) "Hazardous locations" means those areas in residential,
 18 commercial, and public buildings where the use of other than safety glazing
 19 materials would constitute a hazard as the Director of the ~~Department~~
 20 Division of Labor may determine after notice and hearings as are now required
 21 by law.

22
 23 SECTION 221. Arkansas Code § 20-27-1102(a), concerning enforcement,
 24 administration, and rules regarding blasting, is amended to read as follows:

25 (a) The Director of the ~~Department~~ Division of Labor shall promulgate
 26 regulations to establish minimum standards for the qualifications of those
 27 individuals performing blasting in Arkansas.

28
 29 SECTION 222. Arkansas Code § 20-27-1302(2), concerning the definitions
 30 of "division" and "director" under the laws governing blasting, are repealed.

31 ~~(4) "Department" means the Department of Labor;~~

32 ~~(5) "Director" means the Director of the Department of Labor;~~

33
 34 SECTION 223. Arkansas Code § 20-27-1303(b)(2)(A), concerning blasting
 35 standards, is amended to read as follows:

36 (2)(A) If necessary to prevent damage, the Director of the

1 ~~Department~~ Division of Labor may require lower maximum allowable airblast
2 levels than those specified in subdivision (b)(1) of this section for use in
3 the vicinity of a specific blasting operation.
4

5 SECTION 224. Arkansas Code § 20-27-1305(a)(2), concerning record
6 keeping for mine operators and owners, is amended to read as follows:

7 (2) Upon request, copies of these records shall be made
8 available to the ~~Department~~ Division of Labor for inspection.
9

10 SECTION 225. Arkansas Code § 20-27-1306(b), concerning insurance for
11 blasting operations, is amended to read as follows:

12 (b) Proof of such coverage shall be made available to the Director of
13 the ~~Department~~ Division of Labor or his or her authorized representative upon
14 request.
15

16 SECTION 226. Arkansas Code § 20-27-1307(b), concerning exemptions for
17 owners and operators of mines and quarries, is amended to read as follows:

18 (b) Notwithstanding subsection (a) of this section, the authority of
19 the Director of the ~~Department~~ Division of Labor shall not be restricted with
20 respect to:

21 (1) Mines or quarries which were in existence and operation on
22 July 1, 1995, but which change owners or operators after July 1, 1995; or

23 (2) New or existing mines or quarries which were not in
24 operation on July 1, 1995.
25

26 SECTION 227. The introductory language of Arkansas Code § 20-27-
27 1308(a), concerning the powers and duties of the Director of the Department
28 of Labor, is amended to read as follows:

29 (a) In addition to other powers and authority provided by law, the
30 Director of the ~~Department~~ Division of Labor or his or her authorized
31 representative shall have the following authority:
32

33 SECTION 228. Arkansas Code § 20-27-1308(c), concerning the powers and
34 duties of the Director of the Department of Labor, is amended to read as
35 follows:

36 (c) In case of failure of any person to comply with any subpoena

1 lawfully issued under this section or upon the refusal of any witness to
2 produce evidence or to testify to any matter regarding which he or she may be
3 lawfully interrogated, it shall be the duty of any circuit court or judge
4 thereof, upon application of the ~~Department~~ Division of Labor, to compel
5 obedience by proceedings for contempt, as in the case of disobedience of the
6 requirements of a subpoena issued by the court or a refusal to testify
7 therein.

8
9 SECTION 229. Arkansas Code § 20-27-1309(a) and (b), concerning
10 hearings, orders, and notices conducted by the Director of the Department of
11 Labor, are amended to read as follows:

12 (a) All hearings conducted by the Director of the ~~Department~~ Division
13 of Labor and all orders, notices, and assessments shall conform to the
14 requirements of the Arkansas Administrative Procedure Act, § 25-15-201 et
15 seq.

16 (b) Service of any notice, order, or assessment may be made by
17 delivery to the person to be ordered or notified or by mailing it, postage
18 prepaid, addressed to the person at his or her principal place of business as
19 last of record with the ~~Department~~ Division of Labor.

20
21 SECTION 230. Arkansas Code § 20-27-1309(c)(2), concerning hearings,
22 orders, and notices conducted by the Director of the Department of Labor, are
23 amended to read as follows:

24 (2) A complainant entitled to notice is any person who has made
25 a written complaint within the past three (3) years to the ~~department~~
26 division regarding the blasting operations of the person charged with the
27 violation.

