

Opinion No. 2013-081

August 6, 2013

David A. Couch, Legal Counsel  
Arkansans for Responsible Medicine  
1501 North University, Suite 228  
Little Rock, Arkansas 72207

Dear Mr. Couch:

This is in response to your submission on behalf of Arkansans for Responsible Medicine for certification of the popular name and ballot title for a proposed initiated act pursuant to A.C.A. § 7-9-107 (Repl. 2007). You previously submitted a similar measure, which this office rejected due to ambiguities in the text of the proposed measure. *See* Op. Att’y Gen. No. 2013-071. You have made changes in the text of your proposal since your last submission and have now submitted the following proposed popular name and ballot title for my certification:

Popular Name

THE ARKANSAS MEDICAL MARIJUANA ACT

Ballot Title

An act making the medical use of marijuana legal under Arkansas state law, but acknowledging that marijuana use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation, acquisition and distribution of marijuana for qualifying patients through nonprofit medical marijuana dispensaries and granting those nonprofit dispensaries limited immunity; allowing localities to limit the number of nonprofit dispensaries and to enact reasonable zoning regulations governing their operations; providing that qualifying patients, and

nonprofit dispensary agents shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with the patients' medical use of marijuana; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician licensed in the State of Arkansas that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the Department of Health to establish rules related to the processing of applications for registry identification cards, the operations of nonprofit dispensaries, and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of marijuana; setting initial maximum application fees for nonprofit dispensaries; establishing qualifications for registry identification cards; establishing standards to ensure that qualifying patient registration information is treated as confidential; directing the Department of Health to provide the Legislature annual quantitative reports about the Medical Marijuana Program; setting certain limitations on the use of medical marijuana by qualifying patients; establishing an affirmative defense for the medical use of marijuana; establishing registration and operation requirements for nonprofit dispensaries; setting limits on the amount of marijuana a nonprofit dispensary may cultivate and the amount of marijuana a nonprofit dispensary may dispense to a qualifying patient; prohibiting certain conduct by imposing certain conditions and requirements on physicians, nonprofit dispensaries, nonprofit dispensary agents, and qualifying patients; establishing a list of felony offenses which preclude certain types of participation in the Medical Marijuana Program; providing that the sale of usable marijuana is subject to all state and local sales taxes; and providing that the state sales tax revenue shall be distributed 25% to the Newborn Umbilical Cord Blood Bank, 25% to the Arkansas Historic Preservation Fund (established by the act), 25% to the Public Health Fund and 25% to the Behavioral Health Services Fund Account

The Attorney General is required, pursuant to A.C.A. § 7-9-107, to certify the popular name and ballot title of all proposed initiative and referendum acts or amendments before the petitions are circulated for signature. The law provides that the Attorney General may substitute and certify a more suitable and correct popular name and ballot title, if he can do so, or if the proposed popular name and ballot title are sufficiently misleading, may reject the entire petition. **Neither certification nor rejection of a popular name and ballot title reflects my view of the merits of the proposal. This Office has been given no authority to consider the merits of any measure.**

In this regard, A.C.A. § 7-9-107 neither requires nor authorizes this office to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, consistent with Arkansas Supreme Court precedent, unless the measure is “clearly contrary to law,”<sup>1</sup> this office will not require that a measure’s proponents acknowledge in the ballot title any possible constitutional infirmities. As part of my review, however, I may address constitutional concerns for consideration by the measure’s proponents.

Consequently, this review has been limited primarily to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the popular name and ballot title you have submitted accurately and impartially summarize the provisions of your proposed amendment.

**The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act.**<sup>2</sup>

The popular name is primarily a useful legislative device.<sup>3</sup> It need not contain detailed information or include exceptions that might be required of a ballot title,

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<sup>1</sup> See *Kurrus v. Priest*, 342 Ark. 434, 445, 29 S.W.3d 669, 675 (2000); *Donovan v. Priest*, 326 Ark. 353, 359, 931 S.W.2d 119, 121 (1996); *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992).

<sup>2</sup> See *Arkansas Women’s Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 846 (1984).

<sup>3</sup> *Pafford v. Hall*, 217 Ark. 734, 739, 233 S.W.2d 72, 75 (1950).

but it must not be misleading or give partisan coloring to the merit of the proposal.<sup>4</sup> The popular name is to be considered together with the ballot title in determining the ballot title's sufficiency.<sup>5</sup>

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented.<sup>6</sup> According to the court, if information omitted from the ballot title is an "essential fact which would give the voter serious ground for reflection, it must be disclosed."<sup>7</sup> At the same time, however, a ballot title must be brief and concise (*see* A.C.A. § 7-9-107(b)); otherwise voters could run afoul of A.C.A. § 7-5-522's five minute limit in voting booths when other voters are waiting in line.<sup>8</sup> The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate every possible legal argument the proposed measure might evoke.<sup>9</sup> The title, however, must be free from any misleading tendency, whether by amplification, omission, or fallacy; it must not be tinged with partisan coloring.<sup>10</sup> A ballot title must convey an intelligible idea of the scope and significance of a proposed change in the law.<sup>11</sup> The ballot title must be intelligible, honest, and impartial.<sup>12</sup>

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<sup>4</sup> *E.g.*, *Chaney v. Bryant*, 259 Ark. 294, 297, 532 S.W.2d 741, 743 (1976). ; *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958).

<sup>5</sup> *May v. Daniels*, 359 Ark. 100, 105, 194 S.W.3d 771, 776 (2004).

<sup>6</sup> *Becker v. Riviere*, 270 Ark. 219, 226, 604 S.W.2d 555, 558 (1980).

<sup>7</sup> *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938, 942 (1994).

<sup>8</sup> *Id.* at 288, 884 S.W.2d at 944.

