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EIGHTY- FIRST DAY'S PROCEEDINGS
SENATE CHAMBER
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

Little Rock, Arkansas

March 31, 2005

The Senate was called to order at 1:30 o'clock p.m. by the President.

The Secretary called the roll, and the following members answered to roll call:

ALTES, ARGUE, BAKER, BISBEE, BOOKOUT,
BROADWAY, BROWN, BRYLES, CAPPS, CRITCHER,
FARIS, GLOVER, HENDREN, HIGGINBOTHOM, HILL,
HOLT, HORN, G.JEFFRESS, J.JEFFRESS, JOHNSON,
LAVERTY, LUKER, MADISON, MALONE, MILLER,
SALMON, SMITH, STEELE, TAYLOR, TRUSTY,
WHITAKER, WILKINS, WILKINSON, WOMACK,
WOOLDRIDGE.

The Senate was led in prayer by Senator Whitaker.

The Senate was led in the Pledge of Allegiance by the President.

On motion of Senator Whitaker, the reading of the Journal was dispensed with.

On motion of Senator Bryles, **Senate Bill No. 1044** was withdrawn from the Committee on EDUCATION, and placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to SENATE BILL NO. 1044

Amend **Senate Bill No. 1044** as originally introduced:

Page 4, on lines 18 and 19 delete "Arkansas Crime Information Center database" and substitute "Automated Fingerprint Identification System"

AND

Page 6, on line 36 delete "§ 5-27-603; and" and substitute "§ 5-73-603; and"

AND

Page 7, delete lines 2 through 36 and substitute:
"27-605."

AND

Page 8, delete lines 1 through 36.

AND

Page 9, delete lines 1 through 10.

AND

Page 10, delete line 1 and substitute:

"guilty of a felony not listed in subsection (c) of this section in any court in this state or of a similar felony in a court in another state or in a federal court."

AND

Page 10, delete lines 2 through 5 and substitute:

"(B)(i) Pleading guilty or nolo contendere to or being found guilty in a court in this state of a nonfelony negligent homicide or a misdemeanor not listed in subsection (c) of this section and involving physical injury, mistreatment, or abuse against a child or against a household member of the licensee and not listed in subsection (c) of this section; or

(ii) Pleading guilty or nolo contendere to or being found guilty in a court in another state or in federal court of a crime similar to a nonfelony negligent homicide or a misdemeanor not listed in subsection (c) of this section and involving physical injury, mistreatment, or abuse against a child or against a household member of the licensee;"

AND

Page 10, on line 19 delete "licensure; or" and substitute "licensure; or"

AND

Page 10, delete line 25 and substitute the following:

"Audit; or

(J) Knowingly falsifying or directing another to falsify any grade given to a student, whether the grade was given for an individual assignment or examination or at the conclusion of a regular grading period."

AND

Page 13, delete lines 8 and 9 and substitute:

"Bureau of the Department of Arkansas State Police shall promptly destroy the fingerprint card of the affected applicant may maintain the fingerprints in the Automated Fingerprint Identification System."

AND

Page 14, on lines 14 and 15 delete "Arkansas Crime Information Center database" and substitute "Automated Fingerprint Identification System"

AND

Page 16, on line 26 delete "§ 5-27-603; and" and substitute "§ 5-73-603; and"

AND

Page 16, delete lines 28 through 36 and substitute:
"§ 5-27-605."

AND

Page 17, delete lines 1 through 36

AND

Page 18, delete lines 1 through 36

AND

Page 20, delete lines 7 through 10 and substitute:

"(2)(A) Pleads guilty or nolo contendere to or has been found guilty in a court in this state of a nonfelony negligent homicide or a misdemeanor not listed in subsection (b) of this section and involving physical injury, mistreatment, or abuse against a child or against a household member of the licensee; or

(B) Pleads guilty or nolo contendere to or has been found guilty in a court in another state or in federal court of a crime similar to a nonfelony negligent homicide or a misdemeanor not listed in subsection (b) of this section and involving physical injury, mistreatment, or abuse against a child or against a household member of the licensee;"

AND

Page 20, delete lines 13 and 14 and substitute:

“declared invalid because of the applicant’s improper conduct;”

AND

Page 20, on line 16 delete “child; or” and substitute “child;”

AND

Page 20, delete line 20 and substitute the following:

“or the Division of Legislative Audit; or

(6) Knowingly falsifies or directs another to falsify any grade given to a student, whether the grade was given for an individual assignment or examination or at the conclusion of a regular grading period.”

AND

Page 21, delete lines 15 and 16 and substitute:

“SECTION 10. Arkansas Code § 6-17-421(a) and (b) are amended to read as follows:”

AND

Page 21, delete lines 26 through 28 and substitute the following:

~~“(3) “Fraudulent act” means an act involving fraud or breach of fiduciary trust which is punishable under the criminal code in the jurisdiction within which the act occurred~~ an act:

(A) Performed willfully and with the specific intent to deceive or cheat for the purpose of either causing some financial loss to another or bringing about some financial gain to the actor; and

(B) For which the actor has pleaded guilty or nolo contendere to or has been found guilty by any court in this state, by a court in another state, or by a federal court.”

AND

Page 21, on line 33 delete “Bureau of Identification and Information” and substitute “Bureau of Identification and Information Identification Bureau of the Arkansas State Police”

AND

Page 22, delete lines 7 and 8 and substitute:

“required by this section, the bureau shall promptly destroy the fingerprint card of the affected employment applicant or fiscal officer may maintain the fingerprints in the Automated Fingerprint Identification System.”

AND

Page 22, delete lines 24 through 36.

AND

Page 23, delete lines 1 through 36

AND

Page 24, delete lines 1 through 36

AND

Page 25, delete lines 1 through 18

AND

Page 26, delete line 13 and substitute the following:

“(i) No board of directors shall have an even number of directors whether or not the number of directors of a school district’s board of directors was established by an agreement between or among the former school districts which comprise the school district incident to a consolidation or annexation of the former school districts.”

AND

Page 26, delete line 16 and substitute the following:

“directors’ taking office following the 2005 annual school election.

(k)(1) Except as otherwise provided by law, any school district which elects its board members from single-member zones shall be subject to the requirements of this section.

(2) For those school districts which are subject to this subsection (k), “next regular school election” as used in subsection (e) of this section means the 2006 annual school election.”

AND

Page 27, delete line 6 and substitute the following:

“(h)(1) No board of directors shall have an even number of directors whether or not the number of directors of a school district’s board of directors was established by an agreement between or among the former school districts which comprise the school district incident to a consolidation or an annexation of the former school districts.”

AND

Page 27, on line 12 delete “number of directors” and substitute “number of directors and the members cannot agree on the method of reduction”

AND

Page 27, delete line 17 and substitute the following:

“directors’ taking office following the 2005 annual school election.

(j)(1) Except as otherwise provided by law, any school district which elects its board members from single-member zones shall be subject to the requirements of this section.

(2) For those school districts which are subject to this subsection (j), "next annual school election" as used in subsection (h)(2) of this section means the 2006 annual school election."

AND

Page 28, delete lines 26 through 28 and substitute:

"(4) A school district may include as part of the school day the travel time between public schools or other educational programs of those students attending classes or programs authorized by law."

AND

Page 30, on line 19 delete "transferring into or out" and substitute "transferring ~~into~~ or out"

AND

Page 34, on line 19 delete "February 1" and substitute "March 1"

AND

Page 35, on line 33 delete "current school year or" and substitute "current school year and"

AND

On pages 39 and 40, delete Section 27 in its entirety

AND

Appropriately renumber the remaining sections of the bill

AND

After the last section of the bill add the following new sections:

"SECTION 31. Arkansas Code § 6-17-811 is amended to read as follows:
6-17-811. Incentives for teacher recruitment and retention in high-priority districts.

(a)(1) For purposes of this section:

(A) "High-priority district" means a district of one thousand (1,000) or fewer students in which eighty percent (80%) or more of public school students are eligible for the free or reduced-price lunch program under the National School Lunch Act and have a three-quarter average daily membership of one thousand (1,000) or fewer for the 2003-2004 school year;

(B) "Previous year" means the school year immediately preceding the present school year; and

(C)(i) “Teacher” or “~~Teachers~~” “teachers” means those certified personnel who spend seventy percent (70%) of their time ~~interacting~~ working directly with students in a classroom setting teaching all grade-level or subject-matter appropriate classes.

(ii) “Teacher” or “teachers” includes guidance counselors and librarians.

(2) The State Board of Education shall promulgate rules to determine high-priority districts of the state.

(b) Beginning in the 2004-2005 school year, a teacher licensed by the state board who teaches in a school in a high-priority district shall receive in addition to all other salary and benefits:

(1)(A) For new teachers, a one-time signing bonus to work in any high-priority district to be paid as follows:

(i) Four thousand dollars (\$4,000) at the time a teacher not currently employed by the district signs a new contract to teach in a high-priority district; and

(ii) Three thousand dollars (\$3,000) at the beginning of each of the next two (2) subsequent years if the teacher continues teaching in the same high-priority district.

(B)(i) If a teacher has received bonus pay under the subdivision (b)(1)(A) of this section and leaves the high-priority district before the end of the three-year bonus pay period, the teacher shall pay back the amount of the bonus received in the previous year.

(ii) If the teacher leaves the district during the school year, the teacher shall pay back the previous year’s bonus and the current year’s bonus; and

(2)(A) For all teachers not newly signed to work in the district, a retention bonus of two thousand dollars (\$2,000) shall be paid:

(i) For the 2004-2005 school year; and

(ii) ~~at~~ At the beginning of each of the next two (2) subsequent years if the teacher continues to work in a high-priority district.

(B)(i) If a teacher has received bonus pay under subdivision (b)(2)(A) of this section and voluntarily leaves the high-priority district before the end of the three-year bonus pay period, the teacher shall pay back on a pro-rata basis the amount of the bonus received in the previous ~~year~~ years.

(ii) If the teacher voluntarily leaves the district during the school year, the teacher shall pay back the previous year’s bonus and the current year’s bonus.

(iii)(a) If a full-time equivalent teacher is reassigned involuntarily to a position that is not eligible for bonus pay under this section or is dismissed involuntarily by a school district, the teacher shall not be required to repay the applicable bonus pay.

(b) The school district shall provide documentation to the Department of Education of the involuntary assignment or dismissal.

(iv) If a teacher qualified to receive bonus pay under this section leaves the district due to a serious medical emergency, the teacher shall not be obligated to repay the bonus if the teacher provides a written statement from a licensed physician stating that the teacher is unable to work and must terminate his or her employment.

(c) Any bonus pay awarded under this section to eligible full-time equivalent teachers who do not work the entire school year shall be pro-rated based on the portion of the school year that the eligible teacher was employed by the high priority school district.

~~(e)~~(d) The department shall:

(1) Monitor the implementation of the incentive program established by this section; and

(2) Collect data to be used to evaluate the incentive program's effectiveness.

SECTION 32. Arkansas Code § 6-14-120 is repealed.
~~6-14-120. Election of school district boards of directors.~~

~~(a) At each annual school election there shall be elected in rural school districts one (1) director for a term of three (3) years, and in school districts in which there was in 1933 a city of the first class, there shall be elected two (2) directors each for a term of three (3) years. In all other school districts, at each annual election one (1) director shall be elected for a term of five (5) years.~~

~~(b) All directors elected or appointed in accordance with the provisions of this act shall serve until their successors are elected and qualified.~~

~~(c) In the case of a tie vote for a position of director, a runoff election shall be held on a day three (3) weeks after the regular school election, at which the names of the two (2) candidates receiving the tie vote shall be placed on the ballot, and the candidate receiving the highest number of votes at the runoff election shall be declared elected.~~

~~(d) The runoff election provided for herein shall be conducted in the manner prescribed by law for other school elections."~~

(SIGNED) SENATOR STEVEN BRYLES

The Amendment was read for the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1044 was ordered engrossed.

On motion of Senator Steel, **Senate Bill No. 427** was withdrawn from the Committee on PUBLIC TRANSPORTATION, and placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to SENATE BILL NO. 427

Amend **Senate Bill No. 427** as originally introduced:

Page 1, delete line 27, and substitute the following:

“27-70-302. Legislative intent.

It is the intent of the Arkansas General Assembly that revenues raised in furtherance to this subchapter are supplemental to and not a substitute for the state and federal transportation funds normally invested within the boundaries of the various regional mobility authorities created under this subchapter.

27-70-303. Definitions.”

AND

Page 2, delete lines 1 through 7, and substitute the following:

“(4) “Governing body” means the quorum court of a county;

(5) “Member” means any county that is a participant in an authority;”

AND

Page 2, line 8, delete “(7)” and substitute “(6)”

AND

Page 2, line 12, delete “Survey;” and substitute “Surveys;”

AND

Page 2, line 15, delete “(8)” and substitute “(7)”

AND

Page 3, delete lines 2 through 9, and substitute the following:

“27-70-304. Regional Mobility Authority — Creation.

(a) A single county or any combination of contiguous counties may create an authority.”

AND

Page 3, line 27, delete “27-70-304.” and substitute “27-70-305.”

AND

Page 4, line 6, delete "27-70-305." and substitute "27-70-306."

AND

Page 4, line 7, delete "(1)" entirely

AND

Page 4, line 10, delete "(A)" and substitute "(1)"

AND

Page 4, delete lines 13 through 19, and substitute the following:

"(2) The mayor or designated representative of the mayor of each city of the first class within each county that is a member of an authority."

AND

Page 5, line 5, delete "27-70-306." and substitute "27-70-307."

AND

Page 5, line 30, delete "and" entirely

AND

Page 5, delete lines 31 through 32, and substitute the following:

"(12) To impose and collect tolls, charges, and rates on surface transportation systems owned or operated by the authority;

(13) To request and receive from time to time from counties or cities within the boundaries of the authority, funds to finance and support the authority, including county or city turnback funds as set forth in § 27-70-206 and § 27-70-207 for the purpose of matching federal transportation funds;

(14) To receive property or funds by gift or donation for the finance and support of the authority; and

(15) To do all things necessary or appropriate to carry out the powers and duties expressly granted or imposed under this subchapter."

AND

Page 5, line 34, delete "27-70-307." and substitute "27-70-308."

AND

Page 6, line 8, delete "27-70-308." and substitute "27-70-309."

AND

Page 6, line 36, delete "27-70-309." and substitute "27-70-310."

AND

Page 7, line 24, delete "27-70-310." and substitute "27-70-311."

AND

Page 8, delete lines 2 through 29 and substitute the following:

“27-70-312. Finance.

(a) Each authority may be financed or supported by receiving from time to time as revenue the following:

(1) All or any part of any proceeds derived from the levy and collection of a sales tax by a county that is a member of an authority, pursuant to § 26-74-201 et seq., § 26-74-301 et seq., and § 26-74-401 et seq.;

(2) All or any part of any proceeds derived from the levy and collection of a sales tax by a city that is within the boundaries of an authority, pursuant to § 26-75-201 et seq. and § 26-75-301 et seq.;

(3) Proceeds from a motor vehicle tax imposed by a county that is a member of an authority pursuant to § 26-78-101 et seq.;

(4) Proceeds from tolls, charges, and rates imposed on surface transportation systems owned or operated by the authority; and

(5) State turnback funds pursuant to § 27-70-206 and § 27-70-207 received from counties and cities.

(b) Taxes imposed under subdivisions (a)(1) through (3) of this section shall be approved by voters pursuant to all applicable election laws.”

AND

Page 8, delete lines 31 through 36

AND

Page 9, delete lines 1 through 6

AND

Page 9, delete lines 8 through 18, and substitute the following:

“27-70-313. Approval.

Any design or proposal for road or highway improvements must be approved by the city or county government or the State Highway Commission that owns the roadway prior to the commencement of project development.

27-70-314. Improvement financing with bonds.