28
29 SECTION 231. Arkansas Code § 20-27-1310 is amended to read as follows:
30 20-27-1310. Cooperation with State Fire Marshal.

31 (a) The Director of the ~~Department~~ Division of Labor shall consult the
32 State Fire Marshal regarding the adoption of any rules or regulations.

33 (b) The ~~Department~~ Division of Labor and the State Fire Marshal shall
34 cooperate and coordinate their activities in order to avoid duplication of
35 services.

36

1 SECTION 232. Arkansas Code § 20-27-1311(b), concerning orders,
2 remedies and existing rules and regulations, is amended to read as follows:

3 (b) All orders entered, permits granted, and pending legal proceedings
4 instituted by any person, public or private, relating to subjects embraced
5 within this subchapter shall remain unimpaired and in full force and effect
6 until superseded by actions taken by the Director of the ~~Department~~ Division
7 of Labor under this subchapter.

8
9 SECTION 233. Arkansas Code § 20-27-1313(a)(1), concerning the
10 assessment of civil penalties under the Arkansas Quarry and Open Pit Mine
11 Blasting Control Act, is amended to read as follows:

12 (a)(1) Any person who violates any provision of this subchapter or who
13 violates any rule, regulation, or order issued under this subchapter may be
14 assessed an administrative civil penalty by the Director of the ~~Department~~
15 Division of Labor in an amount not to exceed ten thousand dollars (\$10,000)
16 per violation.

17
18 SECTION 234. Arkansas Code § 20-27-1313(d)(1), concerning the
19 assessment of civil penalties under the Arkansas Quarry and Open Pit Mine
20 Blasting Control Act, is amended to read as follows:

21 (d)(1) Sums collected as reimbursement for expenses, costs, and
22 damages to the ~~Department~~ Division of Labor shall be deposited into the
23 operating fund of the ~~department~~ division.

24
25 SECTION 235. Arkansas Code § 20-27-1313(e), concerning the assessment
26 of civil penalties under the Arkansas Quarry and Open Pit Mine Blasting
27 Control Act, is amended to read as follows:

28 (e) Notice of any assessment by the director shall be served on any
29 person who has made a written complaint within the past three (3) years to
30 the ~~department~~ division regarding the blasting operations of the person
31 charged with the violation.

32
33 SECTION 236. Arkansas Code § 20-27-1314 is amended to read as follows:
34 20-27-1314. Restraint.

35 In addition to the civil penalty provided in § 20-27-1313, the Director
36 of the ~~Department~~ Division of Labor may petition any court of competent

1 jurisdiction without paying costs or giving bond for costs to:

2 (1)(A) Enjoin or restrain any violation of or compel compliance
 3 with this subchapter and any rules, regulations, or orders issued under this
 4 subchapter.

5 (B) In situations in which there is an imminent threat to
 6 public or worker safety or to property, the director may seek a temporary
 7 restraining order for the cessation of any blasting;

8 (2) Affirmatively order that such remedial measures be taken as
 9 may be necessary or appropriate to implement or effectuate the purposes and
 10 intent of this subchapter; and

11 (3) Recover all costs, expenses, and damages to the ~~Department~~
 12 Division of Labor and any other agency or subdivision of the state in
 13 enforcing or effectuating this subchapter.

14
 15 SECTION 237. Arkansas Code § 20-31-102(2), concerning the definition
 16 of "department" under the Arkansas Electrical Code Authority Act, is
 17 repealed.

18 ~~(2) "Department" means the Department of Labor;~~

19
 20 SECTION 238. Arkansas Code § 20-31-104(f), concerning statewide
 21 standards and the enforcement of rules for the Board of Electrical Examiners
 22 of the State of Arkansas, is amended to read as follows:

23 (f) It shall be the duty of the ~~Department~~ Division of Labor to
 24 administer and enforce this chapter.

25
 26 SECTION 239. Arkansas Code § 22-9-212(b), concerning public
 27 improvements to trench or excavation safety systems, is amended to read as
 28 follows:

29 (b) In the event a contractor fails to complete a separate pay item in
 30 accordance with the applicable provisions of subsection (a) of this section,
 31 the agency, county, municipality, school district, local taxing unit, or
 32 improvement district shall declare that the bid fails to comply fully with
 33 the provisions of the specifications and bid documents and will be considered
 34 invalid as a nonresponsive bid. The owners of the above-stated project shall
 35 notify the Safety Division of the ~~Department~~ Division of Labor of the award
 36 of a contract covered by this section.