<sup>9</sup> *Id.* 293, 884 S.W.2d at 946–47.

<sup>10</sup> *Id.* at 284, 884 S.W.2d at 942.

<sup>11</sup> *Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 245, 884 S.W.2d 605, 607 (1994) (internal quotations omitted).

<sup>12</sup> *Becker v. McCuen*, 303 Ark. 482, 489, 798 S.W.2d 71, 74 (1990).

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Applying the above precepts, it is my conclusion that the popular name and ballot title are sufficient as proposed.

Pursuant to A.C.A. § 7-9-108, instructions to canvassers and signers must precede every petition, informing them of the privileges granted by the Constitution and of the penalties imposed for violations of this act. Enclosed herewith, over the signature of the Attorney General, are instructions that should be incorporated in your petition prior to circulation.

Sincerely,

DUSTIN MCDANIEL  
Attorney General

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Enclosures

**Popular Name**

THE ARKANSAS MEDICAL MARIJUANA ACT

**Ballot Title**

AN ACT MAKING THE MEDICAL USE OF MARIJUANA LEGAL UNDER ARKANSAS STATE LAW, BUT ACKNOWLEDGING THAT MARIJUANA USE, POSSESSION, AND DISTRIBUTION FOR ANY PURPOSE REMAIN ILLEGAL UNDER FEDERAL LAW; ESTABLISHING A SYSTEM FOR THE CULTIVATION, ACQUISITION AND DISTRIBUTION OF MARIJUANA FOR QUALIFYING PATIENTS THROUGH NONPROFIT MEDICAL MARIJUANA DISPENSARIES AND GRANTING THOSE NONPROFIT DISPENSARIES LIMITED IMMUNITY; ALLOWING LOCALITIES TO LIMIT THE NUMBER OF NONPROFIT DISPENSARIES AND TO ENACT REASONABLE ZONING REGULATIONS GOVERNING THEIR OPERATIONS; PROVIDING THAT QUALIFYING PATIENTS, AND NONPROFIT DISPENSARY AGENTS SHALL NOT BE SUBJECT TO CRIMINAL OR CIVIL PENALTIES OR OTHER FORMS OF DISCRIMINATION FOR ENGAGING IN OR ASSISTING WITH THE PATIENTS' MEDICAL USE OF MARIJUANA; REQUIRING THAT IN ORDER TO BECOME A QUALIFYING PATIENT, A PERSON SUBMIT TO THE STATE A WRITTEN CERTIFICATION FROM A PHYSICIAN LICENSED IN THE STATE OF ARKANSAS THAT HE OR SHE IS SUFFERING FROM A QUALIFYING MEDICAL CONDITION; ESTABLISHING AN INITIAL LIST OF QUALIFYING MEDICAL CONDITIONS; DIRECTING THE DEPARTMENT OF HEALTH TO ESTABLISH RULES RELATED TO THE PROCESSING OF APPLICATIONS FOR REGISTRY IDENTIFICATION CARDS, THE OPERATIONS OF NONPROFIT DISPENSARIES, AND THE ADDITION OF QUALIFYING MEDICAL CONDITIONS IF SUCH ADDITIONS WILL ENABLE PATIENTS TO DERIVE THERAPEUTIC BENEFIT FROM THE MEDICAL USE OF MARIJUANA; SETTING INITIAL MAXIMUM APPLICATION FEES FOR NONPROFIT DISPENSARIES; ESTABLISHING QUALIFICATIONS FOR REGISTRY IDENTIFICATION CARDS; ESTABLISHING STANDARDS TO ENSURE THAT QUALIFYING PATIENT REGISTRATION INFORMATION IS TREATED AS CONFIDENTIAL; DIRECTING THE DEPARTMENT OF HEALTH TO PROVIDE THE LEGISLATURE ANNUAL QUANTITATIVE REPORTS ABOUT THE MEDICAL MARIJUANA PROGRAM; SETTING CERTAIN LIMITATIONS ON THE USE OF MEDICAL MARIJUANA BY QUALIFYING PATIENTS; ESTABLISHING AN AFFIRMATIVE DEFENSE FOR THE MEDICAL USE OF MARIJUANA; ESTABLISHING REGISTRATION AND OPERATION REQUIREMENTS FOR NONPROFIT DISPENSARIES; SETTING LIMITS ON THE AMOUNT OF MARIJUANA A NONPROFIT DISPENSARY MAY CULTIVATE AND THE AMOUNT OF MARIJUANA A NONPROFIT DISPENSARY MAY DISPENSE TO A QUALIFYING PATIENT; PROHIBITING CERTAIN

CONDUCT BY AND IMPOSING CERTAIN CONDITIONS AND REQUIREMENTS ON PHYSICIANS, NONPROFIT DISPENSARIES, NONPROFIT DISPENSARY AGENTS, AND QUALIFYING PATIENTS; ESTABLISHING A LIST OF FELONY OFFENSES WHICH PRECLUDE CERTAIN TYPES OF PARTICIPATION IN THE MEDICAL MARIJUANA PROGRAM; PROVIDING THAT THE SALE OF USABLE MARIJUANA IS SUBJECT TO ALL STATE AND LOCAL SALES TAXES; AND PROVIDING THAT THE STATE SALES TAX REVENUE SHALL BE DISTRIBUTED 25% TO THE NEWBORN UMBILICAL CORD BLOOD BANK, 25% TO THE ARKANSAS HISTORIC PRESERVATION FUND (ESTABLISHED BY THE ACT), 25% TO THE PUBLIC HEALTH FUND AND 25% TO THE BEHAVIORAL HEALTH SERVICES FUND ACCOUNT

AN ACT TO ESTABLISH THE ARKANSAS MEDICAL  
MARIJUANA ACT

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20 is amended to add an additional chapter to read as follows:

Chapter 65 — Medical Marijuana

Subchapter 1 — Arkansas Medical Marijuana Act

20-65-101. Short title.

