

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1305

By: Representative A. Davis

By: Senator Hester

For An Act To Be Entitled

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

Subtitle

TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF LABOR AND LICENSING; TO TRANSFER VARIOUS STATE AGENCIES; AND TO DECLARE AN EMERGENCY.

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

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

Subchapter 11 – Department of Labor and Licensing

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

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

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



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

- (1) Arkansas Abstracters' Board, created under § 17-11-401;
- (2) Arkansas Appraiser Licensing and Certification Board, created under § 17-14-201;
- (3) Arkansas Fire Protection Licensing Board, created under § 20-22-606;
- (4) Arkansas Home Inspector Registration Board, created under § 17-52-304;
- (5) Arkansas Manufactured Home Commission, created under § 20-25-105;
- (6) Arkansas Mediation and Conciliation Service, defined under § 11-2-203;
- (7) Arkansas Motor Vehicle Commission, created under § 23-112-201;
- (8) Arkansas Real Estate Commission, created under § 17-42-201;
- (9) Arkansas State Board of Architects, Landscape Architects, and Interior Designers, created under § 17-15-201;
- (10) Arkansas State Board of Public Accountancy, created under § 17-12-201;
- (11) Arkansas Towing and Recovery Board, created under § 27-50-1203;
- (12) Auctioneer's Licensing Board, created under § 17-17-201;
- (13) Board of Electrical Examiners of the State of Arkansas, created under § 17-28-201;
- (14) Contractors Licensing Board, created under § 17-25-201;
- (15) Division of Labor, created under § 25-43-404;
- (16) Elevator Inspection and Permits "Elevator Safety Board" is § 20-24-105;
- (17) HVACR Licensing Board, created under § 17-33-201;
- (18) Pawnbroker Licensure Commission, created under § 17-56-201;
- (19) Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, created under § 17-19-106;
- (20) State Athletic Commission, created under § 17-22-201;

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

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

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

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

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

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

25-43-403. Organization.

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

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

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

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

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

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

25-43-404. Division of Labor.

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

Labor and Licensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

subchapter and of the rules issued under this subchapter.

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

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

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

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

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

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

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

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

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

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

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

11-2-110. Director – Rulemaking authority.

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

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

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

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

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

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

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

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

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

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

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

11-2-112. Promulgation of rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 32. Arkansas Code § 11-2-118 is amended to read as follows:

11-2-118. Oaths, certifications, subpoenas, etc. – Enforcement by contempt.

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

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

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

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

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

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

11-2-120. Annual report.

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

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

Licensing shall authorize.

SECTION 35. Arkansas Code § 11-2-121 is amended to read as follows:

11-2-121. Agreements with government agencies.

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

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

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

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

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

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

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

SECTION 38. Arkansas Code § 11-2-203 is amended to read as follows:

11-2-203. ~~Definitions~~ Definition.

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

- ~~(1) "Director" means the Director of the Department of Labor;~~
~~(2) "Person person" means one (1) or more individuals, joint ventures, partnerships, associations, corporations, states, municipalities, business trusts, legal representatives, or any organized group of employees;~~
~~(3) "Service" means the Arkansas Mediation and Conciliation Service of the Department of Labor; and~~
~~(4) "State" means the State of Arkansas.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11-4-304. Judicial review.

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

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

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

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

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

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

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

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

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

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

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

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

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

collect unpaid wages, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Compensation Commission, is amended to read as follows:

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

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

11-9-209. Statistical data collection.

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

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

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

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

(a) Workers' Health and Safety Division.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Job Safety Information System.

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

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

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

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

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

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

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

(c) Extra-Hazardous Employer Program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Accident Prevention Services.

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

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

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

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

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

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

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

(e) Immunity from Certain Liability.

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

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

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

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

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

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

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

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

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

repealed.

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

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

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

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

SECTION 102. Arkansas Code § 11-11-204 is amended to read as follows:

11-11-204. Director and ~~department~~ division – Powers and duties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

examination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11-12-105. Implementation and enforcement.