1
2 SECTION 240. Arkansas Code § 23-89-502(3), concerning the definition
3 of "department" under the Amusement Ride and Amusement Attraction Safety
4 Insurance Act, are repealed.

5 ~~(3) "Department" means the Department of Labor;~~

6 ~~(4) "Director" means the Director of the Department of Labor;~~

7
8 SECTION 241. Arkansas Code § 23-89-504 is amended to read as follows:
9 23-89-504. Safety inspection and insurance required – Enforcement –
10 Violations.

11 (a) It is unlawful for any person or entity to operate an amusement
12 attraction or amusement ride unless the person or entity maintains liability
13 insurance in the minimum amount required by this subchapter at all times
14 during the operation of the amusement attraction or amusement ride in the
15 state and unless the person has a current safety inspection report made at
16 the time of set-up of the amusement attraction or amusement ride, but before
17 use by the public.

18 (b)(1) The Director of the ~~Department~~ Division of Labor may conduct
19 examinations and investigations into the affairs of any person or entity
20 subject to the provisions of this subchapter for the purpose of determining
21 compliance with the provisions of this subchapter.

22 (2) The Director of the ~~Department~~ Division of Labor shall
23 administer and enforce the provisions of this subchapter.

24 (3) The Director of the ~~Department~~ Division of Labor shall
25 promulgate regulations for the proper administration and enforcement of this
26 subchapter, including regulations establishing minimum safety requirements
27 for the operation and maintenance of amusement rides and amusement
28 attractions.

29 (4) The Director of the ~~Department~~ Division of Labor shall
30 employ amusement ride inspectors certified by the National Association of
31 Amusement Ride Safety Officials.

32 (c) If the Director of the ~~Department~~ Division of Labor finds that an
33 operator or owner has failed to comply with the provisions of this
34 subchapter, he or she may order the operator or owner to immediately cease
35 operating the amusement attraction or amusement ride and may impose upon the
36 operator or owner an administrative penalty of not more than ten thousand

1 dollars (\$10,000).

2 (d)(1) If the Director of the ~~Department~~ Division of Labor finds that
3 an operator or owner failed to comply with the provisions of this subchapter,
4 he or she shall so inform the prosecuting attorney in whose district any
5 purported violation may have occurred.

6 (2)(A) Upon conviction, the operator or owner shall be guilty of
7 a Class A misdemeanor.

8 (B) Upon conviction of a knowing violation, the operator
9 or owner shall be guilty of a Class D felony.

10 (3) Each day of violation shall constitute a separate offense.

11 (e) The Director of the ~~Department~~ Division of Labor shall have
12 authority to bring a civil action in any court of competent jurisdiction,
13 without payment of costs or giving bond for costs, to recover any
14 administrative penalty imposed pursuant to this subchapter or to recover any
15 delinquent fees owed pursuant to this subchapter.

16 (f) The Director of the ~~Department~~ Division of Labor and his or her
17 deputies, assistants, examiners, and employees and the Director of the
18 ~~Department~~ Division of Arkansas State Police and his or her deputies,
19 officers, assistants, and employees and any public law enforcement officer
20 shall not be liable for any damages occurring as a result of the
21 implementation of this subchapter.

22

23 SECTION 242. Arkansas Code § 23-89-505(a), concerning safety
24 inspections, notice, and insurance requirements under the Amusement Ride and
25 Amusement Attraction Safety Insurance Act, is amended to read as follows:

26 (a) Any person or entity desiring to operate any amusement attraction
27 or amusement ride in this state, other than those specifically exempted in
28 this subchapter, shall as a condition thereof obtain a safety inspection
29 report issued by the owner or operator's liability insurer or an inspector
30 employed by the ~~Department~~ Division of Labor prior to commencing operation or
31 opening to the public.

32

33 SECTION 243. Arkansas Code § 23-89-505(c)(1), concerning safety
34 inspections, notice, and insurance requirements under the Amusement Ride and
35 Amusement Attraction Safety Insurance Act, is amended to read as follows:

36 (c)(1) Any person or entity intending to operate an amusement

1 attraction or amusement ride in this state shall notify the Director of the
2 ~~Department~~ Division of Labor of such intent and shall notify the director of
3 the location, dates, and times of intended operation.

4
5 SECTION 244. Arkansas Code § 23-89-506(a)(1), concerning inspections
6 and fees, is amended to read as follows:

7 (a)(1) The Director of the ~~Department~~ Division of Labor is authorized
8 to inspect each person or entity to ensure compliance with this subchapter.