This subchapter shall be known and cited as the "Arkansas Medical Marijuana Act".

20-65-102. Definitions.

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

(1) "Acquire" or "acquisition" means coming to possess marijuana by means of any legal source herein authorized, not from an unauthorized source, and in accordance with this subchapter and any regulations promulgated by the department;

(2) "Assist" or "assisting" means helping a qualifying patient make such medical use of marijuana by enabling such medical use by any means herein authorized;

(3) "Cardholder" means a qualifying patient or a nonprofit dispensary agent;

(4) "Department" means the Arkansas Department of Health or its successor;

(5) "Designated caregiver" means a person who is at least twenty-one (21) years of age who has not been convicted of an excluded felony offense and who has agreed to assist a physically disabled qualifying patient with the medical use of marijuana;

(6) "Enclosed, locked facility" means a closet, room, greenhouse, or other indoor enclosed area equipped with locks or other security devices that permit access only by a cardholder;

(7) "Excluded felony offense" means:

(A) A felony involving violence, provided an offense which has been sealed by a court shall not be considered an excluded felony offense; or

(B) A violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted but does not include:

(i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or

(ii) An offense that has been sealed by a court;

(8) "Medical use" means the acquisition, possession, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's qualifying medical condition or symptoms associated with the qualifying patient's

qualifying medical condition:

(9) "Nonprofit dispensary" means a not-for-profit entity that has registered with the department pursuant to § 20-65-108 and performs any combination of the activities therein described;

(10) "Nonprofit dispensary agent" means:

(A) An employee, supervisor, volunteer, or agent of a nonprofit dispensary who:

(i) Is twenty-one (21) years of age or older;

(ii) Works at the nonprofit dispensary; and

(iii) Has registered with the department pursuant to § 20-65-108; or

(B) An owner of a nonprofit dispensary who has registered with the department pursuant to § 20-65-108; and

(C) The board members and officers of a nonprofit dispensary if the nonprofit dispensary has exercised its discretionary right to incorporate pursuant to § 20-65-109(b)(1);

(11) "Physician" means a doctor of medicine or doctor of osteopathic medicine who holds a valid, unrestricted, and existing license to practice medicine in the state of Arkansas and has been issued a registration from the United States Drug Enforcement Administration to prescribe controlled substances;

(12) "Qualifying medical condition" means one (1) or more of the following:

(A) Cancer, glaucoma, positive status for Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome, Hepatitis C, Amyotrophic Lateral Sclerosis, Tourette's disease, Crohn's disease, ulcerative colitis, Post Traumatic Stress Disorder, fibromyalgia, agitation of Alzheimer's disease, or the treatment of these conditions;

(B) A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following: cachexia or Wasting Syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment, or surgical measures for more than six (6) months; severe nausea; seizures, including those characteristic of epilepsy; or severe and persistent muscle spasms, including those characteristic of Multiple Sclerosis; and

(C) Any other medical condition or its treatment approved by the department as provided for in § 20-65-104(e);

(13) "Qualifying patient" means a person who has been diagnosed by a physician as having a qualifying medical condition and who has registered with the department pursuant to § 20-65-105(a);

(14) "Registry identification card" means a document issued by the department that identifies a person as a qualifying patient or a nonprofit dispensary agent;

(15) "Sealed" means to expunge, remove, sequester, and treat as confidential the record or records of a felony offense;

(16) "Usable marijuana" means the stalks, roots, dried leaves, and flowers of the marijuana plant and any mixture or preparation thereof but does not include the weight of any ingredients other than marijuana that are combined with marijuana and prepared for consumption as food or drink;

(17) "Visiting qualifying patient" means a patient with a qualifying medical condition who is not a resident of Arkansas or who has been a resident of Arkansas for less than thirty (30) days and who is in actual possession of a registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States and pertains to a qualifying medical condition under this section; and

(18) "Written certification" means a document signed by a physician stating that in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the qualifying patient has a qualifying medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. A written certification shall specify the qualifying patient's qualifying medical condition, which also shall be noted in the qualifying patient's medical records.

20-65-103. Protections for the medical use of marijuana.

(a) A qualifying patient in actual possession of a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for the medical use of marijuana in accordance with this subchapter as long as the qualifying patient possesses not more than two and one-half ounces (2 ½ oz.) of usable marijuana.

(b)(1) A qualifying patient is presumed to be lawfully engaged in the medical use of marijuana in accordance with this subchapter if the qualifying patient is in actual possession of a registry identification card and possesses an amount of marijuana that does not exceed the amount allowed under this subchapter.

(2) The presumption made in subdivision (b)(1) of this section may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's qualifying medical condition or symptoms associated with the qualifying medical condition in accordance with this subchapter.

(c) A cardholder who is also a qualifying patient shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau for giving up to two and one-half ounces (2 ½ oz.) of usable marijuana to a cardholder who is also a qualifying patient for the qualifying patient's medical use when nothing of value is transferred in return or for offering to do the same.

(d) A nonprofit dispensary may:

(1) Accept marijuana seeds, seedlings, plants, or usable marijuana from other nonprofit dispensaries in Arkansas;

(2) Transfer or sell marijuana seeds, seedlings, plants, or usable marijuana to other nonprofit dispensaries in Arkansas; and

(3) Accept marijuana seeds from any individual lawfully entitled to possess marijuana seeds pursuant to the laws of the state where such individual resides.

(e)(1) No school or landlord may refuse to enroll or lease to, or otherwise penalize, an individual solely for his or her status as a qualifying patient unless doing so would put the school or landlord in violation of federal law or regulations.