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

- (1) Promulgate rules and regulations for the implementation of this chapter;
- (2) Suspend or revoke a permit for the employment of a child in the entertainment industry for cause;
- (3) Enter or authorize his or her representative to enter and inspect any place of employment where children work, rest, or play; and
- (4) Otherwise enforce and implement the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

Adjutant General, or their designated representatives;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

responsibility of keeping:

- (A) A record of the board's proceedings;
- (B) A record of persons registered as barbers and apprentices showing the name, place of business, and residence of each and the date and number of his or her certificate;
- (C) A record of all certificates issued, refused, renewed, suspended, or revoked; and
- (D) Such other records as may be directed by the board or required by law.

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

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

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

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

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

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

(b) Funds thus realized shall be expended for:

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

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

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

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

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

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

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

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

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

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

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

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

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

~~commission~~ secretary.

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

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

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

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

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

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

17-25-204. Employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and

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

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

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

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

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

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

(A) Provision of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Select its own officers; and

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

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

and Professional Surveyors, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19-5-302. State General Government Fund.

(7) Department of Labor and Licensing Fund Account.

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

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

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

- (i) Those general revenues as may be provided by law; and
- (ii) Any other funds as may be provided by law, including federal reimbursement received on account of eligible expenditures by the various programs of the Department of Labor and Licensing operating from and having appropriations made payable from the Department of Labor and Licensing Fund Account;

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

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

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

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

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

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

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

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

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

by children, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Boards and Commissions to enforce certain provisions of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The provision for liability insurance required

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

department shall be submitted at the same time.

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

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

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

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

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

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

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

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

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

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

SECTION 219. Arkansas Code § 20-27-802 is amended to read as follows:

20-27-802. Inside door handles required on certain walk-in refrigerators, etc.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

jurisdiction without paying costs or giving bond for costs to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

dollars (\$10,000).

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

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

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

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

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

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

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

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

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

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

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

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

(a)(1) The Director of the ~~Department~~ Division of Labor is authorized to inspect each person or entity to ensure compliance with this subchapter.

SECTION 245. Arkansas Code § 23-89-506(c)-(e), concerning inspections and fees, are amended to read as follows:

(c) If the director or an authorized employee of the ~~Department~~ Division of Labor finds that any amusement ride or amusement attraction is defective in a manner affecting patron safety or unsafe, he or she shall attach to the amusement ride or amusement attraction a notice and order prohibiting its use or operation. Operation of the amusement ride shall not resume until the unsafe or hazardous condition is corrected and the director or his or her authorized representative permits such an operation.

(d) Any inspector certified pursuant to the requirements of this subchapter who, upon inspection of an amusement ride or amusement attraction, finds the amusement ride or amusement attraction to be defective or unsafe shall immediately report the amusement ride or amusement attraction and its condition to the ~~department~~ division.

(e) The director shall charge a fee to be paid by the owner of any amusement ride or amusement attraction for all amusement ride safety inspections performed by any employee of the ~~department~~ division. Such fees shall be as follows:

(1) For one (1) to five (5) amusement rides or amusement attractions, one hundred dollars (\$100);

(2) For six (6) to fifteen (15) amusement rides or amusement attractions, two hundred dollars (\$200);

(3) For sixteen (16) to twenty-five (25) amusement rides or amusement attractions, three hundred dollars (\$300);

(4) For twenty-six (26) to thirty-five (35) amusement rides or amusement attractions, four hundred dollars (\$400); and

(5) For thirty-six (36) and more amusement rides or amusement

attractions, six hundred dollars (\$600).

SECTION 246. Arkansas Code § 23-89-507(b), concerning a change in coverage by an insurance company under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

(b) If any insurer insuring an operator shall cancel the coverage of the operator, the insurer shall notify the Director of the ~~Department~~ Division of Labor of the cancellation at least ten (10) days before the cancellation is effective.

SECTION 247. Arkansas Code § 23-89-507(f), concerning a change in coverage by an insurance company under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

(f) Any employee or contractor of an insurer inspecting amusement rides in Arkansas shall be registered and certified by the ~~Department~~ Division of Labor pursuant to regulation adopted by the director.

SECTION 248. Arkansas Code § 23-89-508 is amended to read as follows:
23-89-508. Rules and regulations.