9
10 SECTION 245. Arkansas Code § 23-89-506(c)-(e), concerning inspections
11 and fees, are amended to read as follows:

12 (c) If the director or an authorized employee of the ~~Department~~
13 Division of Labor finds that any amusement ride or amusement attraction is
14 defective in a manner affecting patron safety or unsafe, he or she shall
15 attach to the amusement ride or amusement attraction a notice and order
16 prohibiting its use or operation. Operation of the amusement ride shall not
17 resume until the unsafe or hazardous condition is corrected and the director
18 or his or her authorized representative permits such an operation.

19 (d) Any inspector certified pursuant to the requirements of this
20 subchapter who, upon inspection of an amusement ride or amusement attraction,
21 finds the amusement ride or amusement attraction to be defective or unsafe
22 shall immediately report the amusement ride or amusement attraction and its
23 condition to the ~~department~~ division.

24 (e) The director shall charge a fee to be paid by the owner of any
25 amusement ride or amusement attraction for all amusement ride safety
26 inspections performed by any employee of the ~~department~~ division. Such fees
27 shall be as follows:

28 (1) For one (1) to five (5) amusement rides or amusement
29 attractions, one hundred dollars (\$100);

30 (2) For six (6) to fifteen (15) amusement rides or amusement
31 attractions, two hundred dollars (\$200);

32 (3) For sixteen (16) to twenty-five (25) amusement rides or
33 amusement attractions, three hundred dollars (\$300);

34 (4) For twenty-six (26) to thirty-five (35) amusement rides or
35 amusement attractions, four hundred dollars (\$400); and

36 (5) For thirty-six (36) and more amusement rides or amusement

1 attractions, six hundred dollars (\$600).

2
 3 SECTION 246. Arkansas Code § 23-89-507(b), concerning a change in
 4 coverage by an insurance company under the Amusement Ride and Amusement
 5 Attraction Safety Insurance Act, is amended to read as follows:

6 (b) If any insurer insuring an operator shall cancel the coverage of
 7 the operator, the insurer shall notify the Director of the ~~Department~~
 8 Division of Labor of the cancellation at least ten (10) days before the
 9 cancellation is effective.

10
 11 SECTION 247. Arkansas Code § 23-89-507(f), concerning a change in
 12 coverage by an insurance company under the Amusement Ride and Amusement
 13 Attraction Safety Insurance Act, is amended to read as follows:

14 (f) Any employee or contractor of an insurer inspecting amusement
 15 rides in Arkansas shall be registered and certified by the ~~Department~~
 16 Division of Labor pursuant to regulation adopted by the director.

17
 18 SECTION 248. Arkansas Code § 23-89-508 is amended to read as follows:
 19 23-89-508. Rules and regulations.

20 The Director of the ~~Department~~ Division of Labor is authorized to adopt
 21 appropriate rules and regulations to carry out the intent and purposes of
 22 this subchapter and to assure its efficient and effective enforcement.

23
 24 SECTION 249. Arkansas Code § 23-89-509 is amended to read as follows:
 25 23-89-509. Cease and desist orders – Notice required.

26 (a)(1) Upon issuance of cease and desist orders pursuant to § 23-89-
 27 504 or § 23-89-507, the Director of the ~~Department~~ Division of Labor shall
 28 promptly transmit his or her order to the Director of the Department of
 29 Arkansas State Police.

30 (2) Whenever possible, the Director of the ~~Department~~ Division
 31 of Labor shall notify any applicable fair boards or sponsoring organizations
 32 in the respective districts or counties of this state where the amusement
 33 attractions or amusement rides are in operation or are scheduled to be in
 34 operation.

35 (3) The Director of the ~~Department~~ Division of Labor shall
 36 promptly notify these parties when a cease and desist order has been

1 rescinded upon proof of the operator's compliance with the provisions of this
2 subchapter.

3 (b) Upon receipt of the Director of the ~~Department~~ Division of Labor's
4 order to cease and desist operations pursuant to subsection (a) of this
5 section, the ~~Department~~ Division of Arkansas State Police shall promptly
6 serve the order on the operator and order the operator immediately to cease
7 operation of all applicable amusement attractions or amusement rides in
8 operation or scheduled to be in operation in those districts or counties
9 until the cease and desist order has been rescinded.