(a) Whenever any authority created under this subchapter shall own or operate a surface transportation system and shall desire to construct improvements, betterments, and extensions thereto the authority may issue revenue bonds under the provisions of this subchapter to pay the costs.

(b)(1) Bonds issued in accordance with this subchapter shall be authorized by resolution of the board of directors of the authority.

(2) The bonds may be issued as registered bonds and may be exchangeable for bonds of another denomination or in another form.

(3) The bonds may:

(A) Be in such form and denominations;

(B) Have such date or dates;

(C) Be stated to mature at such time or times;

(D) Bear interest payable at such times and at such rate or rates;

(E) Be payable at such places within or without the state;

(F) Be subject to such terms of redemption in advance of maturity at such prices; and

(G) Contain such terms and conditions, all as the board of directors shall determine.

(4) The bonds shall have all of the qualities of and shall be deemed to be negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration as set forth in this subsection.

(5) The authorizing resolution may contain any other terms, covenants, and conditions that the board of directors deems reasonable and desirable, including, without limitation, those pertaining to:

(A) The maintenance of various funds and reserves;

(B) The nature and extent of any security for payment of the

bonds;

(C) The custody and application of the proceeds of the bonds;

(D) The collection and disposition of revenues;

(E) The investing for authorized purposes; and

(F) The rights, duties, and obligations of the public body and

the holders and registered owners of the bonds.

(c)(1) The authorizing resolution may provide for the execution of a trust indenture between the authority and any financial institution within or without the State of Arkansas.

(2) The trust indenture may contain any terms, covenants, and conditions that are deemed desirable by the board of directors, including, without limitation, those pertaining to:

(A) The maintenance of various funds and reserves;

(B) The nature and extent of any security for the payment of the

bonds;

(C) The custody and application of the proceeds of the bonds;

(D) The collection and disposition of revenues;

(E) The investing and reinvesting of any moneys during periods

not needed for authorized purposes; and

(F) The rights, duties, and obligations of the public body and

the holders and registered owners of the bonds.

(d)(1) Any authorizing resolution and trust indenture relating to the issuance and security of the bonds shall constitute a contract between the authority and holders and registered owners of the bonds.

(2) The contract and all covenants, agreements, and obligations therein shall be promptly performed in strict compliance with the terms and provisions of the contract, and the covenants, agreements, and obligations of the authority may be enforced by mandamus or other appropriate proceeding at law or in equity.

(e)(1) The resolution shall fix the minimum fees, fares, tolls, or charges to be collected prior to the payment of all of the bonds, with exceptions as may be provided in the resolution, and shall pledge the revenues derived from the authority's surface transportation system or any specified portion of the authority's surface transportation system for the purpose of paying the bonds and interest thereon.

(2) The rates to be charged for the use of the authority's surface transportation system shall be sufficient to provide for the payment of all principal of and interest on all bonds as and when due.

(f)(1) The proceeds derived from the sale of the bonds shall be used solely for the purpose of:

(A) Making betterments, improvements, and extensions to the surface transportation system owned and operated by the authority;

(B) Paying interest on the bonds during the period of construction of the betterments, improvements, and extensions;

(C) Establishing any necessary reserves for the bonds;

(D) Paying the costs of issuing the bonds; and

(E) Paying any other costs and expenditures of whatever

nature incidental to the accomplishment of the betterments, improvements, and extensions.

(2) The terms “betterments”, “improvements”, and “extensions” include surface transportation systems as well as all other real and personal property, buildings, structures, or other improvements or facilities as may be necessary or advisable for the proper and efficient operation of the authority’s surface transportation system.

(g)(1) Bonds issued under the provisions of this section shall be payable solely from revenues derived from the authority’s surface transportation system.

(2) The bonds shall not in any event constitute an indebtedness of, nor pledge the faith and credit of, the State of Arkansas or the county or counties creating the authority within the meaning of any constitutional provisions or limitations.

(3) It shall be plainly stated on the face of each bond that it:

(A) Is issued under the provisions of this subchapter;

(B) Does not constitute an indebtedness of the State of Arkansas or the county or counties creating the authority within any constitutional provisions or limitations; and

(C) Is not backed by the full faith and credit of the State of Arkansas or the county or counties creating the authority.

(4) The bonds and the interest thereon shall be exempt from all state, county, and municipal taxation. This exemption includes income taxation and inheritance taxation.

(h)(1) The bonds may be sold in such manner, either at public or private sale, and upon such terms as the board of directors shall determine to be reasonable and expedient for effectuating the purposes of the authority.

(2) The bonds may be sold at a price the board of directors may accept, including sale at discount.

(i)(1) The bonds shall be executed by manual or facsimile signature of the chair of the board of directors and the manual or facsimile signature of the secretary of the board of directors or any other officer of the authority authorized to do so by resolution of the board of directors.

(2) In case any of the officers whose signatures appear on the bonds shall cease to be the officers before delivery of the bonds, their signatures nevertheless shall be valid and sufficient for all purposes.

(3) Each bond shall be impressed or imprinted with the seal of the public body.

27-70-315. Lien in favor of bondholders.

(a) The payment of the principal of bonds issued under this subchapter and the interest thereon may be secured by a lien on and security interest in the authority’s surface transportation system or any specified portion of the authority’s surface transportation system.

(b) It shall not be necessary to the perfection of the lien and pledge for such purposes that the trustee in connection with the bond issue or the holders of the bonds take possession of the collateral security.

(c) Subject to whatever restrictions may be contained in the resolution or indenture governing the bonds, any holder of bonds issued under the provisions of this subchapter may enforce either at law or in equity the mortgage lien and may compel by proper suit the performance of the duties of the officers of the issuing authority set forth in this subchapter.

(d) If there be default in the payment of the principal of or interest on any of the bonds, any court having jurisdiction in any proper action may appoint a receiver to administer the authority’s surface transportation system or the specified portion of the authority’s surface transportation system pledged to the payment of the bonds on behalf of the public body, with power to charge and collect rates sufficient to provide for the payment of the bonds and the interest thereon and for the payment of the operating expenses and to apply the income and revenues in conformity with this

subchapter and the resolution or indenture providing for the issuance of the bonds.

27-70-316. Refunding bonds.

(a) Bonds may be issued for the purpose of refunding any obligations issued under this subchapter or otherwise. The refunding bonds may be combined with bonds issued under the provisions of § 27-70-314 into a single issue.

(b) When bonds are issued under this section for refunding purposes, the bonds may either be sold or delivered in exchange for the outstanding obligations. If sold, the proceeds may be either applied to the payment of the obligations refunded or deposited in escrow for the retirement thereof either at maturity or upon any authorized redemption date.

(c)(1) All bonds issued under this section shall in all respects be authorized, issued, and secured in the manner provided for other bonds issued under this subchapter and shall have all the attributes of such bonds.

(2) The resolution or indenture under which the refunding bonds are issued may provide that any of the refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the obligations refunded thereby.

SECTION 2. Arkansas Code § 26-74-203(2), regarding definitions for sales and use tax for capital improvements, is amended to read as follows:

(2) "Capital improvements of a public nature" means:

- (A) Streets;
- (B) Roads;
- (C) Public parks;
- (D) Port facilities;
- (E) Tourism facilities;
- (F) Airport facilities;
- (G) Sewerage facilities;
- (H) Waterworks facilities;
- (I) Fire protection facilities;
- (J) Convention center facilities;
- (K) Courthouses;
- (L) Police facilities;
- (M) Public transit facilities;
- (N) Auditoriums;
- (O) Prisons;
- (P) Libraries;
- (Q) Hospital and nursing home facilities;
- (R) Solid waste facilities;
- (S) Sanitation facilities;
- (T) Bridges;
- (U) Electric facilities;
- (V) Hydroelectric facilities;
- (W) Facilities for the securing and developing of industry;
- (X) Natural gas facilities;
- (Y) Parking facilities;
- (Z) Public housing facilities;
- (AA) Pollution control facilities;
- (BB) Public education facilities;
- (CC) Drainage facilities;
- (DD) Pedestrian facilities;
- (EE) Lakes;
- (FF) Dams; ~~and~~
- (GG) Waterways; and
- (HH) Regional mobility authority surface transportation

systems;

SECTION 3. Arkansas Code § 26-74-303(2), regarding definitions for sales tax for capital improvements, is amended to read as follows:

(2) "Capital improvements of a public nature" means:

- (A) Streets;
- (B) Roads;
- (C) Public parks;
- (D) Port facilities;
- (E) Tourism facilities;
- (F) Airport facilities;
- (G) Sewerage facilities;
- (H) Waterworks facilities;
- (I) Fire protection facilities;
- (J) Convention center facilities;
- (K) Courthouses;
- (L) Police facilities;
- (M) Public transit facilities;
- (N) Auditoriums;
- (O) Prisons;
- (P) Libraries;
- (Q) Hospital and nursing home facilities;
- (R) Solid waste facilities;
- (S) Sanitation facilities;
- (T) Bridges;
- (U) Electric facilities;
- (V) Hydroelectric facilities;
- (W) Facilities for the securing and developing of industry;
- (X) Natural gas facilities;
- (Y) Parking facilities;
- (Z) Public housing facilities;
- (AA) Pollution control facilities;
- (BB) Public education facilities;
- (CC) Drainage facilities;
- (DD) Pedestrian facilities;
- (EE) Lakes;
- (FF) Dams; and
- (GG) Waterways; and
- (HH) Regional mobility authority surface transportation

systems;

SECTION 4. Arkansas Code § 26-75-203(3), regarding definitions for sales tax for capital improvements, is amended to read as follows:

(3) "Capital improvements of a public nature" means:

- (A) Streets;
- (B) Roads;
- (C) Public parks;
- (D) Port facilities;
- (E) Tourism facilities;
- (F) Airport facilities;
- (G) Sewerage facilities;
- (H) Waterworks facilities;
- (I) Fire protection facilities;
- (J) Convention center facilities;
- (K) City halls;
- (L) Courthouses;
- (M) Police facilities;
- (N) Public transit facilities;
- (O) Auditoriums;
- (P) Prisons;

- (Q) Libraries;
- (R) Hospital and nursing home facilities;
- (S) Solid waste facilities;
- (T) Sanitation facilities;
- (U) Bridges;
- (V) Electric facilities;
- (W) Hydroelectric facilities;
- (X) Facilities for the securing and developing of industry;
- (Y) Natural gas facilities;
- (Z) Parking facilities;
- (AA) Public housing facilities;
- (BB) Pollution control facilities;
- (CC) Public education facilities;
- (DD) Drainage facilities;
- (EE) Pedestrian facilities;
- (FF) Lakes;
- (GG) Dams; ~~and~~
- (HH) Waterways; and
- (II) Regional mobility authority surface transportation systems;

SECTION 5. Arkansas Code § 26-75-303(3), regarding definitions for sales tax for capital improvements, is amended to read as follows:

(3) "Capital improvements of a public nature" means:

- (A) Streets;
- (B) Roads;
- (C) Public parks;
- (D) Port facilities;
- (E) Tourism facilities;
- (F) Airport facilities;
- (G) Sewerage facilities;
- (H) Waterworks facilities;
- (I) Fire protection facilities;
- (J) Convention center facilities;
- (K) City halls;
- (L) Courthouses;
- (M) Police facilities;
- (N) Public transit facilities;
- (O) Auditoriums;
- (P) Prisons;
- (Q) Libraries;
- (R) Hospital and nursing home facilities;
- (S) Solid waste facilities;
- (T) Sanitation facilities;
- (U) Bridges;
- (V) Electric facilities;
- (W) Hydroelectric facilities;
- (X) Facilities for the securing and developing of industry;
- (Y) Natural gas facilities;
- (Z) Parking facilities;
- (AA) Public housing facilities;
- (BB) Pollution control facilities;
- (CC) Public education facilities;
- (DD) Drainage facilities;
- (EE) Pedestrian facilities;
- (FF) Lakes;
- (GG) Dams; ~~and~~
- (HH) Waterways; and
- (II) Regional mobility authority surface transportation systems;

SECTION 6. Arkansas Code Title 26, Chapter 78 is amended to add an additional section to read as follows:

26-78-120. Authority to levy a tax to finance or support a regional mobility authority.

(a)(1) In addition to all other taxes imposed under this subchapter for the privilege of using and operating vehicles, a county that is a member of a regional mobility authority may impose an additional tax upon the owners of motor vehicles for the privilege of operating vehicles upon the public roads, streets, and other public ways in the county.

(2) The revenues collected under this section shall be used only for the finance or support of the regional mobility authority.

(b) The tax shall be collected by the county tax collector pursuant to § 26-78-105 and § 26-78-106.

(c) Notwithstanding the provisions of § 26-78-104, the amount of the tax collected under this section shall be determined by the county quorum court and may exceed the maximum amount set forth in § 26-78-104.

SECTION 7. Arkansas Code § 27-70-207 is amended to read as follows:
27-70-207. Distribution to county funds.

(a)(1)(A) All highway revenues transferred to the County Aid Fund under this subchapter shall be paid over by the Treasurer of State to the treasurers of the respective counties of this state for credit to the county highway fund, there to be used for the maintenance, construction, and reconstruction of roads and bridges in the county highway system, provided, however, that no more than twenty percent (20%) of the revenues received by a county during any fiscal year may also be used for public transportation.

(B) A county may also use these funds to construct and maintain parking for county courthouses, county administration buildings, county health units, and county parks and to construct and maintain sidewalks that serve county courthouses, county administration buildings, county health units, county parks, public schools, and other publicly owned property.

(C) A county may use these funds to pay for local projects eligible for funding under state programs of the Arkansas State Highway and Transportation Department and under federal programs of the Federal Highway Administration of the United States Department of Transportation.

(D) Furthermore, the funds may be used to install and maintain traffic signals where needed to preserve public health, safety, and welfare.

(E) A county may provide these funds to a regional mobility authority to match federal transportation funds for the financing of surface transportation system improvements on state highways, county roads and city streets.

(2) The Treasurer of State shall on or before the tenth day next following the last day of each calendar month make distribution of the revenues on the following basis:

(A) Thirty-one percent (31%) of the amount according to area, with each county to receive the proportion that its area bears to the area of the state;

(B) Seventeen and one-half percent (17.5%) of the amount according to the amount of state motor vehicle license fees collected in the calendar year next preceding any distribution as certified to the Treasurer of State by the Director of the Department of Finance and Administration, with each county to receive the proportion that the total of fees collected from the county bears to the total of fees collected in the state;

(C) Seventeen and one-half percent (17.5%) of the amount according to population based upon the most recent federal decennial census, with each county to receive the proportion that its population bears to the population of the state;

(D) Thirteen and one-half percent (13.5%) of the amount

according to rural population based upon the most recent federal decennial census, with each county to receive the proportion that its rural population bears to the rural population of the state; and

(E) Twenty and one-half percent (20.5%) of the amount shall be divided equally among the seventy-five (75) counties.

(b)(1)(A) All highway revenues transferred to the Municipal Aid Fund under the provisions of this subchapter shall be paid over by the Treasurer of State to the treasurers of the respective cities of the first class, cities of the second class, and incorporated towns for credit to the street fund, there to be used for the maintenance, construction, and reconstruction of streets which are not continuations of state highways.

(B)(i) Provided, however, that cities with a population in excess of fifty thousand (50,000) inhabitants may use no more than ten percent (10%) of the revenues for public transportation; ~~and~~.

(ii) All other cities may use no more than twenty percent (20%) of the revenues for public transportation.

(C) A city may provide these funds to a regional mobility authority to match federal transportation funds for the financing of surface transportation system improvements on state highways, county roads, and city streets.

(2) The Treasurer of State shall on or before the tenth day next following the last day of each calendar month make distribution of the funds on the basis of population according to the most recent federal census, with the amount to be paid over to each city or incorporated town in the proportion that its population bears to the total population of all cities and towns.

(c)(1) All highway revenues transferred to the State Highway and Transportation Department Fund under the provisions of this subchapter shall be used for the construction, reconstruction, and maintenance of highways and bridges in the state highway system.