The Director of the ~~Department~~ Division of Labor is authorized to adopt appropriate rules and regulations to carry out the intent and purposes of this subchapter and to assure its efficient and effective enforcement.

SECTION 249. Arkansas Code § 23-89-509 is amended to read as follows:
23-89-509. Cease and desist orders – Notice required.

(a)(1) Upon issuance of cease and desist orders pursuant to § 23-89-504 or § 23-89-507, the Director of the ~~Department~~ Division of Labor shall promptly transmit his or her order to the Director of the Department of Arkansas State Police.

(2) Whenever possible, the Director of the ~~Department~~ Division of Labor shall notify any applicable fair boards or sponsoring organizations in the respective districts or counties of this state where the amusement attractions or amusement rides are in operation or are scheduled to be in operation.

(3) The Director of the ~~Department~~ Division of Labor shall promptly notify these parties when a cease and desist order has been

rescinded upon proof of the operator's compliance with the provisions of this subchapter.

(b) Upon receipt of the Director of the ~~Department~~ Division of Labor's order to cease and desist operations pursuant to subsection (a) of this section, the ~~Department~~ Division of Arkansas State Police shall promptly serve the order on the operator and order the operator immediately to cease operation of all applicable amusement attractions or amusement rides in operation or scheduled to be in operation in those districts or counties until the cease and desist order has been rescinded.

SECTION 250. Arkansas Code § 23-89-510 is amended to read as follows:

23-89-510. Accidents – Reporting injuries or death – Investigations.

(a) Any mechanical, structural, or electrical defects directly affecting patron safety for which an amusement ride is closed to patron use for a period of time more than three (3) hours must be reported in writing personally or by facsimile by the owner or operator to the ~~Department~~ Division of Labor within twenty-four (24) hours after the closing of the amusement ride.

(b)(1) The operator of an amusement ride shall immediately cease to operate any ride involved in a fatality or serious physical injury. The owner or operator shall notify the ~~department~~ division of such an accident within four (4) hours of its occurrence by telephone or facsimile. The owner or operator shall file a written accident report personally or by facsimile with the ~~department~~ division within twenty-four (24) hours of the accident. Within twenty-four (24) hours after receipt of such a report, the ~~department~~ division shall initiate an investigation of the occurrence and an inspection of the ride. The ~~department~~ division shall perform the inspection in a manner that proceeds with all practicable speed and minimizes the disruption of the amusement facility at which the amusement ride is located.

(2) Unless authorized in writing by the ~~department~~ division, no amusement ride may be operated, moved, altered, repaired, or tampered with, except to protect life, limb, and property following an accident involving a serious injury or death until the ~~department~~ division has completed its inspection and investigation.

SECTION 251. Arkansas Code § 23-89-515(b), concerning nondestructive

testing under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

(b)(1) If a manufacturer's nondestructive testing standards are unavailable for an amusement ride and the ~~Department~~ Division of Labor deems it necessary, the owner shall provide the standards through a professional engineer as defined in § 17-30-101, an engineering agency, or an individual qualified by training and experience to compile standards based on the ride's specifications and history and using accepted engineering practices.

(2) The professional engineer or other qualified individual shall be approved by the Director of the ~~Department~~ Division of Labor.

(3) The amusement ride shall meet the criteria established under this subsection.

SECTION 252. Arkansas Code § 23-89-516(a), concerning records under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

(a) The Director of the ~~Department~~ Division of Labor shall keep records and statistics by year of serious injuries and fatalities resulting from amusement ride accidents. Such records and statistics shall specify the year of the accident, type of injury, type of amusement ride or amusement attraction involved, and cause of the accident.

SECTION 253. Arkansas Code § 23-89-516(b)(2), concerning records under the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended to read as follows:

(2) The latest safety inspection report by the ~~Department~~ Division of Labor and by the owner or operator's insurer;

SECTION 254. Arkansas Code § 23-89-517 is amended to read as follows:
23-89-517. Disposition of funds.

All money received under the provisions of this subchapter shall be deposited into the State Treasury to the credit of the Department of Labor and Licensing Special Fund.