(2) For the purposes of medical care, including organ transplants, a qualifying patient's authorized use of marijuana in accordance with this subchapter shall be considered the equivalent of the authorized use of any other medication used at the direction of a physician and shall not constitute the use of an illicit substance.

(3) An employer shall not discriminate against an individual in hiring, termination, or any term or condition of employment, or otherwise penalize an individual, based upon the individual's past or present status as a qualifying patient.

(f) A person otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied custody, visitation, or parenting time and there shall be no finding of abuse solely for conduct allowed under this subchapter, and there shall be no presumption of neglect or child endangerment for conduct allowed under this subchapter.

(g) A physician shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the Arkansas State Medical Board or by any other business, occupational, or professional licensing board or bureau, solely for providing written certifications that, in the physician's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's qualifying medical condition or symptoms associated with the qualifying medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the applicable physician-patient standard of care.

(h) A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for providing a qualifying patient with marijuana paraphernalia for purposes of facilitating a qualifying patient's medical use of marijuana.

(i) Any marijuana, marijuana paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of marijuana, as allowed under this subchapter, or property incidental to such use, shall not be seized or forfeited.

(j) A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this subchapter or for directly assisting a physically disabled qualifying patient with the medical use of marijuana.

(k) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows a visiting qualifying patient to possess or use marijuana for medical use in the jurisdiction of issuance has the same force and effect when held by a visiting qualifying patient as a registry identification card issued by the department provided that the same qualifying medical condition as defined in § 20-65-102 exists, except that a visiting qualifying patient is not authorized to obtain marijuana from a nonprofit dispensary.

20-65-104. Rules.

(a)(1) The department may adopt rules to carry out the purposes of this subchapter.

(2) Rules adopted pursuant to this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) Not later than one hundred twenty (120) days after the effective date of this subchapter, the department shall adopt rules governing the manner in which it considers applications for and renewals of registry identification cards.

(c) Not later than one hundred twenty (120) days after the effective date of this subchapter, the department shall adopt rules with the goal of protecting against diversion and theft without imposing an undue burden on the registered nonprofit dispensaries or compromising the confidentiality of qualifying patients, including rules governing:

(1) The manner in which it considers applications for and renewals of registration certificates for nonprofit dispensaries:

(2) The form and content of registration and renewal applications;

(3) Oversight requirements for nonprofit dispensaries;

(4) Record-keeping requirements for nonprofit dispensaries;

(5) Security requirements for nonprofit dispensaries, which shall include lighting, physical security, alarm requirements, and measures to prevent loitering;

(6) Sanitary requirements for nonprofit dispensaries;

(7) Electrical safety requirements for nonprofit dispensaries;

(8) The specification of acceptable forms of picture identification that a nonprofit dispensary may accept;

(9) Personnel requirements, including how many volunteers a nonprofit dispensary is permitted to have and requirements for supervision;

(10) Labeling and testing standards for marijuana distributed to qualifying patients;

(11) Manufacture and dispensing of medical marijuana prepared for consumption as food or drink to qualifying patients;

(12) Procedures for suspending or terminating the registration of nonprofit dispensaries that violate the provisions of this section or the rules adopted pursuant to this section, procedures for appealing penalties, and a schedule of penalties;

(13) Procedures for inspections and investigations of nonprofit dispensaries;

(14) Advertising restrictions for nonprofit dispensaries;

(15) Procedures for the disposal of marijuana not dispensed to qualifying patients;

(16) Permissible hours of operation for nonprofit dispensary sales; and

(17) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this subchapter.

(d)(1) Not later than one hundred twenty (120) days after the effective date of this subchapter, the department shall adopt rules establishing application and renewal fees for nonprofit dispensary registration certificates.

(2) The initial nonprofit dispensary application fee shall be a maximum of five thousand dollars (\$5,000).

(e)(1) Not later than one hundred eighty (180) days after the effective date of this subchapter, the department shall adopt rules that govern the manner in which the department shall consider petitions from the public to add medical conditions or treatments to the list of qualifying medical conditions set forth in § 20-65-102.

(2) In considering such petitions, the department shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions.

(3)(A) In considering such petitions, the department shall add medical conditions or treatments to the list of qualifying medical conditions set forth in § 20-65-102 if patients suffering from the medical conditions or undergoing the treatments in question would derive therapeutic benefit from the use of marijuana, taking into account the positive and negative health effects of such use.

(B) The department may consider published studies in peer-reviewed journals, physician testimony, and public comments made pursuant to § 20-65-104(e)(2) in making such determinations.

(4)(A) The department shall, after hearing, approve or deny such petitions within sixty (60) days of their submission.

(B) The approval or denial of such a petition constitutes final agency action, subject to judicial review, and jurisdiction for judicial review is vested in the Circuit Court of Pulaski County.

(f) The department shall adopt rules that govern the manner in which a designated caregiver

assists a physically disabled qualifying patient with the medical use of marijuana within one hundred twenty (120) days of the effective date of this subchapter.

20-65-105. Registry identification cards.

(a) The department shall issue registry identification cards to qualifying patients who submit in accordance with the department's rules:

(1) Written certification issued by the physician within thirty (30) days of the application;

(2)(A) The application or renewal fee as established by the department by rule.

(B) The department may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income:

(3) Name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) Name, address, and telephone number of the qualifying patient's physician;

(5)(A) A designation as to which nonprofit dispensary will be allowed under state law to cultivate marijuana plants for the qualifying patient's medical use.

(B) Only one (1) nonprofit dispensary may be allowed to cultivate marijuana plants for a qualifying patient at a time; and

(6) A signed statement from the qualifying patient pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this subchapter.