(2)(A) However, the department may use highway revenues transferred to the State Highway and Transportation Department Fund for the installation, upgrading, or improvement of any highway-railroad crossing safety device, railroad crossing traffic control device, warning lights, crossing gates, or other railroad crossing safety devices at public highway railroad crossings and for the construction, reconstruction, and maintenance of any highway-railroad crossing, including the construction or installation of any underpasses or overpasses.

(B) Except for the construction or installation of underpasses or overpasses, the department's goal is to expend one dollar (\$1.00) of state funds for each dollar of federal funds received to improve railroad crossing safety and to reduce railroad crossing accidents.

(C) It is the intent of this subdivision (c)(2) to encourage the State Highway Commission to continue to upgrade the state's highway-railway crossings with traffic control devices, warning lights, crossing gates, and other appropriate devices in order to increase the safety of persons using the state's highways."

(SIGNED) SENATOR TRACY STEELE

The Amendment was read for the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 427 was ordered engrossed.

On motion of Senator Broadway, **Senate Bill No. 970** was withdrawn from the Committee on EDUCATION, and placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to SENATE BILL NO. 970

Amend **Senate Bill No. 970** as originally introduced:

Page 1, line 36, delete "the act derived from Senate Bill 2 of 2005" and substitute "Act 660 of 2005"

AND

Page 2, delete lines 16 through 20 and substitute the following:

"(2)(A) "Academic facilities wealth index" means a percentage derived from the following computations:

(i) Determine the value of one (1) mill per student in each school district as follows:

(a) Multiply the value of one (1) mill by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year; and

(b) Divide the product from subdivision (2)(A)(i)(a) of this section by the greater of the prior year average daily membership of the school district or the prior three-year average of the school district's average daily membership;

(ii) Determine student millage rankings by listing the computation under subdivision (2)(A)(i) for each school district from the lowest value of a mill per student to the highest value of a mill per student;

(iii) Allocate the student millage rankings into percentiles with the first percentile containing the one percent (1%) of students with the lowest value per mill and the one-hundredth percentile containing the one percent (1%) of students with the highest value per mill; and

(iv)(a) Divide the value of one (1) mill per student in each school district as computed under subdivision (2)(A)(i) by the amount corresponding to the ninety-fifth percentile of the student millage rankings under subdivision (2)(A)(iii).

(b) If the result of the computation under subdivision (2)(A)(iv)(a) of this section is greater than one, then the percentage shall be set at hundred percent (100%).

(B)(i) The percentage derived from the computation under subdivision (2)(A)(iv) is the academic facilities wealth index for a school district, which shall be computed annually and used to determine the amount of the school district's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the division.

(ii) The state's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the division is the percentage derived from subtracting the school district's percentage share of financial participation determined under (2)(B)(i) from one hundred percent (100%)."

AND

Page 4, delete lines 21 through 36

AND

Page 5, delete lines 1 through 11

AND

Page 5, line 13, delete "6-20-2504." and substitute "6-20-2503."

AND

Page 7, line 5, delete "6-20-2505." and substitute "6-20-2504."

AND

Page 9, delete line 19 and substitute the following:

"emergency assistance received by or payable to the school district.

6-20-2505. Academic Equipment Program.

(a) There is established the Academic Equipment Program under which the Division of Public School Academic Facilities and Transportation shall provide school districts with state financial participation to support the purchase of eligible academic equipment based on the school district's academic facilities wealth index.

(b) A school district may apply for state financial participation to support the purchase of academic equipment if:

(1) The school district's application is received by the division no later than July 1, 2005; and

(2) The need for the academic equipment was in existence on January 1, 2005; and

(3) The academic equipment supports an adequate education as described in § 6-20-2302.

(c) As part of its application for state financial participation under this section, a school district shall provide the division with evidence of:

(1) The need for the academic equipment;

(2) The estimated cost of the academic equipment; and

(3) Any additional information determined by the division to be necessary to evaluate the school district's application.

(d) The division shall evaluate a school district's application and notify the school district of the division's decision on the application and, if applicable, the amount of state financial participation. The division shall base its decision on several factors, including, without limitation:

(A) The nature of and need for the academic equipment;

(B) Consistency with current academic equipment standards and sound educational practices;

(C) The academic facilities wealth index of the school district;

and

(D) The prudent and resourceful expenditure of state funds with regard to public school academic facilities and equipment.

(e)(1) If a school district qualifies for state financial participation under this section, the division shall certify the amount of state financial participation to the Commission on Public School Academic Facilities and Transportation for oversight purposes. The commission shall certify the amount to the Department of Education for payment.

(2) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2005, § 6-20-2201 et seq. and rules established by the State Board of Education and the commission.

(f) Every effort shall be made to conform the purchase of academic equipment to current academic equipment standards and sound educational practices, unless in the judgment of the division it is impractical to conform the purchase to current standards."

AND

Page 19, delete line 26, and substitute the following:

"and funding before implementing the program.

6-20-2512. Regulatory Authority.

The Commission on Public School Academic Facilities and Transportation shall promulgate rules necessary to administer this subchapter, which shall promote the intent and purposes of this subchapter and assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities throughout the state."

AND

Page 19, line 28, delete "6-20-2512." and substitute "6-20-2513."

AND

Page 26, delete lines 29 and 30, and substitute "shall become effective on:"

(SIGNED) SENATOR SHANE BROADWAY

The Amendment was read for the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 970 was ordered engrossed.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

SENATE BILL NO. 427, BY SENATOR STEELE,

beg leave to report that we have carefully compared the engrossed copy with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Steele, **Senate Bill No. 427** was ordered re-referred to the Committee on PUBLIC TRANSPORTATION.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

SENATE BILL NO. 970, BY SENATORS BROADWAY, BISBEE,
SENATE BILL NO.1044, BY SENATOR BRYLES,

beg leave to report that we have carefully compared the engrossed copies with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Broadway, **Senate Bill No. 970** was ordered re-referred to the Committee on EDUCATION.

On motion of Senator Bryles, **Senate Bill No. 1044** was ordered re-referred to the Committee on EDUCATION.

**ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION**

March 31, 2005

Mr. President:

We, your Committee on CITY, COUNTY AND LOCAL AFFAIRS, to whom was referred:

SENATE BILL NO. 1037, BY SENATOR BRYLES,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass.

Respectfully submitted,
(SIGNED) SENATOR IRMA H. BROWN, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on CITY, COUNTY AND LOCAL AFFAIRS, to whom was referred:

HOUSE BILL NO. 1296, BY REPRESENTATIVE CHILDERS,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass.

Respectfully submitted,
(SIGNED) SENATOR IRMA H. BROWN, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on INSURANCE AND COMMERCE, to whom was referred:

SENATE BILL NO. 1087, BY SENATOR HORN,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass as Amended No. 2 (glg130).

Respectfully submitted,
(SIGNED) SENATOR PAUL MILLER, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on INSURANCE AND COMMERCE, to whom was referred:

SENATE BILL NO. 233, BY SENATOR JOHNSON,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass to concur in House Amendments No. 1 and 2.

Respectfully submitted,
(SIGNED) SENATOR PAUL MILLER, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on INSURANCE AND COMMERCE, to whom was referred:

SENATE BILL NO. 489, BY SENATOR BISBEE,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass to concur in House Amendment No. 1.

Respectfully submitted,
(SIGNED) SENATOR PAUL MILLER, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on INSURANCE AND COMMERCE, to whom was referred:

HOUSE BILL NO. 1986, BY REPRESENTATIVE CHILDERS,
HOUSE BILL NO. 2658, BY REPRESENTATIVE J. HUTCHINSON,
HOUSE BILL NO. 2802, BY REPRESENTATIVE LAMOUREUX,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that they do pass.

Respectfully submitted,
(SIGNED) SENATOR PAUL MILLER, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on STATE AGENCIES AND GOVERNMENTAL AFFAIRS, to whom was referred:

SENATE BILL NO. 1024, BY SENATOR MADISON,
SENATE BILL NO. 1157, BY SENATOR BAKER,
SENATE BILL NO. 1188, BY SENATOR STEELE,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that they do pass.

Respectfully submitted,
(SIGNED) SENATOR STEVE FARIS, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on STATE AGENCIES AND GOVERNMENTAL AFFAIRS, to whom was referred:

SENATE BILL NO. 1091, BY SENATOR ALTES,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass to concur in House Amendment No. 1.

Respectfully submitted,
(SIGNED) SENATOR STEVE FARIS, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on STATE AGENCIES AND GOVERNMENTAL AFFAIRS, to whom was referred:

HOUSE BILL NO. 1875, BY REPRESENTATIVE WELLS,
HOUSE BILL NO. 2431, BY REPRESENTATIVE MATAYO,
HOUSE BILL NO. 2679, BY REPRESENTATIVE DANGEAU,
HOUSE BILL NO. 2808, BY REPRESENTATIVE S. PRATER,
HOUSE BILL NO. 2879, BY REPRESENTATIVE ROSENBAUM,
HOUSE BILL NO. 2978, BY REPRESENTATIVE NORTON,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that they do pass.

Respectfully submitted,
(SIGNED) SENATOR STEVE FARIS, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on REVENUE AND TAXATION, to whom was referred:

SENATE BILL NO. 162, BY SENATOR HILL,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass.

Respectfully submitted,

(SIGNED) SENATOR TIM WOOLDRIDGE, CHAIRMAN

(SIGNED) SENATORS JIM HILL, TRACY STEELE, AND PAUL MILLER

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on JOINT BUDGET, to whom was referred:

SENATE BILL NO. 353, BY SENATOR MILLER,
SENATE BILL NO. 354, BY SENATOR MILLER,
SENATE BILL NO. 360, BY SENATOR WILKINSON,
SENATE BILL NO. 361, BY SENATOR WILKINSON,
SENATE BILL NO. 362, BY SENATOR WILKINSON,
SENATE BILL NO. 363, BY SENATOR WILKINSON,
SENATE BILL NO. 364, BY SENATOR WILKINSON,
SENATE BILL NO. 365, BY SENATOR WILKINSON,
SENATE BILL NO. 366, BY SENATOR WILKINSON,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass.

Respectfully submitted,

(SIGNED) SENATOR BISBEE, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on JOINT BUDGET, to whom was referred:

SENATE BILL NO. 404, BY SENATOR WILKINSON,
SENATE BILL NO. 405, BY SENATOR WILKINSON,
SENATE BILL NO. 479, BY SENATOR WILKINSON,
SENATE BILL NO. 480, BY SENATOR WILKINSON,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that they do pass.

Respectfully submitted,
(SIGNED) SENATOR DAVID BISBEE, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on JOINT BUDGET, to whom was referred:

SENATE BILL NO. 573, BY SENATOR J. BOOKOUT,
SENATE BILL NO. 606, BY SENATOR FARIS,
SENATE BILL NO. 607, BY SENATOR FARIS,
SENATE BILL NO. 608, BY SENATOR FARIS,
SENATE BILL NO. 609, BY SENATOR FARIS,
SENATE BILL NO. 651, BY SENATOR BROADWAY,
SENATE BILL NO. 718, BY SENATOR WILKINSON,
SENATE BILL NO. 719, BY SENATOR WILKINSON,
SENATE BILL NO. 720, BY SENATOR WILKINSON,
SENATE BILL NO. 721, BY SENATOR WILKINSON,
SENATE BILL NO. 722, BY SENATOR WILKINSON,
SENATE BILL NO. 723, BY SENATOR WILKINSON,
SENATE BILL NO. 724, BY SENATOR WILKINSON,
SENATE BILL NO. 725, BY SENATOR WILKINSON,
SENATE BILL NO. 726, BY SENATOR WILKINSON,
SENATE BILL NO. 727, BY SENATOR WILKINSON,
SENATE BILL NO. 728, BY SENATOR WILKINSON,
SENATE BILL NO. 729, BY SENATOR WILKINSON,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that they do pass.

Respectfully submitted,
(SIGNED) SENATOR DAVID BISBEE, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on JOINT BUDGET, to whom was referred:

SENATE BILL NO. 730, BY SENATOR WILKINSON,
SENATE BILL NO. 731, BY SENATOR WILKINSON,
SENATE BILL NO. 732, BY SENATOR WILKINSON,
SENATE BILL NO. 733, BY SENATOR WILKINSON,
SENATE BILL NO. 734, BY SENATOR WILKINSON,
SENATE BILL NO. 736, BY SENATOR MILLER,
SENATE BILL NO. 878, BY SENATOR WILKINSON,
SENATE BILL NO. 879, BY SENATOR WILKINSON,
SENATE BILL NO. 880, BY SENATOR WILKINSON,
SENATE BILL NO. 885, BY SENATOR WILKINSON,
SENATE BILL NO. 893, BY SENATOR WILKINSON,
SENATE BILL NO. 896, BY SENATOR HOLT,
SENATE BILL NO. 897, BY SENATOR HOLT,
SENATE BILL NO. 898, BY SENATOR HOLT,
SENATE BILL NO. 899, BY SENATOR HOLT,
SENATE BILL NO. 900, BY SENATOR HOLT,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass.

Respectfully submitted,
(SIGNED) SENATOR DAVID BISBEE, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on JOINT BUDGET, to whom was referred:

SENATE BILL NO. 901, BY SENATORS HOLT, MADISON,
SENATE BILL NO. 902, BY SENATOR HOLT,
SENATE BILL NO. 903, BY SENATOR HOLT,
SENATE BILL NO. 904, BY SENATOR HOLT,
SENATE BILL NO. 905, BY SENATOR HOLT,
SENATE BILL NO. 906, BY SENATOR HOLT,
SENATE BILL NO. 907, BY SENATOR HOLT,
SENATE BILL NO. 908, BY SENATOR HOLT,
SENATE BILL NO. 909, BY SENATOR HOLT,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that they do pass.

Respectfully submitted,
(SIGNED) SENATOR DAVID BISBEE, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on JOINT BUDGET, to whom was referred:

HOUSE BILL NO. 2172, BY REPRESENTATIVE BRIGHT,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass as Amended No. 1.

Respectfully submitted,
(SIGNED) SENATOR DAVID BISBEE, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on AGRICULTURE, FORESTRY AND ECONOMIC DEVELOPMENT, to whom was referred:

SENATE BILL NO. 1160, BY SENATOR WHITAKER,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass as Amended No. 1 (MGF536).

Respectfully submitted,
(SIGNED) SENATOR STEVE HIGGINBOTHOM, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on AGRICULTURE, FORESTRY AND ECONOMIC DEVELOPMENT, to whom was referred:

HOUSE BILL NO. 2528, BY REPRESENTATIVE NORTON,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass.