10
11 SECTION 250. Arkansas Code § 23-89-510 is amended to read as follows:

12 23-89-510. Accidents – Reporting injuries or death – Investigations.

13 (a) Any mechanical, structural, or electrical defects directly
14 affecting patron safety for which an amusement ride is closed to patron use
15 for a period of time more than three (3) hours must be reported in writing
16 personally or by facsimile by the owner or operator to the ~~Department~~
17 Division of Labor within twenty-four (24) hours after the closing of the
18 amusement ride.

19 (b)(1) The operator of an amusement ride shall immediately cease to
20 operate any ride involved in a fatality or serious physical injury. The owner
21 or operator shall notify the ~~department~~ division of such an accident within
22 four (4) hours of its occurrence by telephone or facsimile. The owner or
23 operator shall file a written accident report personally or by facsimile with
24 the ~~department~~ division within twenty-four (24) hours of the accident. Within
25 twenty-four (24) hours after receipt of such a report, the ~~department~~
26 division shall initiate an investigation of the occurrence and an inspection
27 of the ride. The ~~department~~ division shall perform the inspection in a manner
28 that proceeds with all practicable speed and minimizes the disruption of the
29 amusement facility at which the amusement ride is located.

30 (2) Unless authorized in writing by the ~~department~~ division, no
31 amusement ride may be operated, moved, altered, repaired, or tampered with,
32 except to protect life, limb, and property following an accident involving a
33 serious injury or death until the ~~department~~ division has completed its
34 inspection and investigation.

35
36 SECTION 251. Arkansas Code § 23-89-515(b), concerning nondestructive

1 testing under the Amusement Ride and Amusement Attraction Safety Insurance
2 Act, is amended to read as follows:

3 (b)(1) If a manufacturer's nondestructive testing standards are
4 unavailable for an amusement ride and the ~~Department~~ Division of Labor deems
5 it necessary, the owner shall provide the standards through a professional
6 engineer as defined in § 17-30-101, an engineering agency, or an individual
7 qualified by training and experience to compile standards based on the ride's
8 specifications and history and using accepted engineering practices.

9 (2) The professional engineer or other qualified individual
10 shall be approved by the Director of the ~~Department~~ Division of Labor.

11 (3) The amusement ride shall meet the criteria established under
12 this subsection.

13
14 SECTION 252. Arkansas Code § 23-89-516(a), concerning records under
15 the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended
16 to read as follows:

17 (a) The Director of the ~~Department~~ Division of Labor shall keep
18 records and statistics by year of serious injuries and fatalities resulting
19 from amusement ride accidents. Such records and statistics shall specify the
20 year of the accident, type of injury, type of amusement ride or amusement
21 attraction involved, and cause of the accident.

22
23 SECTION 253. Arkansas Code § 23-89-516(b)(2), concerning records under
24 the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended
25 to read as follows:

26 (2) The latest safety inspection report by the ~~Department~~
27 Division of Labor and by the owner or operator's insurer;

28
29 SECTION 254. Arkansas Code § 23-89-517 is amended to read as follows:
30 23-89-517. Disposition of funds.

31 All money received under the provisions of this subchapter shall be
32 deposited into the State Treasury to the credit of the Department of Labor
33 and Licensing Special Fund.

34
35 SECTION 255. Arkansas Code § 23-89-518(a)(2)(B), concerning the
36 creation of the Amusement Ride Safety Advisory Board, is amended to read as

1 follows:

2 (B) The Director of the ~~Department~~ Division of Labor or
3 his or her designee shall be ex officio chair.

4

5 SECTION 256. Arkansas Code § 23-89-518(a)(3)(A), concerning the
6 creation of the Amusement Ride Safety Advisory Board, is amended to read as
7 follows:

8 (3)(A) Except for the Director of the ~~Department~~ Division of
9 Labor and the Director of the Department of Parks and Tourism, the terms of
10 office of the members shall be for four (4) years or until a successor is
11 appointed.

12

13 SECTION 257. Arkansas Code § 23-89-518(b), concerning the creation of
14 the Amusement Ride Safety Advisory Board, is amended to read as follows:

15 (b) The duties of the board shall be:

16 (1) To assist the Director of the ~~Department~~ Division of Labor
17 with the formulation of rules and regulations regarding the safe operation of
18 amusement rides; and

19 (2) To give the ~~Department~~ Division of Labor such counsel and
20 advice as will aid it in the proper enforcement and administration of the
21 provisions of this subchapter.