(b) The department may not issue a registry identification card to a qualifying patient who is under eighteen (18) years of age unless:

(1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and

(2) A parent, guardian, or person having legal custody consents in writing to:

(A) Allow the qualifying patient's medical use of marijuana;

(B) Assist the qualifying patient in the medical use of marijuana; and

(C) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

(c)(1) The department shall verify the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within fourteen (14) days of receiving it.

(2) The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, the applicant previously had a registry identification card revoked, the department determines that the information provided was falsified, or the department determines the written certification was not made in the context of a bona fide physician.

patient relationship.

(3) Rejection of an application or renewal is considered a final agency action, subject to judicial review, and jurisdiction is vested in the Circuit Court of Pulaski County.

(d)(1) The department shall issue registry identification cards to qualifying patients within five (5) business days of approving an application or renewal under this section.

(2) Registry identification cards expire one (1) year after the date of issuance, unless the physician states in the written certification that he believes the qualifying patient would benefit from medical marijuana only until a specified earlier date, then the registry identification card shall expire on that date.

(3) Registry identification cards shall contain:

(A) The name, address, and date of birth of the qualifying patient;

(B) The date of issuance and expiration date of the registry identification card;

(C) A random, ten-digit, alphanumeric identification number that is unique to the cardholder; and

(D) A photograph, if the department decides to require one.

(e)(1) This subsection governs notification of changes in status or the loss of a registry identification card.

(2) A qualifying patient shall notify the department within ten (10) days of any change in the qualifying patient's name, address, or preference regarding which nonprofit dispensary may cultivate marijuana for the qualifying patient or if the qualifying patient ceases to have a qualifying medical condition.

(3) A nonprofit dispensary shall notify the department within ten (10) days of any change in the name or address of a nonprofit dispensary agent issued a registry identification card.

(4) A qualifying patient or a nonprofit dispensary who fails to notify the department as required under subdivisions (e)(1) or (e)(2) of this section commits a civil violation for which a penalty of not more than two hundred fifty dollars (\$250) may be adjudged and collected by the department.

(5) If the qualifying patient's certifying physician notifies the department in writing that the qualifying patient has ceased to suffer from a qualifying medical condition, the qualifying patient's registry identification card becomes void upon notification by the department to the qualifying patient.

(6)(A) A nonprofit dispensary shall notify the department of any change in the nonprofit dispensary's name or address within ten (10) days of such change.

(B) A nonprofit dispensary who fails to notify the department of any of these changes commits a civil violation for which a penalty of not more than two hundred fifty dollars (\$250) may be adjudged and collected by the department.

(7) When a qualifying patient notifies the department of any changes listed in this subsection, the department shall issue the qualifying patient a new registry identification card within ten

(10) days of receiving the updated information.

(8)(A) If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department within ten (10) days of losing the card.

(B) Within five (5) days after such notification, the department shall issue a new registry identification card with a new random identification number.

(f)(1) Applications and supporting information submitted by qualifying patients under this subchapter, including information regarding their physicians, are considered confidential medical records.

(2)(A) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards.

(B) Individual names and other identifying information on the list are confidential, exempt from the Arkansas Freedom of Information Act, and not subject to disclosure except to authorized employees of the department as necessary to perform official duties of the department.

(3) The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4)(A) A person, including an employee or official of the department or another state agency or local government, who breaches the confidentiality of information obtained pursuant to this subchapter commits a Class A misdemeanor.

(B) However, department employees may notify law enforcement about falsified or fraudulent information submitted to the department as long as the employee who suspects that falsified or fraudulent information has been submitted confers with the employee's supervisor and both agree that circumstances exist that warrant reporting.

(g)(1) Except as provided in § 20-65-103(d), a cardholder who transfers marijuana to a person who is not a qualifying patient and cardholder under this subchapter shall have his registry identification card revoked and shall be subject to any other penalties established by law for unlawful transfer of a controlled substance.

(2) The department may revoke the registry identification card of any cardholder who violates any provision of this subchapter, and the cardholder is subject to any other penalties established in law for the violation.

(3) This subsection does not prohibit a cardholder who is also a qualifying patient from giving up to two and one-half ounces (2 ½ oz.) of usable marijuana to a cardholder who is also a qualifying patient as set forth in § 20-65-103(c) or prohibit the transfer of marijuana seeds, seedlings, plants, or usable marijuana as set forth in § 20-65-103(d).

(h) The department shall submit to the legislature an annual report that does not disclose any identifying information about cardholders or physicians, but does contain, at a minimum:

(A) The number of applications and renewals filed for registry identification

cards:

- (B) The number of qualifying patients approved in each county;
- (C) The nature of the qualifying medical conditions of the qualifying patients;
- (D) The number of registry identification cards revoked;
- (E) The number of physicians providing written certifications for qualifying

patients:

- (F) The number of registered nonprofit dispensaries; and
- (G) The number of nonprofit dispensary agents.

20-65-106. Scope.

(a) This subchapter does not permit a person to:

- (1) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice;
- (2) Possess, smoke, or otherwise engage in the medical use of marijuana:
  - (A) In a school bus;
  - (B) On the grounds of a day care center, preschool, primary or secondary school, college, or university;
  - (C) At a drug or alcohol treatment facility;
  - (D) At a skating rink, Boys Club, Girls Club, YMCA, YWCA, or similar community or recreation center;
  - (E) In a correctional facility;
  - (F) On a form of public transportation; or
  - (G) In a public place;
- (3) Operate, navigate, or be in actual physical control of a motor vehicle, aircraft, motorized watercraft, or any other vehicle drawn by power other than muscular power while under the influence of marijuana; or
- (4) Use marijuana if that person does not have a qualifying medical condition.