Respectfully submitted,
(SIGNED) SENATOR STEVE HIGGINBOTHOM, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENROLLED BILLS, to whom was referred:

SENATE BILL NO. 15, BY SENATOR FARIS,
SENATE BILL NO. 52, BY SENATOR J. JEFFRESS,
SENATE BILL NO. 391, BY SENATOR LAVERTY,
SENATE BILL NO. 403, BY SENATOR CRITCHER,
SENATE BILL NO. 406, BY SENATOR J. TAYLOR,
SENATE BILL NO. 407, BY SENATOR J. TAYLOR,
SENATE BILL NO. 408, BY SENATOR J. TAYLOR,
SENATE BILL NO. 432, BY SENATOR SMITH,
SENATE BILL NO. 458, BY SENATOR SMITH,
SENATE BILL NO. 470, BY SENATOR J. TAYLOR,
SENATE BILL NO. 471, BY SENATOR J. TAYLOR,
SENATE BILL NO. 506, BY SENATOR SMITH,
SENATE BILL NO. 513, BY SENATOR MALONE,
SENATE BILL NO. 518, BY SENATOR BROWN,
SENATE BILL NO. 544, BY SENATOR MALONE,
SENATE BILL NO. 546, BY SENATOR ALTES,
SENATE BILL NO. 563, BY SENATOR WOOLDRIDGE,
SENATE BILL NO. 564, BY SENATOR MALONE,
SENATE BILL NO. 578, BY SENATOR HORN,
SENATE BILL NO. 684, BY SENATOR J. TAYLOR,
SENATE BILL NO. 683, BY SENATOR J. TAYLOR,
SENATE BILL NO. 685, BY SENATOR J. TAYLOR,
SENATE BILL NO. 686, BY SENATOR J. TAYLOR,
SENATE BILL NO. 687, BY SENATOR CAPPS,
SENATE BILL NO. 688, BY SENATOR CAPPS,
SENATE BILL NO. 689, BY SENATOR CAPPS,
SENATE BILL NO. 690, BY SENATOR CAPPS,
SENATE BILL NO. 691, BY SENATOR CAPPS,
SENATE BILL NO. 692, BY SENATOR CAPPS,
SENATE BILL NO. 714, BY SENATOR ALTES,

SENATE BILL NO. 715, BY SENATOR ALTES,
SENATE BILL NO. 716, BY SENATOR ALTES,
SENATE BILL NO. 717, BY SENATOR ALTES,
SENATE BILL NO. 737, BY SENATOR STEELE,
SENATE BILL NO. 738, BY SENATOR STEELE,
SENATE BILL NO. 739, BY SENATOR STEELE,
SENATE BILL NO. 740, BY SENATOR STEELE,
SENATE BILL NO. 741, BY SENATOR STEELE,
SENATE BILL NO. 742, BY SENATOR STEELE,
SENATE BILL NO. 743, BY SENATOR STEELE,
SENATE BILL NO. 744, BY SENATOR STEELE,
SENATE BILL NO. 745, BY SENATOR STEELE,
SENATE BILL NO. 758, BY SENATOR BROWN,
SENATE BILL NO. 759, BY SENATOR BROWN,
SENATE BILL NO. 760, BY SENATOR BROWN,
SENATE BILL NO. 761, BY SENATOR BROWN,
SENATE BILL NO. 763, BY SENATOR MADISON,
SENATE BILL NO. 795, BY SENATOR CAPPS,
SENATE BILL NO. 835, BY SENATOR MALONE,
SENATE BILL NO. 837, BY SENATOR MALONE,
SENATE BILL NO. 838, BY SENATOR MALONE,
SENATE BILL NO. 839, BY SENATOR MALONE,
SENATE BILL NO. 840, BY SENATOR MALONE,
SENATE BILL NO. 841, BY SENATOR HENDREN,
SENATE BILL NO. 842, BY SENATOR HENDREN,
SENATE BILL NO. 843, BY SENATOR HENDREN,
SENATE BILL NO. 844, BY SENATOR HENDREN,
SENATE BILL NO. 845, BY SENATOR HENDREN,
SENATE BILL NO. 846, BY SENATOR HENDREN,
SENATE BILL NO. 847, BY SENATOR HENDREN,
SENATE BILL NO. 848, BY SENATOR HENDREN,
SENATE BILL NO. 849, BY SENATOR HENDREN,
SENATE BILL NO. 850, BY SENATOR HENDREN,
SENATE BILL NO. 851, BY SENATOR HENDREN,
SENATE BILL NO. 852, BY SENATOR HENDREN,
SENATE BILL NO. 853, BY SENATOR HENDREN,
SENATE BILL NO. 854, BY SENATOR HENDREN,
SENATE BILL NO. 856, BY SENATOR HENDREN,

SENATE BILL NO. 857, BY SENATOR HENDREN,
SENATE BILL NO. 860, BY SENATOR ALTES,
SENATE BILL NO. 875, BY SENATOR STEELE,
SENATE BILL NO. 881, BY SENATOR STEELE,
SENATE BILL NO. 890, BY SENATOR ALTES,
SENATE BILL NO. 882, BY SENATOR STEELE,
SENATE BILL NO. 982, BY SENATOR WOOLDRIDGE,
SENATE BILL NO. 1167, BY SENATOR CAPPS,
SENATE BILL NO. 946, BY SENATOR LAVERTY,
SENATE BILL NO. 952, BY SENATOR MADISON,

beg leave to report that we have carefully compared the enrolled copies with the original and we find the same correctly enrolled and have at 9:45 a.m. delivered them to the Governor for his approval.

Respectfully submitted,

(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

GOVERNOR'S BILL RECEIPTS

SENATE BILL NO. 15
SENATE BILL NO. 52
SENATE BILL NO. 391
SENATE BILL NO. 403
SENATE BILL NO. 406
SENATE BILL NO. 407
SENATE BILL NO. 408
SENATE BILL NO. 432
SENATE BILL NO. 458
SENATE BILL NO. 470
SENATE BILL NO. 471
SENATE BILL NO. 506
SENATE BILL NO. 513

SENATE BILL NO. 518
SENATE BILL NO. 544
SENATE BILL NO. 546
SENATE BILL NO. 563
SENATE BILL NO. 564
SENATE BILL NO. 578
SENATE BILL NO. 684
SENATE BILL NO. 683
SENATE BILL NO. 685
SENATE BILL NO. 686
SENATE BILL NO. 687
SENATE BILL NO. 688
SENATE BILL NO. 689
SENATE BILL NO. 690
SENATE BILL NO. 691
SENATE BILL NO. 692
SENATE BILL NO. 714
SENATE BILL NO. 715
SENATE BILL NO. 716
SENATE BILL NO. 717
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SENATE BILL NO. 882
SENATE BILL NO. 982
SENATE BILL NO. 946
SENATE BILL NO. 952
SENATE BILL NO. 1167

RECEIVED the above papers from the Secretary of the Senate this 31st day of
March, 2005 at 9:45 a.m..

(SIGNED) MIKE HUCKABEE
Governor

(SIGNED) Cory Cox
Secretary

On motion of Senator Higginbothom, the Senate resolved itself into the Committee of the Whole for the purpose of recognizing the Arkansas Teacher of the Year, Pam England.

Without objection, the Committee of the Whole was dissolved, and the Senate took up its regular order of business.

On motion of Senator Faris, the Senate resolved itself into the Committee of the Whole for the purpose of SCR 16 recognizing and commending Cameron Hunter Connell.

Without objection, the Committee of the Whole was dissolved, and the Senate took up its regular order of business.

On Motion of Senator Faris, **Senate Concurrent Resolution No. 16** was called up for 3rd reading and deposition.

SENATE CONCURRENT RESOLUTION NO. 16
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR FARIS

SENATE CONCURRENT RESOLUTION RECOGNIZING AND
COMMENDING CAMERON "HUNTER" CONNELL FOR HIS OUTSTANDING
ACHIEVEMENTS.

Senate Concurrent Resolution No. 16 was read the third time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Concurrent Resolution No. 16 was ordered immediately transmitted to the House.

On motion of Senator Broadway, **Senate Bill No. 1008** was placed back on second reading for purpose of Amendment No. 2.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 2 to SENATE BILL NO. 1008

Amend **Senate Bill No. 1008** as originally introduced:

Page 2, delete lines 2 through 4 and substitute the following:

"(D) Mortgage Bankers Association of Arkansas;
(E) Arkansas Realtors Association; and
(F) Arkansas Sheriffs Association."

(SIGNED) SENATOR SHANE BROADWAY

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1008 was ordered engrossed.

On motion of Senator Steele, **Senate Bill No. 1124** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to SENATE BILL NO. 1124

Amend **Senate Bill No. 1124** as originally introduced:

Page 1, line 10, delete "HISPANIC" and substitute "LATINO AND HISPANIC"

AND

Delete the subtitle in its entirety and substitute:
 "AN ACT TO CREATE THE ARKANSAS TASK FORCE
 ON LATINO AND HISPANIC AFFAIRS."

AND

Page 1, delete line 21 and substitute:
"25-37-101. Arkansas Task Force on Latino and Hispanic Affairs."

AND

Page 1, line 24, delete "nine (9)" and substitute "fifteen (15)"

AND

Page 1, line 25, delete "Three (3)" and substitute "Five (5)"

AND

Page 1, line 26, delete "Three (3)" and substitute "Five (5)"

AND

Page 1, line 28, delete "Three (3)" and substitute "Five (5)"

AND

Page 1, delete lines 31 through 32 and substitute:
"(1) Individuals who have demonstrated an understanding of the Latino and Hispanic community and the issues affecting the development of this community in Arkansas based on their professional or life experiences; and"

AND

Page 1, line 35, delete "three (3)" and substitute "five (5)"

AND

Page 2, line 1, delete "One (1)" and substitute "Two (2)"

AND

Page 2, line 2, delete "One (1)" and substitute "Two (2)"

AND

Page 2, line 4, delete "three (3)" and substitute "five (5)"

AND

Page 2, line 6, delete "One (1)" and substitute "Two (2)"

AND

Page 2, line 7, delete "One (1)" and substitute "Two (2)"

AND

Page 2, line 9, delete "three (3)" and substitute "five (5)"

AND

Page 2, line 11, delete "One (1)" and substitute "Two (2)"

AND

Page 2, line 12, delete "One (1)" and substitute "Two (2)"

AND

Page 2, delete line 15 and substitute:
"years.

(5)(A) In selecting the members of the task force, the appointing officials shall solicit input from the Latino organizations, Latino-serving institutions, and the Latino community.

(B) The appointing officials shall consider the following factors when appointing members to the task force:

(i) At least two (2) members of the task force shall be between the ages of sixteen (16) and eighteen (18) years of age;

(ii) At least two (2) members of the task force shall have professional or substantial life experiences in each of the following areas:

(a) Health;

(b) Education to include prekindergarten through grade 12 (preK-12);

(c) Higher education;

(d) Immigration;

(e) Community service; and

(f) Small business; and

(iii) Twelve (12) of the fifteen (15) members shall be chosen from each of the four (4) Congressional districts with at least three (3) members from each Congressional district.

AND

Page 2, line 23, delete "times and places the chair deems" and substitute "least quarterly."

AND

Page 2, line 24, delete "necessary," entirely

AND

Page 2, delete lines 29 through 35 and substitute:

"(h) The duties of the task force shall include:

(1) To develop, coordinate, and assist other public and private organizations with the understanding of Latino and Hispanic culture;

(2) To gather and disseminate information and conduct hearings, conferences, and special studies on problems and programs impacting Latinos and Hispanics;

(3) To conduct training programs for community leadership;

(4) To conduct quarterly public forums that will allow the Latino community at large to have input in the duties of the task force to voice their needs and concerns;

(5) To advise Arkansas elected officials and state agencies on issues concerning the Latino community in Arkansas;

(6) To propose solutions to specific problems to elected officials, government agencies, and community organizations;

(7) To promote diversity, bridge cultural barriers, and strengthen relations between all citizens of Arkansas; and

(8) To promote community and volunteer service among Latinos in Arkansas."

(SIGNED) SENATOR TRACY STEELE

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1124 was ordered engrossed.

On motion of Senator Capps, **Senate Bill No. 1168** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to SENATE BILL NO. 1168

Amend **Senate Bill No. 1168** as originally introduced:

Page 1, line 35, delete "section shall" and substitute "section, other than fees for parking or parking passes for athletic events or other special events, shall"

AND

Page 2, delete line 1, and substitute the following:
"fees as rent and shall be exempt for the tax levied by § 26-52-301(3)(E)(i):"

(SIGNED) SENATOR JERRY BOOKOUT

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1168 was ordered engrossed.

On motion of Senator Broadway, **Senate Bill No. 1000** was placed back on second reading for purpose of Amendment No. 2.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 2 to SENATE BILL NO. 1000

Amend **Senate Bill No. 1000** as engrossed, S3/29/05:

Page 2, delete lines 18 through 36, and substitute the following:

"SECTION 2. Arkansas Code § 6-62-803 is amended to add an additional subdivision to read as follows:"

AND

Page 3, delete lines 1 through 6 entirely

AND

If appropriate, renumber the remaining sections of the bill

(SIGNED) SENATOR SHANE BROADWAY

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1000 was ordered engrossed.

Senator Womack moved the Senate recede its previous action in the adoption of **Amendment No. 1** to **Senate Bill No. 1099**.

* * * * * **RECEDE** * * * * *

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to SENATE BILL NO. 1099

Amend **Senate Bill No. 1099** as originally introduced:
Add Representatives Key and Ledbetter as cosponsors of the bill

AND

Delete everything after the ENACTING CLAUSE and substitute the following:
"SECTION 1. The purpose of this Act is to resolve questions that have arisen regarding the phrase "at the time of disposal" in Arkansas Code § 8-7-512(a)(3) and § 8-7-512(a)(4), as interpreted by the Arkansas Supreme Court in Brighton Corporation, et al. v. Arkansas Department of Environmental Quality, 352 Ark. 396, 102 S.W. 3d 458 (2003), and to clarify that the Arkansas Remedial Action Trust Fund Act is remedial in nature and should be applied retroactively.

SECTION 2. Arkansas Code § 8-7-502, concerning the purposes of the Remedial Action Trust Fund Act, is amended to add and additional subsection to read as follows:

(d) The General Assembly expressly intends that the provisions of this subchapter shall apply retroactively.

(e) A further purpose of this act is to provide the state with the authority necessary to protect the public's health and safety and the environment from releases or threatened releases of hazardous substances; and to provide emergency response capabilities necessary to promptly contain, control, or remove hazardous substances resulting from spills or accidental releases.

SECTION 3. Arkansas Code § 8-7-512 is amended to read as follows:

(a) Any of the following shall be liable to the state for all costs of remedial or removal actions under this subchapter;

- (1) The owner and operator of a facility;
- (2) Any person who, at the time of disposal of any hazardous substance, owned or operated a hazardous substance site;
- (3) Any generator of hazardous substances who, ~~at the time of disposal,~~ caused such substance to be disposed of at a hazardous substance site or who causes a release or threatened release of the hazardous substances; or
- (4) Any transporter of hazardous substances who causes a release or threatened release of the hazardous substances or who, ~~at the time of disposal,~~ selected a hazardous substance site for disposal of the hazardous substances.

(b)(1) No person shall be liable under this subchapter for damages as a result of actions taken or omitted in the course of rendering care, assistance, or advice at the direction of the Arkansas Department of Environmental Quality, with respect to an incident

creating a danger to public health or welfare or the environment as a result of any release of a hazardous substance or the threat thereof the release of a hazardous substance.

(2)(A) This subsection shall not preclude liability for damages as a result of gross negligence or intentional misconduct on the part of the person, nor shall this subsection preclude liability for damages and costs of remedial or removal action of any person liable for such damages and costs pursuant to subsection (a) of this section.

(B) For the purposes of subdivision (b)(2)(A) of this section, reckless, willful, or wanton misconduct shall constitute gross negligence.

(C)(1) A person taking ~~response~~ remedial or removal action under this subchapter as a contractor for the department shall not be liable under this subchapter or under any other state law to any person for injuries, costs, damages, expenses, or other liability, including, but not limited to, claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss resulting from a release or threatened release of hazardous substances.

(2) However, the provisions of this subsection shall not apply in case of a release that is caused by the conduct of the person taking ~~response~~ remedial or removal action which is negligent, grossly negligent, or which constitutes intentional misconduct.

(d) A state employee or an employee of a political subdivision who provides services relating to remedial or removal action while acting within the scope of his authority as a governmental employee shall have the same exemption from liability, subject to the other provisions of this section, as is provided to the ~~response~~ removal or remediation action contractor under subsection (c) of this section.

(e)(1) Nothing in subsections (c) or (d) of this section shall affect the liability of any person under warranty under state or common law.

(2) Nothing in this subsection shall affect the liability of an employer taking ~~response~~ remedial or removal action to any employee of any such employer under any provision of law, including any provision of any law relating to workers' compensation.