22

23 SECTION 258. Arkansas Code § 23-112-202(c)(1), concerning the
24 proceedings and bond of members of the Arkansas Motor Vehicle Commission, is
25 amended to read as follows:

26 (c)(1) The commission shall purchase either a blanket position honesty
27 or faithful performance bond from some surety company authorized to do
28 business in this state. This bond shall be in the penal sum of ten thousand
29 dollars (\$10,000), made payable to the State of Arkansas, conditioned for the
30 honest and faithful performance of the duties of the chair and each member of
31 the commission, and the ~~Executive~~ Director of the Arkansas Motor Vehicle
32 Commission, ~~and all other employees of the commission~~, the bond to be
33 approved by the Governor and filed in the office of the Secretary of State.

34

35 SECTION 259. Arkansas Code § 23-112-203 is amended to read as follows:
36 23-112-203. ~~Executive director — Employees — Office~~ Director of

1 Arkansas Motor Vehicle Commission.

2 (a)(1) The Arkansas Motor Vehicle Commission in consultation with the
 3 Secretary of the Department of Labor and Licensing shall ~~appoint~~ employ a
 4 qualified person to serve as ~~executive director thereof~~ Director of the
 5 Arkansas Motor Vehicle Commission, to serve at the pleasure of the
 6 commission, and shall fix his or her salary and shall define and prescribe
 7 the duties of the director.

8 (2) The ~~Executive~~ Director of the Arkansas Motor Vehicle
 9 Commission shall be in charge of the ~~commission's~~ office of the Arkansas
 10 Motor Vehicle Commission and shall devote such time to the duties thereof as
 11 may be necessary.

12 (3) The duties of the director shall include, but shall not be
 13 limited to, the collection of all fees and charges under the provisions of
 14 this chapter, keeping a record of all proceedings of the commission, and
 15 keeping an accurate account of all moneys received and disbursed by the
 16 commission, all of which records shall be considered as public records.

17 (b) The commission may employ in consultation with the secretary such
 18 clerical and professional help and incur such expenses as may be reasonably
 19 necessary for the proper discharge of its duties under this chapter.

20 (c) Except as provided in this chapter, the commission shall maintain
 21 its office and transact its business at Little Rock.

22
 23 SECTION 260. Arkansas Code § 25-4-127(b)(3)(L), concerning the
 24 creation and duties of the Data and Transparency Panel, is amended to read as
 25 follows:

26 (L) The Department of Labor and Licensing;

27
 28 SECTION 261. Arkansas Code Title 25, Chapter 12, is repealed.

29 ~~25-12-101. Continuation—Director—Organization—Personnel.~~

30 ~~(a) The Department of Labor, created by § 11-2-101 et seq., is~~
 31 ~~continued.~~

32 ~~(b) The executive head of the department shall be the Director of the~~
 33 ~~Department of Labor. The director shall be appointed by the Governor with the~~
 34 ~~consent of the Senate and shall serve at the pleasure of the Governor.~~

35 ~~(c) The department shall consist of those divisions which existed as~~
 36 ~~of July 1, 1971, and any other divisions which may be created by law and~~

1 ~~placed under the department.~~

2 ~~(d) The director, with the advice of and consent of the Governor,~~
 3 ~~shall appoint the heads of the respective divisions. All other personnel of~~
 4 ~~the department shall be employed by and serve at the pleasure of the~~
 5 ~~director. Provided, nothing in this section shall be so construed as to~~
 6 ~~reduce any right which an employee of the department may have under any civil~~
 7 ~~service or merit system.~~

8 ~~(e) Each division of the department shall be under the direction,~~
 9 ~~control, and supervision of the director. The director may delegate his or~~
 10 ~~her functions, powers, and duties to various divisions of the department as~~
 11 ~~he or she shall deem desirable and necessary for the effective and efficient~~
 12 ~~operation of the department.~~

13
 14 SECTION 262. EMERGENCY CLAUSE. It is found and determined by the
 15 General Assembly of the State of Arkansas that this act revises the duties of
 16 certain state entities; that this act establishes new departments of the
 17 state; that these revisions impact the expenses and operations of state
 18 government; and that the provisions of this act should become effective at
 19 the beginning of the fiscal year to allow for implementation of the new
 20 provisions at the beginning of the fiscal year. Therefore, an emergency is
 21 declared to exist, and this act being necessary for the preservation of the
 22 public peace, health, and safety shall become effective on July 1, 2019.

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