(b) This subchapter shall not be construed to require:

- (1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana;
- (2) An employer to accommodate the ingestion of marijuana in a workplace or an employee working while under the influence of marijuana;
- (3) An individual or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property; or
- (4) A landlord to permit a qualifying patient to smoke marijuana on or in leased property, except that a landlord may not prohibit the medical use of marijuana on leased property by a qualified

patient through means other than smoking.

(c) Fraudulent representation to a law enforcement official of a fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is a civil violation punishable by a fine of five hundred dollars (\$500) payable to the department, which is in addition to any other penalties that may apply for making a false statement to law enforcement or for the use of marijuana other than use undertaken pursuant to this subchapter.

20-65-107. Affirmative defense and dismissal for medical marijuana.

(a) Except as provided in § 20-65-106(a) and this section, an individual may assert a medical purpose for using marijuana as an affirmative defense to prosecution for an offense involving marijuana intended for the individual's medical use, and this defense shall be presumed valid and the prosecution shall be dismissed where the evidence demonstrates that:

(1) The individual is:

(A) A qualifying patient or nonprofit dispensary; and

(B) In compliance with the conditions imposed by this subchapter in § 20-65-

103; or

(2) All of the following apply:

(A) The department has delayed the review of the individual's application, the issuance of the individual's registry identification card, or both for a period of greater than sixty (60) days; and

(B) The individual's application meets the conditions of a qualifying patient; and

(C) The individual is in compliance with the conditions set forth in § 20-65-103.

(b) The defense and motion to dismiss shall not prevail if either of the following are proven:

(1) The individual's registry identification card has been revoked; or

(2) The purposes for the possession of marijuana were not solely for medical use.

(c) An individual is not required to be in actual, physical possession of a registry identification card to raise the affirmative defense set forth in this section.

(d) If an individual demonstrates a medical use of marijuana pursuant to this section, except as provided in § 20-65-106(a), the individual shall not be subject to the following:

(1) Disciplinary action by an occupational or professional licensing board or bureau; or

(2) Forfeiture of any interest in or right to non-marijuana, licit property.

20-65-108. Registration and certification of nonprofit dispensaries.

(a) Nonprofit Dispensaries shall register with the department.

(b) Not later than ninety (90) days after receiving an application for a nonprofit dispensary, the department shall register the nonprofit dispensary and issue a registration certificate and a random

twenty-digit, alphanumeric identification number if:

(1) The prospective nonprofit dispensary has submitted the following:

(A) The application fee;

(B) An application, including:

(i) The legal name of the nonprofit dispensary;

(ii) The physical address of the nonprofit dispensary and the physical address of one (1) additional location, if any, where marijuana will be cultivated, neither of which may be within one thousand feet (1,000 ft.) of a public or private school or church existing before the date of the nonprofit dispensary application; and

(iii) The name, address, and date of birth of each nonprofit dispensary agent;

(C) Operating procedures consistent with the department rules for oversight of the nonprofit dispensary, including procedures to ensure accurate record-keeping and adequate security measures; and

(D) If the city, town, or county in which the nonprofit dispensary would be located has enacted zoning restrictions, a sworn statement certifying that the nonprofit dispensary will operate in compliance with the restrictions;

(2) None of the owners, board members, or officers has been convicted of an excluded felony offense;

(3) None of the owners, board members, or officers has previously been an owner, board member, or officer of a nonprofit dispensary that has had its registration certificate revoked; and

(4) None of the nonprofit dispensary agents is under twenty-one (21) years of age.

(c) The department may not issue more than one (1) nonprofit dispensary registration certificate for every twenty (20) pharmacies that have obtained a pharmacy permit from the Arkansas State Board of Pharmacy and operate within the state, except that the department may issue nonprofit dispensary registration certificates in excess of this limit if the department determines that additional nonprofit dispensaries are necessary to provide convenient access to patients in all parts of the state.

(d) The department may conduct a criminal records check in order to carry out this section.

(e)(1) A nonprofit dispensary registered under this section may acquire, possess, cultivate, manufacture, prepare, deliver, transfer, transport, supply, and dispense marijuana, marijuana paraphernalia, and related supplies and educational materials to qualifying patients who have designated it as their nonprofit dispensary for the qualifying patients' medical use.

(2) A nonprofit dispensary may receive compensation for providing the goods and services allowed by this section.

(3) A nonprofit dispensary may cultivate and possess whichever of the following quantities is greater:

(A) Forty-five (45) marijuana plants and all usable marijuana derived from such plants and predecessor plants; or

(B) Five (5) plants and all usable marijuana derived from such plants or predecessor plants for each qualifying patient who has designated the nonprofit dispensary to provide him or her with marijuana for medical use.

(4) A nonprofit dispensary may also possess marijuana seeds.

(f)(1) The department shall track the number of qualifying patients who have designated each nonprofit dispensary to cultivate marijuana for them and issue a monthly written statement to the nonprofit dispensary identifying the number of qualifying patients who have designated that nonprofit dispensary along with the registry identification numbers of each qualifying patient.

(2) This statement shall be updated each time a new qualifying patient designates the nonprofit dispensary or ceases to designate the nonprofit dispensary and may be transmitted electronically if the department's rules so provide.

(g)(1) The department shall issue each nonprofit dispensary agent a registry identification card within ten (10) days of receipt of the person's name, address, and date of birth under section § 20-65-105(e), § 20-65-108(b)(1)(B)(iii), or § 20-65-109(b)(4) and a fee in an amount established by the department.

(2) Each card shall specify that the cardholder is an agent of the nonprofit dispensary and shall contain:

(A) The name, address, and date of birth of the nonprofit dispensary agent;

(B) The legal name of the nonprofit dispensary with which the nonprofit dispensary agent is affiliated;

(C) A random identification number that is unique to the cardholder;

(D) The date of issuance and expiration date of the registry identification card;

and

(E) A photograph, if the department decides to require one.