SECTION 4. Arkansas Code Title 8, Chapter 7, Subchapter 4 is repealed:

~~8-7-401. Title.~~

~~This subchapter may be known and may be cited as the "Emergency Response Fund Act".~~

~~8-7-402. Legislative Intent~~

~~It is the intent of the General Assembly:~~

~~(1) To provide the state with the authority necessary to protect the public's health and safety and the environment from releases or threatened releases of hazardous substances; and~~

~~(2) To provide emergency response capabilities necessary to promptly contain, control, or remove hazardous substances resulting from spills or accidental releases.~~

~~8-7-403. Definitions~~

~~(a) As used in this subchapter, unless the context otherwise requires:~~

~~(1) "Commission" means the Arkansas Pollution Control and Ecology Commission;~~

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

~~(3) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

~~(4) "Federal act" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510;~~

~~(5) "Fund" means the Emergency Response Fund created by this subchapter;~~

~~(6) "Hazardous substance" means:~~

~~(A)(i) As of March 20, 1985, any substance designated pursuant to § 311(b)(2)(A) of the Federal Water Pollution Control Act, Pub. L. 92-~~

500;

(ii) ~~Any element, compound mixture, solution, or substance designated pursuant to § 102 of Title I of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510;~~

(iii) ~~Any hazardous waste, including polychlorinated biphenyls, as defined by the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., and the regulations promulgated thereunder;~~

(iv) ~~Any toxic pollutant listed under § 307(a) of the Federal Water Pollution Control Act, Pub. L. 92-500;~~

(v) ~~Any hazardous air pollutant listed under § 112 of the federal Clean Air Act, Pub. L. 95-95; and~~

(vi) ~~Any hazardous chemical substance or mixture regulated under § 7 of the federal Toxic Substances Control Act, Pub. L. 94-469; and~~

(B) ~~Any other substance or pollutant designated by regulations of the commission promulgated under this subchapter;~~

(7) ~~"Local government" means any city of the first class, any city of the second class, or any incorporated town or any county government of the State of Arkansas;~~

(8) ~~"Person" means any individual, corporation, company, firm, partnership, association, trust, joint stock company or trust, venture, state or federal government or agency, or any other legal entity, however organized;~~

(9) ~~"Releases of hazardous substances" means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of hazardous substances into the environment;~~

(10) ~~"Response action" means action necessary to effect permanent control, prevention, treatment, or containment of releases and threatened releases, including the removal of hazardous substances from the environment where such removal is necessary to protect the public health or safety. These actions are intended to include investigations designed to determine the need for and scope of remedial action and such planning, legal, fiscal, economic, engineering, geological, technical, or architectural studies as are necessary to plan and direct remedial actions, to recover the cost thereof, and to enforce the provisions of this subchapter;~~

(11) ~~"Threatened release" means any situation where a sudden release of hazardous substances can be reasonably expected unless prevented by a change of operation or the installation or construction of containment or treatment devices or by removal or other response action; and~~

(12) ~~"Treatment", "storage", "disposal", "generation", and "hazardous waste" shall have the meanings provided in § 8-7-203 and the regulations promulgated pursuant to the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq.~~

(b)(1) ~~As used in §§ 8-7-413—8-7-415, unless the context otherwise requires, "responsible party" means:~~

(A) ~~The owner or operator of a facility or site at which hazardous substances have been disposed of and from which releases or threatened releases of hazardous substances occur;~~

(B) ~~Any person who, at the time of disposal of a hazardous substance, owned or operated a facility or site from which releases or threatened releases of hazardous substances occur;~~

(C) ~~Any generator of hazardous substances who causes a release or threatened release of hazardous substances or who, at the time of disposal, caused the substance to be disposed of at a facility or site from which releases or threatened releases of hazardous substances occur; or~~

(D) ~~Any transporter of hazardous substances who causes a release or threatened release of such hazardous substances or who, at the time of disposal, selected the facility or site of disposal from which releases or threatened releases of the substances occur.~~

~~(2) "Responsible party" does not include:~~

~~(A) A person who merely provides financing or loans to a responsible party;~~

~~(B) A person who obtains title to property through foreclosure or through the conveyance of property in total or partial satisfaction of a mortgage or other security interest in property.~~

~~8-7-404. Penalties.~~

~~(a)(1) Any person who commits any unlawful act under this subchapter shall be guilty of a misdemeanor and upon conviction shall be subject to imprisonment for not more than one (1) year or to a fine of not more than ten thousand dollars (\$10,000), or to both a fine and imprisonment.~~

~~(2) Each day or part of a day during which the violation is continued or repeated shall constitute a separate offense.~~

~~(b) Any person who violates any provision of this subchapter or commits any unlawful act under this subchapter shall be subject to a civil penalty in such amount as the Director of the Arkansas Department of Environmental Quality shall find appropriate, not to exceed twenty-five thousand dollars (\$25,000) per day of the violation, subject to the payment of any expenses reasonably incurred by the state in removing, correcting, or terminating any adverse effects resulting therefrom, including the cost of the investigation, inspection, or survey establishing such violation or unlawful act and subject to the payment to the state of reasonable compensation of any actual damage resulting therefrom.~~

~~8-7-405. Unlawful acts.~~

~~It shall be unlawful for any person:~~

~~(1) To violate any provision of this subchapter or any rule or regulation adopted under this subchapter;~~

~~(2) To knowingly make a false statement, representation, or certification in any report or other document filed or required by this subchapter or the rules and regulations adopted pursuant thereto;~~

~~(3) To violate any order issued by the Arkansas Department of Environmental Quality under this subchapter or any provision of such orders; or~~

~~(4) To fail to implement response actions in accordance with representations made by persons liable for a release or threatened release to the department as to their willingness and ability to appropriately respond to the release or threatened release for the purposes of § 8-7-408 (c).~~

~~8-7-406. Regulations — Administrative procedure.~~

~~The Arkansas Pollution Control and Ecology Commission shall adopt regulations under this subchapter necessary to implement or effectuate the purposes and intent of this subchapter, including, but not limited to, regulations affording any persons aggrieved by any order issued pursuant to this subchapter an opportunity for a hearing thereon, and commission review of the action.~~

~~Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the federal government and the state government shall be subject to and comply with this subchapter in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under §§ 8-7-413--8-7-416 and 8-7-418~~

~~8-7-408. Response authority of directory generally— Permits.~~

~~(a) The Director of the Arkansas Department of Environmental Quality is authorized to initiate and implement response actions under this subchapter whenever there is a release or a threatened release of hazardous substances which may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment.~~

~~(b) Whenever the director has reason to believe that a release or threatened release of hazardous substances may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment, the director and the employees and the authorized representatives of the Arkansas Department of Environmental Quality shall have the right to enter upon any affected private or public property for the purpose of collecting information and for initiating and implementing appropriate response actions.~~

~~(c) Response actions are not authorized when the director has reasonable assurance that the person responsible for a release or threatened release has committed to and is capable of initiating corrective and remedial action in a timely manner and that the actions~~

will achieve results equivalent to the results from response action authorized in this section.

~~(d) The department or any contractor of the department under this section, in taking response action pursuant to this subchapter, shall not be required to obtain any state or local permit for the portion of any response or remedial action conducted pursuant to this subchapter entirely on site, where the remedial action is otherwise carried out in compliance with the regulations of the department.~~

~~8-7-409. Orders of director — Responsibility of lenders.~~

~~(a) Upon finding that a release or a threatened release of hazardous substances may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment, the Director of the Arkansas Department of Environmental Quality may, without notice or hearing, issue an order reciting the existence of such an imminent hazard and substantial endangerment and requiring that such action be taken as he determines necessary to protect the health and safety of any affected or threatened persons or the environment and to otherwise meet the emergency.~~

~~(b) The order of the director may include, but is not limited to, requiring any person responsible in whole or in part for the release or threatened release or any person in total or partial control of the site, facility, or transport vehicle from which the release or threatened release emanates, if that person has caused or contributed to the release or threatened release, to take such steps as are necessary to protect the public health and safety and the environment.~~

~~(c) A person shall not be deemed responsible for or to have caused or contributed to the release or threatened release of hazardous substances if such person merely provides financing or loans to another person or obtains title to property through foreclosure or through conveyance of property in total or partial satisfaction of a mortgage or other security interest in property.~~

~~(d) The orders may be issued verbally or in writing. If originally issued verbally, a written order will be issued by the director confirming the verbal order as soon as reasonably possible to do so.~~

~~(e) Any person to whom the order is directed shall comply therewith immediately but, upon written application to the director, shall be afforded a hearing and administrative review of the order within ten (10) days of making the application.~~

~~8-7-410. Emergency Response Fund.~~

~~(a) There is created the Emergency Response Fund.~~

~~(b)(1) There is authorized to be deposited in the Emergency Response Fund all moneys recovered pursuant to § 8-4-417, any moneys received by the state as a gift or donation to the fund, all interest earned upon moneys deposited in the fund, and all moneys received as penalties pursuant to the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., the Arkansas Solid Waste Management Act, § 8-6-201 et seq., the Lead-Based Paint Hazard Act, § 8-4401 et seq., and the Removal of Asbestos Material Act, § 20-27-1001 et seq.~~

~~(2) However, in the event the total amount in the Emergency Response Fund equals or exceeds one hundred fifty thousand dollars (\$150,000), any additional moneys collected pursuant to this section shall be deposited in the Hazardous Substance Remedial Action Trust Fund.~~

~~(c) The Emergency Response Fund as created by this section shall be administered by the Director of the Arkansas Department of Environmental Quality who shall authorize expenditures from the fund for the following purposes:~~

~~(1) The purchase of any commodities or services necessary in taking response actions in connection with a release or a threatened release of hazardous substances; and~~

~~(2) For reimbursement of all costs incurred by the Arkansas Department of Environmental Quality in taking response actions in connection with a release or a threatened release of hazardous substances.~~

~~8-7-411. Limitations upon expenditures.~~

~~(a) An expenditure authorized under this subchapter shall be limited to those situations where spill control and countermeasures plans or contingency plans which are required by state or federal statutes or regulations do not apply or where the resources obligated under the plans prove insufficient to contain, control, or remove hazardous substances to the extent required to protect the public's health and safety.~~

~~(b) The Director of the Arkansas Department of Environmental Quality is not authorized to expend in excess of sixty thousand dollars (\$60,000) on any single response action without Arkansas Pollution Control and Ecology Commission approval.~~

~~8-7-412. Furnishing of information.~~

~~(a)(1) For the purpose of assisting in determining the need for response actions in connection with a release or threat of release of hazardous substances under this subchapter or for enforcing the provisions of this subchapter, any person who stores, treats, or disposes of hazardous substances, or, if necessary, to ascertain facts not available at the site or facility where such hazardous substances are stored, treated, or disposed of, any person who generates, transports, or otherwise handles or has handled hazardous substances shall, upon request of any officer or employee of the Arkansas Department of Environmental Quality, furnish information relating to the substance and permit that person at all reasonable times to have access to and to copy all records relating to the substances and to inspect and obtain samples of any of the substances or other materials.~~

~~(2) However, any information which would constitute a trade secret under the Arkansas Trade Secrets Act, § 4-75-601 et seq., obtained by the department or its employees in the administration of this subchapter, except emission data, shall be kept confidential.~~

~~(b) Any violation of this section shall be unlawful and constitute a misdemeanor.~~

~~8-7-413. Liability of responsible parties.~~

~~(a) Responsible parties shall be liable to the state for all costs and expenditures of response actions incurred by the state and shall be liable to local governments for all costs and expenditures of response actions incurred by local governments.~~

~~(b)(1) No person shall be liable under this section for damages as a result of actions taken or committed at the direction of the Arkansas Department of Environmental Quality in the course of rendering care, assistance, or advice with respect to an incident creating a danger to public health or welfare or the environment as a result of any release of a hazardous substance or the threat thereof.~~

~~(2) This subsection shall not preclude liability for damages as the result of gross negligence or intentional misconduct on the part of the person. For the purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.~~

~~8-7-414. Apportionment of costs and expenditures.~~

~~(a)(1) Any party found liable for any costs or expenditures recoverable under §§ 8-7-413, 8-7-415, 8-7-416, and 8-7-418 which establishes by a preponderance of the evidence that only a portion of such costs or expenditures are attributable to his or her actions shall be required to pay only for that portion.~~

~~(2) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures, the court shall apportion the costs or expenditures, to the extent practicable, according to equitable principles, among the responsible parties.~~

~~(b)(1) In any action under this section, no responsible party shall be liable for more than that party's apportioned share of the amount expended for such response action.~~

~~(2) The apportioned share shall be based on a responsible party's portion of the total volume of the hazardous substance at the site in question at the time of action taken under this subchapter.~~

~~(3) Any expenditures required by the provisions of this subchapter made by a responsible party, before or after suit, shall be credited toward any apportioned share.~~

~~8-7-415. Recovery of expenditures generally.~~

~~(a) Making use of any and all appropriate existing state legal remedies, the Arkansas Department of Environmental Quality or the Attorney General shall act to recover the amount expended by the state for any and all response actions from any and all identified responsible parties for each facility or site.~~

~~(b) All moneys recovered from responsible parties for expenditures from the fund shall be deposited in the Emergency Response Fund.~~

~~8-7-416. Recovery of expenditures Limitations.~~

~~(a) No person, including the state, may recover under the authority of this section, §§ 8-7-413, 8-7-415, and 8-7-418 for any response costs or damages resulting from the application, in accordance with label directions, of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act.~~

~~(b) No person, including the state, may recover under the authority of this section for any response costs or damages resulting solely from an act or omission of a third party or from an act of God or an act of war.~~

~~8-7-417. Liens for expenditures and value of improvements.~~

~~(a) In the case that the owner of real property that is the location of a release or threatened release upon which response activities are performed under this subchapter is responsible in whole or in part for causing the release or threatened release, there shall exist a lien against such property for the moneys expended by the state, including, but not limited to, expenditures from the Emergency Response Fund. If the expenditure results in an increase in the value of the property, the lien shall also be for the increase in value.~~

~~(b) The lien shall be effective upon the filing of a notice of lien by the state or by the state agency which made the expenditure. This notice shall be filed with the circuit clerk in the county in which the land is located.~~

~~(c) The lien obtained by this section shall not exceed the amount of expenditures, as itemized on an affidavit of expenditures attached to and filed with the notice of lien, and the increase in property value as a result of the response action taken, as determined by an independent appraisal. A copy of the appraisal shall also be attached to and filed with the notice of lien.~~

~~(d) The notice of lien shall be filed within thirty (30) days of the date of the last act performed on such property by the Arkansas Department of Environmental Quality or other affected state agency or its agent under this subchapter.~~

~~(e) Upon filing of the notice of lien, a copy with attachments shall be served upon the property owner in the manner provided for enforcement of mechanics' or materialmen's liens.~~

~~(f) Any and all moneys recovered by or reimbursed to the department pursuant to this section through voluntary agreements or court orders shall be deposited and credited to the account of the Emergency Response Fund.~~

~~8-7-418. Punitive damages.~~

~~If any person who is liable for a release or threatened release of a hazardous substance fails, without sufficient cause, to implement response action in accordance with representations made by the person to the Arkansas Department of Environmental Quality for the purposes of § 8-7-408 (c) or fails to properly provide response action upon order of the department, the person may be liable to the state for punitive damages in an amount equal to three (3) times the amount of any costs incurred by the state as a result of the failure to take proper action.~~

~~8-7-419. Appeals.~~

~~An appeal may be taken from any final order of the Arkansas Department of Environmental Quality issued under this subchapter as provided in §§ 8-4-205, 8-4-212--8-4-214, and 8-4-218--8-4-229, and in accordance with regulations promulgated by the Arkansas Pollution Control and Ecology Commission under this subchapter.~~

~~8-7-420. Liability for injuries, etc.—Exceptions.~~

~~(a) A person taking response action under this subchapter as a contractor for the Arkansas Department of Environmental Quality shall not be liable under this subchapter or under any other state law to any person for injuries, costs, damages, expenses, or other liability, including, but not limited to, claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss resulting from a release or threatened release of hazardous substances.~~

~~(b) However, the provisions of subsection (a) of this section shall not apply in case of a release that is caused by the conduct of the person taking response action which is negligent, grossly negligent, or which constitutes intentional misconduct.~~

~~(c) A state employee or an employee of a political subdivision who provides services relating to response action while acting within the scope of his authority as a governmental employee shall have the same exemption from liability subject to the other provisions of this section as is provided to the contractor under subsections (a) and (b) of this section.~~

~~(d)(1) Nothing in subsections (a)–(c) of this section shall affect the liability of any person under warranty under state or common law.~~

~~(2) Nothing in this subsection shall affect the liability of an employer taking response action to any employee of any such employer under any provision of law, including any provision of any law relating to workers' compensation.~~

~~8-7-421. Recycling transactions.~~

~~(a) The purposes of this section are:~~

~~(1) To promote the reuse and recycling of scrap material in Arkansas while protecting human health and the environment;~~

~~(2) To promote the goals of the Arkansas Pollution Prevention Act, § 8-10-201 et seq., and related Arkansas legislation intended to encourage recycling;~~

~~(3) To create greater equity in the statutory treatment of recycled~~

versus virgin materials;

(4) To remove the disincentives and impediments to recycling in Arkansas created as an unintended consequence of certain liability provisions contained in this subchapter; and

(5) To incorporate into this subchapter amendments to the federal Comprehensive Environmental Response Compensation and Liability Act adopted by the United States Congress in 1999 in Pub. L. 106-113, thus ensuring that Arkansas law does not contain more stringent provisions than federal law.