SECTION 255. Arkansas Code § 23-89-518(a)(2)(B), concerning the creation of the Amusement Ride Safety Advisory Board, is amended to read as

follows:

(B) The Director of the ~~Department~~ Division of Labor or his or her designee shall be ex officio chair.

SECTION 256. Arkansas Code § 23-89-518(a)(3)(A), concerning the creation of the Amusement Ride Safety Advisory Board, is amended to read as follows:

(3)(A) Except for the Director of the ~~Department~~ Division of Labor and the Director of the Department of Parks and Tourism, the terms of office of the members shall be for four (4) years or until a successor is appointed.

SECTION 257. Arkansas Code § 23-89-518(b), concerning the creation of the Amusement Ride Safety Advisory Board, is amended to read as follows:

(b) The duties of the board shall be:

(1) To assist the Director of the ~~Department~~ Division of Labor with the formulation of rules and regulations regarding the safe operation of amusement rides; and

(2) To give the ~~Department~~ Division of Labor such counsel and advice as will aid it in the proper enforcement and administration of the provisions of this subchapter.

SECTION 258. Arkansas Code § 23-112-202(c)(1), concerning the proceedings and bond of members of the Arkansas Motor Vehicle Commission, is amended to read as follows:

(c)(1) The commission shall purchase either a blanket position honesty or faithful performance bond from some surety company authorized to do business in this state. This bond shall be in the penal sum of ten thousand dollars (\$10,000), made payable to the State of Arkansas, conditioned for the honest and faithful performance of the duties of the chair and each member of the commission, and the ~~Executive~~ Director of the Arkansas Motor Vehicle Commission, ~~and all other employees of the commission~~, the bond to be approved by the Governor and filed in the office of the Secretary of State.

SECTION 259. Arkansas Code § 23-112-203 is amended to read as follows:
23-112-203. ~~Executive director — Employees — Office~~ Director of

Arkansas Motor Vehicle Commission.

(a)(1) The Arkansas Motor Vehicle Commission in consultation with the Secretary of the Department of Labor and Licensing shall ~~appoint~~ employ a qualified person to serve as ~~executive director thereof~~ Director of the Arkansas Motor Vehicle Commission, to serve at the pleasure of the commission, and shall fix his or her salary and shall define and prescribe the duties of the director.

(2) The ~~Executive~~ Director of the Arkansas Motor Vehicle Commission shall be in charge of the ~~commission's~~ office of the Arkansas Motor Vehicle Commission and shall devote such time to the duties thereof as may be necessary.

(3) The duties of the director shall include, but shall not be limited to, the collection of all fees and charges under the provisions of this chapter, keeping a record of all proceedings of the commission, and keeping an accurate account of all moneys received and disbursed by the commission, all of which records shall be considered as public records.

(b) The commission may employ in consultation with the secretary such clerical and professional help and incur such expenses as may be reasonably necessary for the proper discharge of its duties under this chapter.

(c) Except as provided in this chapter, the commission shall maintain its office and transact its business at Little Rock.

SECTION 260. Arkansas Code § 25-4-127(b)(3)(L), concerning the creation and duties of the Data and Transparency Panel, is amended to read as follows:

(L) The Department of Labor and Licensing;

SECTION 261. Arkansas Code Title 25, Chapter 12, is repealed.

~~25-12-101. Continuation—Director—Organization—Personnel.~~

~~(a) The Department of Labor, created by § 11-2-101 et seq., is continued.~~

~~(b) The executive head of the department shall be the Director of the Department of Labor. The director shall be appointed by the Governor with the consent of the Senate and shall serve at the pleasure of the Governor.~~

~~(c) The department shall consist of those divisions which existed as of July 1, 1971, and any other divisions which may be created by law and~~

~~placed under the department.~~

~~(d) The director, with the advice of and consent of the Governor, shall appoint the heads of the respective divisions. All other personnel of the department shall be employed by and serve at the pleasure of the director. Provided, nothing in this section shall be so construed as to reduce any right which an employee of the department may have under any civil service or merit system.~~

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

SECTION 262. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the provisions of this act should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.