(h)(1) The department shall not issue a registry identification card to a nonprofit dispensary agent who has been convicted of an excluded felony offense.

(2) The department may conduct a background check of each nonprofit dispensary agent in order to carry out this provision.

(3) The department shall notify the nonprofit dispensary in writing of the reason for denying the registry identification card.

(i)(1) A nonprofit dispensary registration certificate and the registry identification card for each nonprofit dispensary agent expire one (1) year after the date of issuance.

(2) The department shall issue renewal nonprofit dispensary registration certificates and renewal registry identification cards within ten (10) days to any person or entity who complies with the

requirements contained in this subchapter.

(3) A registry identification card of a nonprofit dispensary agent expires upon notification by a nonprofit dispensary that such person ceases to work at the nonprofit dispensary.

20-65-109. Nonprofit dispensary inspections and requirements.

(a) Nonprofit dispensaries are highly regulated by the state, and a nonprofit dispensary therefore is subject to reasonable inspection by the department.

(b)(1) This subsection governs the operations of nonprofit dispensaries.

(2)(A) A nonprofit dispensary shall be operated on a not-for-profit basis for the mutual benefit of its members and patrons.

(B) A nonprofit dispensary need not be recognized as a tax-exempt organization under 26 U.S.C. § 501(c)(3) and is not required to, but may, incorporate.

(3) A nonprofit dispensary shall not be located in an area zoned residential or within one thousand feet (1,000 ft.) of public or private school or church existing before the date of the nonprofit dispensary application.

(4) A nonprofit dispensary shall notify the department within ten (10) days of when a nonprofit dispensary agent ceases to work at the nonprofit dispensary.

(5) A nonprofit dispensary shall notify the department in writing of the name, address, and date of birth of any new nonprofit dispensary agent and shall submit a fee in an amount established by the department for a new registry identification card before the new nonprofit dispensary agent begins working at the nonprofit dispensary.

(6) A nonprofit dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana.

(7) A nonprofit dispensary shall have procedures in place to ensure accurate record keeping.

(8) Each nonprofit dispensary shall keep the following records, dating back at least two (2) years:

(A) Records of the disposal of marijuana that is not distributed by the nonprofit dispensary to qualifying patients who have designated the nonprofit dispensary to cultivate for them; and

(B) A record of each transaction, including the amount of marijuana dispensed, the amount of compensation, and the registry identification number of the qualifying patient.

(9) Each nonprofit dispensary shall:

(A) Conduct an initial comprehensive inventory of all medical marijuana, including usable marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized location on the date the nonprofit dispensary first dispenses medical marijuana; and

(B) Conduct a monthly comprehensive inventory of all medical marijuana.

including usable marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized location.

(10)(A) All cultivation of marijuana must take place in an indoor enclosed, locked facility unless the department determines that for a specific nonprofit dispensary, indoor cultivation would be economically or environmentally impractical.

(B) In the event the department determines that for a specific nonprofit dispensary indoor cultivation would be economically or environmentally impractical, then cultivation may take place outdoors in an enclosed area equipped with locks or other security devices that permit access only by a cardholder.

(11)(A) A nonprofit dispensary or a nonprofit dispensary agent may not dispense more than two and one-half ounces (2 ½ oz.) of usable marijuana to a qualifying patient during a fifteen-day period.

(B) Each time a nonprofit dispensary agent dispenses marijuana to a qualifying patient, he or she must consult the nonprofit dispensary's records to verify that the records do not indicate that the dispensing of marijuana would cause the qualifying patient to receive more marijuana than is permitted in a fifteen-day period.

(C) Each time marijuana is dispensed, the nonprofit dispensary agent shall record the date the marijuana was dispensed and the amount dispensed.

(D) All records must be kept according to the registry identification number of the qualifying patient.

(12) The dispensary records with patient information shall be treated as confidential medical records.

#### 20-65-110. Immunity for nonprofit dispensaries.

(a) No nonprofit dispensary shall be subject to the following:

(1) Prosecution for the acquisition, possession, cultivation, preparation, manufacture, delivery, transfer, transport, sale, supply, or dispensing of marijuana and related supplies in accordance with the provisions of this subchapter and any rule adopted by the department pursuant to this subchapter;

(2) Inspection, except pursuant to § 20-65-109(a), or upon a search warrant issued by a court or judicial officer;

(3) Seizure of marijuana, except upon any order issued by a court or judicial officer and with due process of law; or

(4) Imposition of a penalty or denial of a right or privilege, including but not limited to imposition of a civil penalty or disciplinary action by an occupational or professional licensing board or entity solely for acting in accordance with this subchapter to assist qualifying patients with the medical use

of marijuana.

(b) No nonprofit dispensary agents shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for working for or with a nonprofit dispensary to engage in acts permitted by this subchapter.

(1)(A) Nonprofit dispensary agents are allowed to possess and manufacture marijuana at the nonprofit dispensary location or locations for which the nonprofit dispensary agent is registered or when transferring marijuana pursuant to subdivision (b)(2) of this section.

(B)(i) Nonprofit dispensary agents who are volunteers are only allowed to possess and manufacture marijuana at a nonprofit dispensary location.

(ii) Nonprofit dispensary agents who are volunteers may not dispense or transport marijuana.

(2) A nonprofit dispensary with a growing location in addition to the location of the nonprofit dispensary shall label the marijuana that is being moved between the growing location and nonprofit dispensary with a trip ticket that identifies the nonprofit dispensary by identification number, the time, date, origin, and destination of the material being transported, and the amount and form of marijuana and marijuana material that is being transported.