(b)(1) For purposes of subsections (c) through (f) of this section, a person who arranged for recycling of recyclable material shall not be a "responsible party" under § 8-7-403

(b)(1)(C) or (D) with respect to the recyclable materials.

(2) Nothing in this section shall be deemed to affect the liability of a person under § 8-7-403 (b)(1)(C) or (D) with respect to materials that are not recyclable materials as defined in subsection (c) of this section.

(c)(1) As used in this section, "recyclable material" means scrap paper, scrap plastic, scrap glass, scrap textiles, scrap rubber other than whole tires, scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent batteries, as well as minor amounts of material incident to, or adhering to, the scrap material as a result of its normal and customary use prior to becoming scrap.

(2) However, "recyclable material" does not include:

(A) Shipping containers of a capacity from thirty liters (30 l) to three thousand liters (3,000 l), whether intact or not, having any hazardous substance, but not metal bits and pieces or hazardous substances that form an integral part of the container, contained on, or adhering thereto; or

(B) Any item of material that contains polychlorinated biphenyls at a concentration in excess of fifty (50) parts per million or any new standard promulgated pursuant to applicable federal laws.

(d) Transactions involving scrap paper, scrap plastic, scrap glass, scrap textiles, or scrap rubber other than whole tires shall be deemed to be arranging for recycling of recyclable materials, if the person who arranged for the transaction by selling recyclable material or otherwise arranging for the recycling of recyclable material can demonstrate by a preponderance of the evidence that all of the following criteria were met at the time of the transaction:

(1) The recyclable material met a commercial specification grade;

(2) A market existed for the recyclable material;

(3) A substantial portion of the recyclable material was made available for use as feedstock for the manufacture of a salable new product;

(4) The recyclable material could have been a replacement or substitute for a virgin raw material, or the product to be made from the recyclable material could have been a replacement or substitute for a product made, in whole or in part, from virgin raw material;

(5) For transactions occurring ninety (90) days or more after August 13, 2001, the person exercised reasonable care to determine that the facility where the recyclable material was handled, processed, reclaimed, or otherwise managed by another person, i.e., a consuming facility, was in compliance with substantive, not procedural or administrative, provisions of any federal, state, or local environmental law or regulation or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material; and

(6) For purposes of this subsection, "reasonable care" shall be determined using criteria that include:

(A) The price paid in the recycling transaction;

(B) The ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with recyclable material; and

(C)(i) The result of inquiries made to the appropriate federal, state, or local environmental agency regarding the consuming facility's past and current compliance with substantive, not procedural or administrative, provisions of any federal, state, or local environmental law or regulation or compliance order or

decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material.

(ii) For the purposes of this subsection, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activity associated with the recyclable materials shall be deemed to be a substantive provision.

~~(e)(1) Transactions involving scrap metal shall be deemed to be arranging for recycling, if the person who arranged for the transaction by selling recyclable material or otherwise arranging for the recycling of recyclable material can demonstrate by a preponderance of the evidence that at the time of the transaction the person:~~

~~(A) Met the criteria set forth in subsection (d) of this section with respect to the scrap metal;~~

~~(B) Was in compliance with any applicable regulations or standards regarding the storage, transport, management, or other activities associated with the recycling of scrap metal that the Arkansas Pollution Control and Ecology Commission promulgates subsequent to the enactment of this section and with regard to transactions occurring after the effective date of those regulations or standards; and~~

~~(C) Did not melt the scrap metal prior to the transaction.~~

~~(2) For purposes of subdivision (e)(1)(C) of this section, melting of scrap metal does not include the thermal separation of two (2) or more materials due to differences in their melting points, referred to as "sweating".~~

~~(3) Except for scrap metals that the federal Environmental Protection Agency or the commission excludes from this definition by regulation, for purposes of this subsection, the term "scrap metal" means:~~

~~(A) Bits and pieces of metal parts, such as bars, turnings, rods, sheets, or wire; or~~

~~(B) Metal pieces that may be combined together with bolts or soldering, such as radiators, scrap automobiles, or railroad box cars, which when worn or superfluous can be recycled.~~

~~(f) Transactions involving spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries shall be deemed to be arranging for recycling, if the person who arranged for the transaction by selling recyclable material or otherwise arranging for the recycling of recyclable material can demonstrate by a preponderance of the evidence that at the time of the transaction:~~

~~(1) The person:~~

~~(A) Met the criteria set forth in subsection (d) of this section with respect to the spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries, but did not recover the valuable components of those batteries; and~~

~~(B) With respect to transactions involving lead-acid batteries, was in compliance with applicable federal and Arkansas environmental regulations or standards, and any amendments thereto, regarding the storage, transport, management, or other activities associated with the recycling of spent lead-acid batteries;~~

~~(2) With respect to transactions involving nickel-cadmium batteries, federal and Arkansas environmental regulations or standards were in effect regarding the storage, transport, management, or other activities associated with the recycling of spent nickel-cadmium batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto; or~~

~~(3) With respect to transactions involving other spent batteries, federal and Arkansas environmental regulations or standards were in effect regarding the storage, transport, management, or other activities associated with the recycling of those batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto.~~

~~(g)(1) The exemptions set forth in subsections (d)--(f) of this section shall not apply if the person:~~

~~(A) Had an objectively reasonable basis to believe at the time of~~

the recycling transaction:

(i) That the recyclable material would not be recycled;
 (ii) That the recyclable material would be burned as fuel or for energy recovery or incineration; or
 (iii) For transactions occurring more than ninety (90) days after August 13, 2001, that the consuming facility was not in compliance with a substantive, not procedural or administrative, provision of any federal, Arkansas, or local environmental law or regulation or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, or other management activities associated with the recyclable material;

(B) Had reason to believe that hazardous substances had been added to the recyclable material for purposes other than processing for recycling; or

(C) Failed to exercise reasonable care with respect to the management and handling of the recyclable material, including adhering to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances.

(2) For purposes of this subsection, an objectively reasonable basis for belief shall be determined using criteria that include:

(A) The size of the person's business;

(B) Customary industry practices, including customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances;

(C) The price paid in the recycling transaction; and

(D) The ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material.

(3) For purposes of this subsection, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activities associated with recyclable material shall be deemed to be a substantive provision.

(h) Nothing in this section shall be deemed to affect the liability of a person under § 8-7-403(b)(1)(A) or (B).

(i) The commission is authorized to promulgate additional regulations concerning this section.

(j) The exemptions provided in this section shall not affect any concluded judicial or administrative action or any pending judicial action initiated by the State of Arkansas before enactment of this section.

(k)(1) Any person who commences an action in contribution against a person who is not liable by operation of this section shall be liable to that person for all reasonable costs of defending that action, including all reasonable attorney's and expert witness fees.

(2) For the purpose of this subsection, the term "person" shall not include an agency, board, commission, or department of the State of Arkansas.

(l) Nothing in this section shall affect:

(1) Liability under any other federal, Arkansas, or local statute or regulation promulgated pursuant to any such statute, including any requirements promulgated by the commission under the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq.; or

(2) The ability of the commission to promulgate regulations under any other statute, including the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq.

(m) Nothing in this section shall be construed to:

(1) Affect any defenses or liabilities of any person to whom subdivision (b)(1) of this section does not apply; or

(2) Create any presumption of liability against any person to whom subdivision (b)(1) of this section does not apply.

SECTION 5. Arkansas Code § 8-4-103(f)(2), concerning the penalties

collected for violations of the Arkansas Water and Air Pollution Control Act, is amended to read as follows:

(2) All moneys collected as civil penalties shall be deposited in the Emergency Response Fund Hazardous Substance Remedial Action Trust Fund as provided by ~~§ 8-7-410~~ § 8-7-509.

SECTION 6. Arkansas Code § 8-6-204(e)(2), concerning the penalties collected for violations of the Arkansas Solid Waste Management Act is amended to read as follows:

(2) All moneys collected as civil penalties pursuant to this section shall be deposited in the Emergency Response Fund Hazardous Substance Remedial Action Trust Fund as provided by ~~§ 8-7-410~~ § 8-7-509.

SECTION 7. Arkansas Code § 8-7-204(e)(2), concerning the penalties collected for violations of the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(2) All moneys collected as civil penalties pursuant to this section shall be deposited in the Emergency Response Fund Hazardous Substance Remedial Action Trust Fund as provided by ~~§ 8-7-410~~ § 8-7-509.

SECTION 8. Arkansas Code § 8-7-503 is amended to read as follows:

8-7-503. Definitions.

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

- (1) "Commission" means the Arkansas Pollution Control and Ecology Commission;
- (2) "Department" means the Arkansas Department of Environmental Quality;
- (3) "Director" means the Director of the Arkansas Department of Environmental Quality;
- (4) "Federal act" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510;
- (5) "Fund" means the Hazardous Substance Remedial Action Trust Fund created by this subchapter;
- (6) "Hazardous substance" means:
 - (A)(i) As of March 21, 1985, any substance designated pursuant to § 311(b)(2)(A) of the Federal Water Pollution Control Act, Pub. L. 92-500;
 - (ii) Any element, compound, mixture, solution, or substance designated pursuant to § 102 of Title I of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510;
 - (iii) Any hazardous waste, including polychlorinated biphenyls, as defined by the Arkansas Hazardous Waste Management Act of 1979, 8-7-201 et seq., and the regulations promulgated thereunder;
 - (iv) Any toxic pollutant listed under § 307(a) of the Federal Water Pollution Control Act; (v) Any hazardous air pollutant listed under § 112 of the federal Clean Air Act; and
 - (vi) Any hazardous chemical substance or mixture regulated under § 7 of the federal Toxic Substances Control Act; and
 - (B) Any other substance or pollutant designated by regulations of the commission promulgated under this subchapter;
- (7) "Hazardous substance sites" means any sites or facilities where hazardous substances have been disposed of or from which there is a release or threatened release of hazardous substances;
- (8) "Person" means any individual, corporation, company, firm, partnership, association, trust, joint-stock company or trust, venture, state or federal government or agency, or any other legal entity, however organized;
- (9) "Releases of hazardous substances" means, for the purpose of this subchapter, any spilling, leaking, pouring, emitting, emptying, discharging, injecting,

escaping, leaching, dumping, or disposing of hazardous substances into the environment;

(10) "Remedial action" means action necessary to effect permanent control, abatement, prevention, treatment, or containment of releases and threatened releases, including the removal of hazardous substances from the environment where removal is necessary to protect public health and the environment. Such actions are intended to include investigations designed to determine the need for and scope of remedial action and such planning, legal, fiscal, economic, engineering, geological, technical, or architectural studies as necessary to plan and direct remedial actions, to recover the cost thereof, and to enforce the provisions of this subchapter;

(11) "Threatened release" means, for the purpose of this subchapter, any situation where a sudden or nonsudden release of hazardous substances can be reasonably expected, unless prevented by change of operation or installation or construction of containment or treatment devices or by removal or other remedial action; ~~and~~

(12) "Treatment", "storage", "disposal", "generation", and "hazardous waste" shall have the meaning provided in § 3 of the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., and the regulations promulgated pursuant to that subchapter; ~~and~~

(13) "Removal action" means:

(A) The necessary cleanup or removal of a released hazardous substance from the environment;

(B) Necessary actions taken in the event of a threatened release of a hazardous substance into the environment;

(C) Actions necessary to monitor, test, analyze, and evaluate a release or threatened release of a hazardous substance;

(D) Disposal or processing of removed material; or

(E) Other actions necessary to prevent, minimize, or mitigate damage to the public health or welfare or the environment that may otherwise result from a release or threatened release.

SECTION 9. Arkansas Code § 8-7-508 is amended to read as follows:

8-7-508. Remedial and removal authority of the department.

(a)(1) Upon finding that a hazardous substance site exists or may exist, the Arkansas Department of Environmental Quality may, upon reasonable notice and after opportunity for hearing, issue an order to any person liable for the site under § 8-7-512, if that person has caused or contributed to the release or threatened release of hazardous substances at the site. This order shall require that such remedial actions be taken as are necessary to investigate, control, prevent, abate, treat, or contain any releases or threatened releases of hazardous substances from the site.

~~(2) A person shall not be deemed to have caused or contributed to the release or threatened release of hazardous substances if such person merely provides financing or loans to another person or obtains title to property through foreclosure or through conveyance of property in total or partial satisfaction of a mortgage or other security interest in property.~~

~~(3)~~(2) The fact that such a site is or is not listed by the Arkansas Pollution Control and Ecology Commission pursuant to § 8-7-509 (e) shall in no manner limit the authority of the department under this subchapter.

(b) The Director of the Arkansas Department of Environmental Quality or any employee or authorized agent of the department may enter upon any private or public property for the purpose of collecting information under this subchapter and for initiating and implementing remedial actions.

(c) The director is authorized to initiate and implement remedial actions under this subchapter pursuant to the provisions of § 8-7-509.

(d) The department or any contractor of the department under this section, in taking removal or remedial actions pursuant to this subchapter, shall not be required to obtain any state or local permit for the portion of any ~~response~~ removal or remedial action conducted pursuant to this subchapter entirely on site, where the removal or remedial action is otherwise carried out in compliance with the regulations of the department.

(e) The director is authorized to initiate and implement removal actions under this

subchapter whenever there is a release or a threatened release of hazardous substances which may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment.

(f) Whenever the director has reason to believe that a release or threatened release of hazardous substances may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment, the director and the employees and the authorized representatives of the Arkansas Department of Environmental Quality shall have the right to enter upon any affected private or public property for the purpose of collecting information and for initiating and implementing appropriate removal or remedial actions.

(g) Removal actions are not authorized when the director has reasonable assurance that the person responsible for a release or threatened release has committed to and is capable of initiating corrective and removal action in a timely manner and that the actions will achieve results equivalent to the results from removal action authorized in this section.

(h) Upon finding that a release or a threatened release of hazardous substances may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment, the director may, without notice or hearing, issue an order reciting the existence of such an imminent hazard and substantial endangerment and requiring that such removal actions be taken as he or she determines necessary to protect the health and safety of any affected or threatened persons or the environment and to otherwise meet the emergency.

(i) The order of the director issued under subsection (h) may include, but is not limited to, requiring any person responsible in whole or in part for the release or threatened release or any person in total or partial control of the site, facility, or transport vehicle from which the release or threatened release emanates, if that person has caused or contributed to the release or threatened release, to take such steps as are necessary to protect the public health and safety and the environment.

(j) The Director of the Arkansas Department of Environmental Quality is not authorized to expend in excess of two hundred fifty thousand dollars (\$250,000) on any single removal action without Arkansas Pollution Control and Ecology Commission approval.

(k)(1) The orders issued under subsection (h) may be issued verbally or in writing.

(2) If originally issued verbally, a written order shall be issued by the director confirming the verbal order as soon as reasonably possible to do so.

(l) Any person to whom an order issued under subsection (h) is directed shall comply with the order immediately but, upon written request to the commission within ten (10) days of the order being issued by the director, shall be afforded a hearing and administrative review of the order within ten (10) days after filing the written request.

(m) A person shall not be deemed to be liable for, responsible for, or to have caused or contributed to the release or threatened release of hazardous substances pursuant to any provision of this subchapter if the person merely provides financing or loans to another person or obtains title to property through foreclosure or through conveyance of property in total or partial satisfaction of a mortgage or other security interest in property.

SECTION 10. Arkansas Code § 8-7-509 is amended to read as follows:

8-7-509. Hazardous Substance Remedial Action Trust Fund.

(a) The Hazardous Substance Remedial Action Trust Fund is created.

(b) The Hazardous Substance Remedial Action Trust Fund will be administered by the Director of the Arkansas Department of Environmental Quality, who shall authorize expenditures from the Hazardous Substance Remedial Action Trust Fund.

(c)(1) Any moneys remaining in the Emergency Response Fund as of June 30, 2005, shall be transferred in their entirety to the Hazardous Substance Remedial Action Trust Fund.

(2) Beginning July 1, 2005, the Hazardous Substance Remedial Action Trust Fund shall consist of all moneys received as penalties under §§ 8-4-101 -- 8-4-106, 8-4-201 -- 8-4-229, 8-4-301 -- 8-4-313, 8-4-401 -- 8-4-409, 8-6-201 -- 8-6-214, 8-7-201 -- 8-7-226, 8-7-504, and 20-27-1001 -- 20-27-1007.

(3) In addition to all moneys appropriated by the General Assembly to the Hazardous Substance Remedial Action Trust Fund, there shall be deposited in the Hazardous Substance Remedial Action Trust Fund any moneys received by the state as a gift or donation to the Hazardous Substance Remedial Action Trust Fund and all interest earned upon money deposited in the Hazardous Substance Remedial Action Trust Fund, all fees assessed under § 8-7-518, all costs recovered from the Emergency Response Fund, all punitive damages collected pursuant to §8-7-517, and any other moneys legally designated for the Hazardous Substance Remedial Action Trust Fund.

~~(2)~~(4) In addition, there is authorized to be deposited in the Hazardous Substance Remedial Action Trust Fund all moneys recovered pursuant to § 8-7-514 and all moneys received as penalties pursuant to § 8-7-504 except for that portion of the civil penalties specified in § 8-7-504 (c) to be deposited in the Remedial Action Account of the Construction Assistance Revolving Loan Fund established pursuant to § 15-5-901.

(d) Ten percent (10%) of the moneys collected for the Hazardous Substance Remedial Action Trust Fund after July 1, 1991, shall be deposited in the Environmental Education Fund. Total deposit of funds shall not exceed two hundred seventy-five thousand dollars (\$275,000) per fiscal year. The remaining moneys in the Hazardous Substance Remedial Action Trust Fund may be expended by the director ~~solely for the purposes pursuant to provisions of subsection (e) of this section~~ as authorized by this subsection (d) and subsection (e) of this section:

(1) The costs and expenses reasonably necessary for the administration of this subchapter by the Arkansas Department of Environmental Quality;

(2) The state share mandated by § 104(c)(3) of the federal act, 42 U.S.C. § 9604 (c)(3); and

(3) To provide for the investigation, identification, containment, abatement, treatment, or control, including monitoring and maintenance, of hazardous substance sites within the state. The director may enter into the contracts and use the funds for those purposes directly associated with identification, investigation, containment, abatement, treatment, or control, including monitoring and maintenance, prescribed above, including:

(A) Hiring of personnel;

(B) Purchase, lease, or rental of equipment; and

Other necessary expenses related to the operation and implementation of this subchapter.

(e) The moneys in the Hazardous Substance Remedial Action Trust Fund may be expended by the director for removal actions, including:

(1) The purchase of any commodities or services necessary in taking removal actions in connection with a release or threatened release; and

(2) Reimbursement of all costs incurred by the Arkansas Department of Environmental Quality in taking removal actions in connection with a release or threatened release.

~~(e)(1)~~(f)(1) No expenditures from the Hazardous Substance Remedial Action Trust Fund, as authorized by subdivisions (d)(2) and (d)(3) of this section, shall be made prior to the approval by the Arkansas Pollution Control and Ecology Commission of a prioritized listing of hazardous substance sites at which remedial actions are authorized through the use of Hazardous Substance Remedial Action Trust Fund moneys. This listing shall be revised annually by the department and submitted to the commission for approval after public notice and opportunity for hearing.

(2) Upon a showing that a release of a hazardous substance at a site exists and will continue without expeditious remedial action, the commission may list the site on the prioritized listing pursuant to the procedures set out in § 8-4-202(e) prior to public notice and thereby authorize the director to expend funds pursuant to subdivision (d)(3) of this section. Such an emergency listing need not be supported by a factual showing of irreparable harm or imminent and substantial endangerment.

~~(f)(1)~~(g)(1) Notwithstanding the provisions of §§ 19-6-108 and §19-6-601, grants to the state under the federal Resource Conservation and Recovery Act and the federal Comprehensive Environmental Response, Compensation and Liability Act, as each may be amended from time to time, and otherwise from the federal Environmental Protection Agency received by the Treasurer of State from the federal government are declared to be cash funds restricted in their use and dedicated and are to be used solely as authorized in this subchapter and §§ 15-5-901--15-5-906.

(2) The cash funds, when received by the Treasurer of State, shall not be deposited or deemed to be a part of the State Treasury for the purposes of Arkansas Constitution, Article 5 § 29, Arkansas Constitution, Article 16 § 12, Arkansas Constitution, Amendment 20, or any other constitutional or statutory provisions.

SECTION 10. Arkansas Code § 8-7-509 is amended to read as follows:

8-7-509. Hazardous Substance Remedial Action Trust Fund.

(a) The Hazardous Substance Remedial Action Trust Fund is created.

(b) The Hazardous Substance Remedial Action Trust Fund will be administered by the Director of the Arkansas Department of Environmental Quality, who shall authorize expenditures from the Hazardous Substance Remedial Action Trust Fund.

~~(c)(1) Any moneys remaining in the Emergency Response Fund as of June 30, 2005, shall be transferred in their entirety to the Hazardous Substance Remedial Action Trust Fund.~~

~~(2) Beginning July 1, 2005, the Hazardous Substance Remedial Action Trust Fund shall consist of all moneys received as penalties under §§ 8-4-101 -- 8-4-106, 8-4-201 -- 8-4-229, 8-4-301 -- 8-4-313, 8-4-401 -- 8-4-409, 8-6-201 -- 8-6-214, 8-7-201 -- 8-7-226, 8-7-504, and 20-27-1001 -- 20-27-1007.~~

~~(3) In addition to all moneys appropriated by the General Assembly to the Hazardous Substance Remedial Action Trust Fund, there shall be deposited in the Hazardous Substance Remedial Action Trust Fund any moneys received by the state as a gift or donation to the Hazardous Substance Remedial Action Trust Fund and all interest earned upon money deposited in the Hazardous Substance Remedial Action Trust Fund, all fees assessed under § 8-7-518, all costs recovered from the Emergency Response Fund, all punitive damages collected pursuant to §8-7-517, and any other moneys legally designated for the Hazardous Substance Remedial Action Trust Fund.~~

~~(2)(4) In addition, there is authorized to be deposited in the Hazardous Substance Remedial Action Trust Fund all moneys recovered pursuant to § 8-7-514 and all moneys received as penalties pursuant to § 8-7-504 except for that portion of the civil penalties specified in § 8-7-504 (c) to be deposited in the Remedial Action Account of the Construction Assistance Revolving Loan Fund established pursuant to § 15-5-901.~~

(d) Ten percent (10%) of the moneys collected for the Hazardous Substance Remedial Action Trust Fund after July 1, 1991, shall be deposited in the Environmental Education Fund. Total deposit of funds shall not exceed two hundred seventy-five thousand dollars (\$275,000) per fiscal year. The remaining moneys in the Hazardous Substance Remedial Action Trust Fund may be expended by the director ~~solely for the purposes pursuant to provisions of subsection (e) of this section~~ as authorized by this subsection (d) and subsection (e) of this section:

(1) The costs and expenses reasonably necessary for the administration of this subchapter by the Arkansas Department of Environmental Quality;

(2) The state share mandated by § 104(c)(3) of the federal act, 42 U.S.C. § 9604 (c)(3); and

(3) To provide for the investigation, identification, containment, abatement, treatment, or control, including monitoring and maintenance, of hazardous substance sites within the state. The director may enter into the contracts and use the funds for those purposes directly associated with identification, investigation, containment, abatement, treatment, or control, including monitoring and maintenance, prescribed above, including:

(A) Hiring of personnel;

(B) Purchase, lease, or rental of equipment; and

Other necessary expenses related to the operation and implementation of this subchapter.

~~(e) The moneys in the Hazardous Substance Remedial Action Trust Fund may be expended by the director for removal actions, including:~~

~~(1) The purchase of any commodities or services necessary in taking removal actions in connection with a release or threatened release; and~~

~~(2) Reimbursement of all costs incurred by the Arkansas Department of Environmental Quality in taking removal actions in connection with a release or threatened release.~~

~~(e)(1)(f)(1) No expenditures from the Hazardous Substance Remedial Action Trust Fund, as authorized by subdivisions (d)(2) and (d)(3) of this section, shall be made prior to the approval by the Arkansas Pollution Control and Ecology Commission of a prioritized listing of hazardous substance sites at which remedial actions are authorized through the use of Hazardous Substance Remedial Action Trust Fund moneys. This listing shall be revised~~

annually by the department and submitted to the commission for approval after public notice and opportunity for hearing.

(2) Upon a showing that a release of a hazardous substance at a site exists and will continue without expeditious remedial action, the commission may list the site on the prioritized listing pursuant to the procedures set out in § 8-4-202(e) prior to public notice and thereby authorize the director to expend funds pursuant to subdivision (d)(3) of this section. Such an emergency listing need not be supported by a factual showing of irreparable harm or imminent and substantial endangerment.

~~(f)(1)~~(g)(1) Notwithstanding the provisions of §§ 19-6-108 and §19-6-601, grants to the state under the federal Resource Conservation and Recovery Act and the federal Comprehensive Environmental Response, Compensation and Liability Act, as each may be amended from time to time, and otherwise from the federal Environmental Protection Agency received by the Treasurer of State from the federal government are declared to be cash funds restricted in their use and dedicated and are to be used solely as authorized in this subchapter and §§ 15-5-901--15-5-906.

(2) The cash funds, when received by the Treasurer of State, shall not be deposited or deemed to be a part of the State Treasury for the purposes of Arkansas Constitution, Article 5 § 29, Arkansas Constitution, Article 16 § 12, Arkansas Constitution, Amendment 20, or any other constitutional or statutory provisions.

(3) The Treasurer of State shall pay the cash funds to the Arkansas Development Finance Authority for deposit in the Remedial Action Account of the Construction Assistance Revolving Loan Fund established pursuant to § 15-5-901 to be used for the purposes authorized by this subchapter and §§ 15-5- 901--15-5-906.

(4) Such federal grants transferred directly to the Arkansas Development Finance Authority are declared to be cash funds restricted in their use and dedicated and to be used solely as authorized in this subchapter and §§ 15- 5-901--15-5-906.

SECTION 11. Arkansas Code § 8-7-514 is amended to read as follows:

8-7-514. Recovery of expenditures generally.

(a) After an expenditure from the Hazardous Substance Remedial Action Trust Fund for a removal or remedial action, the Arkansas Department of Environmental Quality shall institute action to recover the expenditure from the person or persons liable for causing the hazardous substance release, including taking any appropriate legal action.

(b) Making use of any and all appropriate existing state legal remedies, the department or the Attorney General shall act to recover the amount expended by the state for any and all ~~response~~ remedial or removal actions from any and all parties identified as responsible parties for each hazardous substance.

(c) All moneys recovered from responsible parties pursuant to this section shall be deposited in the fund.

SECTION 12. Arkansas Code § 8-7-515 is amended to read as follows:

8-7-515. Recovery of expenditures-limitations.

(a) No person, including the state, may recover under the authority of this section for any remedial or removal action costs or damages resulting from the application, in accordance with label directions of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act.

(b) No person, including the state, may recover under the authority of this section for any remedial or removal action costs or damages resulting solely from an act or omission of a third party or from an act of God or an act of war.

SECTION 13. Arkansas Code § 8-7-516 is amended to read as follows:

8-7-516. Liens for expenditures and value of improvements.

(a) If the owner of real property that is the location of a hazardous substance site upon which remedial or removal activity is performed under this subchapter is responsible, in whole or in part, for causing the hazardous substance release, there shall exist a lien against the property for the moneys expended. If the expenditure results in an increase in the value of the property, the lien shall also be for the increase in value.

(b) The lien shall be effective upon the filing by the Director of the Arkansas Department of Environmental Quality of a notice of lien with the circuit clerk in the county in which the land is located.

(c) The lien obtained by this section shall not exceed the amount of expenditures, as

itemized on an affidavit of expenditures attached to and filed with the notice of lien, and the increase in property value as a result of the removal, remedial, or abatement action taken, as determined by an independent appraisal, a copy of which shall be attached to and filed with the notice of lien.

(d) The notice of lien shall be filed within thirty (30) days of the date of the last act performed on the property by the Arkansas Department of Environmental Quality or its agent under this subchapter.

(e) Upon filing of the notice of lien, a copy with attachments shall be served upon the property owner in the manner provided for enforcement of mechanics' or materialmen's liens.

(f) Any and all moneys recovered or reimbursed pursuant to this section through voluntary agreements or court orders shall be deposited and credited to the account of the ~~appropriate trust fund~~ Hazardous Substance Remedial Action Trust Fund.

SECTION 14. Arkansas Code § 8-7-517 is amended to read as follows:

8-7-517. Punitive damages.

If any person who is liable for a release or threat of release of a hazardous substance fails without sufficient cause to properly provide remedial or removal action upon order of the Arkansas Department of Environmental Quality, the person may be liable to the state for punitive damages in an amount equal to three (3) times the amount of any costs incurred by the state as a result of the failure to take proper action.

SECTION 15. Arkansas Code § 8-7-519 is amended to read as follows:

8-7-519. Appeals

An appeal may be taken from any final order of the Arkansas Department of Environmental Quality under this subchapter as provided in §§ 8-4-202, 8-4-210, 8-4-212--8-4-214, 8-4-218, 8-4-219, 8-4-221 8-4-222 —8-4-229 and in accordance with regulations promulgated by the Arkansas Pollution Control and Ecology Commission under this subchapter.

SECTION 16. Arkansas Code § 8-7-521 is amended to read as follows:

8-7-521. Site Access for remedial or removal action.

(a) For purposes of responding to an administrative or judicial order or settlement entered pursuant to § 8-7-508, the owner or the operator of a facility which is a hazardous substance site, or any person who otherwise controls access to such facility, shall provide access to the Arkansas Department of Environmental Quality, any employee of the department, or any other person, duly designated by the Director of the Arkansas Department of Environmental Quality, who undertakes such activities as are required to carry out the terms of the said order or settlement.