#### 20-65-111. Prohibitions for nonprofit dispensaries.

(a) Except as provided in § 20-65-103(d), a nonprofit dispensary may not dispense, deliver, or otherwise transfer marijuana to a person other than a qualifying patient who has designated the nonprofit dispensary to cultivate marijuana for them.

(b) Except as provided in § 20-65-103(d), the department shall immediately revoke the registry identification card of a nonprofit dispensary agent who has dispensed, delivered, or otherwise transferred marijuana to a person other than a qualifying patient, and such a person shall be disqualified from serving as a nonprofit dispensary agent.

#### 20-65-112. Local regulation.

This subchapter does not prohibit a city, incorporated town, or county of this state from limiting the number of nonprofit dispensaries that may operate in the political subdivision or from enacting reasonable zoning regulations applicable to nonprofit dispensaries.

#### 20-65-113. Prohibited conduct for physicians.

A physician shall not:

(1) Accept, solicit, or offer any form of pecuniary remuneration from or to a nonprofit dispensary or other provider of medical marijuana;

(2) Offer a discount or other thing of value to a patient who uses or agrees to use a particular nonprofit dispensary:

(3) Examine a patient for purposes of diagnosing a qualifying medical condition at a location where medical marijuana is sold or distributed; or

(4) Hold an economic interest in a nonprofit dispensary if the physician certifies the qualifying medical condition of a patient for participation in the medical marijuana program.

#### 20-65-114. Enforcement.

(a) If the department fails to adopt rules to implement this subchapter within the time prescribed, any person who would be a qualifying patient under this subchapter may commence a mandamus action in Pulaski County Circuit Court to compel the department to perform the actions mandated pursuant to the provisions of this subchapter.

(b) If the department fails to issue a valid registry identification card or a registration certificate in response to a valid application or renewal submitted pursuant to this subchapter within forty-five (45) days of its submission, the registry identification card or registration certificate is deemed granted, and a copy of the registry identification application or renewal is deemed a valid registry identification card.

#### 20-65-115. Taxation and distribution of proceeds.

(a) The sale of usable marijuana is subject to all state and local sales taxes.

(b) The state sales tax revenues received by the Department of Finance and Administration from the sale of usable marijuana under this subchapter shall be distributed as special revenues as follows:

(1) Twenty-five percent (25%) shall be credited to the Newborn Umbilical Cord Blood Initiative Fund, § 19-5-1239;

(2)(A) Twenty-five percent (25%) shall be credited to the Arkansas Historic Preservation Fund, § 19-6-829, to be used exclusively for historic preservation restoration grants and historic preservation resource grants established by the Arkansas Historic Preservation Program of the Department of Arkansas Heritage.

(B) The Department of Arkansas Heritage shall promulgate rules to implement the grant program described in this subdivision (b)(2) by July 1, 2015;

(3) Twenty-five percent (25%) shall be credited to the Public Health Fund, § 19-5-307, for the Department of Health to be used for administering and regulating this subchapter; and

(4)(A) Twenty-five percent (25%) shall be credited to the Behavioral Health Services Fund Account, § 19-5-306, to be used exclusively for grants established by the Division of Behavioral Health Services of the Department of Human Services to organizations that are nationally accredited and licensed in Arkansas to provide the following services in the areas of behavioral health services and alcohol and substance abuse treatment:

- (i) Men's residential services;
- (ii) Women's residential services; and
- (iii) Specialized women's services.

(B)(i) The Division of Behavioral Health Services of the Department of Human Services shall promulgate rules to implement the grant program described in this subdivision (b)(4) by July 1, 2015.

(ii) The rules under subdivision (b)(4)(B)(i) of this section shall provide without limitation that a organization receiving a grant shall have a psychiatrist on its staff.

20-65-116. Costs of administration and regulation of subchapter.

The following funds shall be used by the Department of Health to cover the costs of administering and regulating this subchapter:

(1) State sales tax revenues available for the administration and regulation of this subchapter under § 20-65-115(b)(3):

(2)(A) The revenue generated from fees and penalties provided for by this subchapter, including without limitation:

(i) Nonprofit dispensary registration certificate application and renewal fees;

(ii) Registry identification card application and renewal fees; and

(iii) Fees for replacement registry identification cards.

(B) If all or a portion of the revenue generated from fees and penalties provided for under this subchapter exceeds the costs of administering and regulating this subchapter after the state sales tax revenue under § 20-65-113(b)(3) is used for that purpose, the excess revenue may be used for the maintenance, operation, and improvement required by the various divisions of the Department of Health as determined by the Director of the Department of Health;

(3) Private donations, if such funds are available; and

(4) Other appropriations by the General Assembly, if such funds are available.

20-65-117. No implied repeal.

By adoption of this subchapter, there is no implied repeal of the existing Arkansas laws criminalizing possession of marijuana for purposes not specified in this subchapter. This subchapter also acknowledges that marijuana use, possession, and distribution for any purpose remains illegal under federal law.

20-65-118. Severability.

If any provision or section of this subchapter or the application thereof to any person or

circumstance is held invalid, such invalidity shall not affect any other provisions or application of the subchapter that can be given effect without the invalid provisions or applications, and to this end the provisions of this subchapter are declared to be severable.

SECTION 2. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended to add an additional section to read as follows:

19-6-829. Arkansas Historic Preservation 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 revenue fund to be known as the "Arkansas Historic Preservation Fund" administered by the Department of Arkansas Heritage.

(b) The fund shall consist of:

(1) Those special revenues designated in § 20-65-115 and any other revenues as may be authorized by law;

(2) Any moneys appropriated to the fund by the General Assembly; and

(3) Any gifts, contributions, grants, or bequests received from federal, private, or other sources.

(c) The fund shall be used by the department exclusively for historic preservation restoration grants and historic preservation resource grants established by the Arkansas Historic Preservation Program of the Department of Arkansas Heritage.