(b) Any person who impedes or interferes with a person who is entitled to site access for the purpose of conducting remedial or removal action at a hazardous substance site pursuant to the terms of an administrative or judicial order or settlement may be assessed a civil penalty by the department in an administrative proceeding or by the court in a judicial proceeding for a site access injunction of up to ten thousand dollars (\$10,000) per day that site access is impeded.

(c) Any person who knowingly impedes or interferes with a person who is entitled to site access for the purpose of conducting remedial or removal action at a hazardous substance site pursuant to the terms of an administrative or judicial order or settlement shall be guilty of a misdemeanor, punishable by a fine of up to one thousand dollars (\$1,000) or imprisonment for up to one (1) year, or both.

SECTION 17. Title 8, Chapter 7, Subchapter 5 is amended to add a new subsection to read as follows:

8-7-1325. Appropriation.

On or after July 1, 2005, any appropriation made payable from the Emergency Response Fund shall be made payable from the Hazardous Substance Remedial Action Trust Fund.

SECTION 18. Arkansas Code § 19-5-929 is repealed:

~~19-5-929. Emergency Response Fund.~~

~~(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the Emergency Response Fund.~~

~~(b) This fund shall consist of all moneys received as penalties pursuant to §§ 8-4-101 - 8-4-106, 8-4-201 - 8-4-229, 8-4-301 - 8-4-313, 8-4-401 - 8-4-409, 8-6-201 - 8-6-214, 8-7-201 - 8-7-226, as may be provided by law, there to be administered by the Director of the Arkansas Department of Environmental Quality for these purposes as may be provided by law.~~

SECTION 19. Arkansas Code § 20-27-1002(b), concerning penalties collected for violations of the Removal of Asbestos Material Act, is amended to read as follows:

(b) All moneys collected as civil penalties shall be deposited in the Emergency Response Fund Hazardous Substance Remedial Action Trust Fund as provided by ~~§ 8-7-410(b)(1)~~ § 8-7-509.

SECTION 20. Emergency Clause. The General Assembly of the State of Arkansas hereby finds and determines that the decision of the Arkansas Supreme Court in Brighton Corp. v. Arkansas Department of Environmental Quality, 352 Ark. 396, 102 S.W.3d 458 (2003), has raised questions regarding the factual proof required to establish a claim for cost recovery under the Arkansas Remedial Action Trust Fund Act and regarding the retroactivity of the statute. The General Assembly further finds and determines that the doubts raised by the decision in the Brighton case have created substantial uncertainty regarding the enforcement authority of the Arkansas Department of Environmental Quality and the rights and responsibilities of private parties under the Arkansas Remedial Action Trust Fund Act, all of which require urgent resolution. Therefore, an emergency is declared to exist; and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005, and shall apply retroactively."

(SIGNED) SENATOR SHAWN WOMACK

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

* * * * * **RECEDE** * * * * *

The record pertaining to the adoption of **Amendment No. 1** to **Senate Bill No. 1099** was receded from, in accordance with a prevailing motion on March 31, 2005.

On motion of Senator Womack, **Senate Bill No. 1099** was placed back on second reading for purpose of Amendment No. 2.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 2 to SENATE BILL NO. 1099

Amend **Senate Bill No. 1099** as originally introduced:

Add Representatives Key and Ledbetter as cosponsors of the bill

AND

Delete everything after the ENACTING CLAUSE and substitute the following:

"SECTION 1. The purpose of this Act is to resolve questions that have arisen regarding the phrase "at the time of disposal" in Arkansas Code § 8-7-512(a)(3) and § 8-7-512(a)(4), as interpreted by the Arkansas Supreme Court in Arkansas Department of Environmental Quality v. Brighton Corporation, et al., 352 Ark. 396, 102 S.W. 3d 458 (2003), and to clarify that the Arkansas Remedial Action Trust Fund Act is remedial in nature and should be applied retroactively.

SECTION 2. Arkansas Code § 8-7-502, concerning the purposes of the Remedial Action Trust Fund Act, is amended to add and additional subsection to read as follows:

(d) The General Assembly expressly intends that the provisions of this subchapter shall apply retroactively.

(e) A further purpose of this act is to provide the state with the authority necessary to protect the public's health and safety and the environment from releases or threatened releases of hazardous substances; and to provide emergency response capabilities necessary to promptly contain, control, or remove hazardous substances resulting from spills or accidental releases.

SECTION 3. Arkansas Code § 8-7-512 is amended to read as follows:

(a) Any of the following shall be liable to the state for all costs of remedial or removal actions under this subchapter;

- (1) The owner and operator of a facility;
- (2) Any person who, at the time of disposal of any hazardous substance, owned or operated a hazardous substance site;
- (3) Any generator of hazardous substances who, ~~at the time of disposal,~~ caused such substance to be disposed of at a hazardous substance site or who causes a release or threatened release of the hazardous substances; or
- (4) Any transporter of hazardous substances who causes a release or threatened release of the hazardous substances or who, ~~at the time of disposal,~~ selected a hazardous substance site for disposal of the hazardous substances.

(b)(1) No person shall be liable under this subchapter for damages as a result of actions taken or omitted in the course of rendering care, assistance, or advice at the direction of the Arkansas Department of Environmental Quality, with respect to an incident creating a danger to public health or welfare or the environment as a result of any release of a hazardous substance or the threat thereof of a release of a hazardous substance.

(2)(A) This subsection shall not preclude liability for damages as a result of gross negligence or intentional misconduct on the part of the person, nor shall this subsection preclude liability for damages and costs of remedial or removal action of any person liable for such damages and costs pursuant to subsection (a) of

this section.

(B) For the purposes of subdivision (b)(2)(A) of this section, reckless, willful, or wanton misconduct shall constitute gross negligence.

(c)(1) A person taking ~~response~~ remedial or removal action under this subchapter as a contractor for the department shall not be liable under this subchapter or under any other state law to any person for injuries, costs, damages, expenses, or other liability, including, but not limited to, claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss resulting from a release or threatened release of hazardous substances.

(2) However, the provisions of this subsection shall not apply in case of a release that is caused by the conduct of the person taking ~~response~~ remedial or removal action which is negligent, grossly negligent, or which constitutes intentional misconduct.

(d) A state employee or an employee of a political subdivision who provides services relating to remedial or removal action while acting within the scope of his authority as a governmental employee shall have the same exemption from liability, subject to the other provisions of this section, as is provided to the ~~response~~ removal or remediation action contractor under subsection (c) of this section.

(e)(1) Nothing in subsections (c) or (d) of this section shall affect the liability of any person under warranty under state or common law.

(2) Nothing in this subsection shall affect the liability of an employer taking ~~response~~ remedial or removal action to any employee of any such employer under any provision of law, including any provision of any law relating to workers' compensation.

SECTION 4. Arkansas Code Title 8, Chapter 7, Subchapter 4 is repealed:

~~8-7-401. Title.~~

~~This subchapter may be known and may be cited as the "Emergency Response Fund Act".~~

~~8-7-402. Legislative Intent~~

~~It is the intent of the General Assembly:~~

~~(1) To provide the state with the authority necessary to protect the public's health and safety and the environment from releases or threatened releases of hazardous substances; and~~

~~(2) To provide emergency response capabilities necessary to promptly contain, control, or remove hazardous substances resulting from spills or accidental releases.~~

~~8-7-403. Definitions~~

~~(a) As used in this subchapter, unless the context otherwise requires:~~

~~(1) "Commission" means the Arkansas Pollution Control and Ecology Commission;~~

~~(2) "Department" means the Arkansas Department of Environmental Quality;~~

~~(3) "Director" means the Director of the Arkansas Department of Environmental Quality;~~

~~(4) "Federal act" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510;~~

~~(5) "Fund" means the Emergency Response Fund created by this subchapter;~~

~~(6) "Hazardous substance" means:~~

~~(A)(i) As of March 20, 1985, any substance designated pursuant to § 311(b)(2)(A) of the Federal Water Pollution Control Act, Pub. L. 92-500;~~

~~(ii) Any element, compound mixture, solution, or substance designated pursuant to § 102 of Title I of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510;~~

~~(iii) Any hazardous waste, including polychlorinated~~

biphenyls, as defined by the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., and the regulations promulgated thereunder;

(iv) ~~Any toxic pollutant listed under § 307(a) of the Federal Water Pollution Control Act, Pub. L. 92-500;~~

(v) ~~Any hazardous air pollutant listed under § 112 of the federal Clean Air Act, Pub. L. 95-95; and~~

(vi) ~~Any hazardous chemical substance or mixture regulated under § 7 of the federal Toxic Substances Control Act, Pub. L. 94-469; and~~

(B) ~~Any other substance or pollutant designated by regulations of the commission promulgated under this subchapter;~~

(7) ~~"Local government" means any city of the first class, any city of the second class, or any incorporated town or any county government of the State of Arkansas;~~

(8) ~~"Person" means any individual, corporation, company, firm, partnership, association, trust, joint stock company or trust, venture, state or federal government or agency, or any other legal entity, however organized;~~

(9) ~~"Releases of hazardous substances" means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of hazardous substances into the environment;~~

(10) ~~"Response action" means action necessary to effect permanent control, prevention, treatment, or containment of releases and threatened releases, including the removal of hazardous substances from the environment where such removal is necessary to protect the public health or safety. These actions are intended to include investigations designed to determine the need for and scope of remedial action and such planning, legal, fiscal, economic, engineering, geological, technical, or architectural studies as are necessary to plan and direct remedial actions, to recover the cost thereof, and to enforce the provisions of this subchapter;~~

(11) ~~"Threatened release" means any situation where a sudden release of hazardous substances can be reasonably expected unless prevented by a change of operation or the installation or construction of containment or treatment devices or by removal or other response action; and~~

(12) ~~"Treatment", "storage", "disposal", "generation", and "hazardous waste" shall have the meanings provided in § 8-7-203 and the regulations promulgated pursuant to the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq.~~

(b)(1) ~~As used in §§ 8-7-413-8-7-415, unless the context otherwise requires, "responsible party" means:~~

(A) ~~The owner or operator of a facility or site at which hazardous substances have been disposed of and from which releases or threatened releases of hazardous substances occur;~~

(B) ~~Any person who, at the time of disposal of a hazardous substance, owned or operated a facility or site from which releases or threatened releases of hazardous substances occur;~~

(C) ~~Any generator of hazardous substances who causes a release or threatened release of hazardous substances or who, at the time of disposal, caused the substance to be disposed of at a facility or site from which releases or threatened releases of hazardous substances occur; or~~

(D) ~~Any transporter of hazardous substances who causes a release or threatened release of such hazardous substances or who, at the time of disposal, selected the facility or site of disposal from which releases or threatened releases of the substances occur.~~

(2) ~~"Responsible party" does not include:~~

(A) ~~A person who merely provides financing or loans to a responsible party;~~

(B) ~~A person who obtains title to property through foreclosure or through the conveyance of property in total or partial satisfaction of a mortgage or~~

other security interest in property.

~~8-7-404. Penalties.~~

~~(a)(1) Any person who commits any unlawful act under this subchapter shall be guilty of a misdemeanor and upon conviction shall be subject to imprisonment for not more than one (1) year or to a fine of not more than ten thousand dollars (\$10,000), or to both a fine and imprisonment.~~

~~(2) Each day or part of a day during which the violation is continued or repeated shall constitute a separate offense.~~

~~(b) Any person who violates any provision of this subchapter or commits any unlawful act under this subchapter shall be subject to a civil penalty in such amount as the Director of the Arkansas Department of Environmental Quality shall find appropriate, not to exceed twenty-five thousand dollars (\$25,000) per day of the violation, subject to the payment of any expenses reasonably incurred by the state in removing, correcting, or terminating any adverse effects resulting therefrom, including the cost of the investigation, inspection, or survey establishing such violation or unlawful act and subject to the payment to the state of reasonable compensation of any actual damage resulting therefrom.~~

~~8-7-405. Unlawful acts.~~

~~It shall be unlawful for any person:~~

~~(1) To violate any provision of this subchapter or any rule or regulation adopted under this subchapter;~~

~~(2) To knowingly make a false statement, representation, or certification in any report or other document filed or required by this subchapter or the rules and regulations adopted pursuant thereto;~~

~~(3) To violate any order issued by the Arkansas Department of Environmental Quality under this subchapter or any provision of such orders; or~~

~~(4) To fail to implement response actions in accordance with representations made by persons liable for a release or threatened release to the department as to their willingness and ability to appropriately respond to the release or threatened release for the purposes of § 8-7-408 (c).~~

~~8-7-406. Regulations — Administrative procedure.~~

~~The Arkansas Pollution Control and Ecology Commission shall adopt regulations under this subchapter necessary to implement or effectuate the purposes and intent of this subchapter, including, but not limited to, regulations affording any persons aggrieved by any order issued pursuant to this subchapter an opportunity for a hearing thereon, and commission review of the action.~~

~~Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the federal government and the state government shall be subject to and comply with this subchapter in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under §§ 8-7-413--8-7-416 and 8-7-418.~~

~~8-7-408. Response authority of directory generally- Permits.~~

~~(a) The Director of the Arkansas Department of Environmental Quality is authorized to initiate and implement response actions under this subchapter whenever there is a release or a threatened release of hazardous substances which may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment.~~

~~(b) Whenever the director has reason to believe that a release or threatened release of hazardous substances may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment, the director and the employees and the authorized representatives of the Arkansas Department of Environmental Quality shall have the right to enter upon any affected private or public property for the purpose of collecting information and for initiating and implementing appropriate response actions.~~

~~(c) Response actions are not authorized when the director has reasonable assurance that the person responsible for a release or threatened release has committed to and is capable of initiating corrective and remedial action in a timely manner and that the actions will achieve results equivalent to the results from response action authorized in this section.~~

~~(d) The department or any contractor of the department under this section, in taking response action pursuant to this subchapter, shall not be required to obtain any state or local permit for the portion of any response or remedial action conducted pursuant to this subchapter entirely on-site, where the remedial action is otherwise carried out in compliance with the regulations of the department.~~

~~8-7-409. Orders of director—Responsibility of lenders.~~

~~(a) Upon finding that a release or a threatened release of hazardous substances may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment, the Director of the Arkansas Department of Environmental Quality may, without notice or hearing, issue an order reciting the existence of such an imminent hazard and substantial endangerment and requiring that such action be taken as he determines necessary to protect the health and safety of any affected or threatened persons or the environment and to otherwise meet the emergency.~~

~~(b) The order of the director may include, but is not limited to, requiring any person responsible in whole or in part for the release or threatened release or any person in total or partial control of the site, facility, or transport vehicle from which the release or threatened release emanates, if that person has caused or contributed to the release or threatened release, to take such steps as are necessary to protect the public health and safety and the environment.~~

~~(c) A person shall not be deemed responsible for or to have caused or contributed to the release or threatened release of hazardous substances if such person merely provides financing or loans to another person or obtains title to property through foreclosure or through conveyance of property in total or partial satisfaction of a mortgage or other security interest in property.~~

~~(d) The orders may be issued verbally or in writing. If originally issued verbally, a written order will be issued by the director confirming the verbal order as soon as reasonably possible to do so.~~

~~(e) Any person to whom the order is directed shall comply therewith immediately but, upon written application to the director, shall be afforded a hearing and administrative review of the order within ten (10) days of making the application.~~

~~8-7-410. Emergency Response Fund.~~

~~(a) There is created the Emergency Response Fund.~~

~~(b)(1) There is authorized to be deposited in the Emergency Response Fund all moneys recovered pursuant to § 8-4-417, any moneys received by the state as a gift or donation to the fund, all interest earned upon moneys deposited in the fund, and all moneys received as penalties pursuant to the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., the Arkansas Solid Waste Management Act, § 8-6-201 et seq., the Lead-Based Paint Hazard Act, § 8-4401 et seq., and the Removal of Asbestos Material Act, § 20-27-1001 et seq.~~

~~(2) However, in the event the total amount in the Emergency Response Fund equals or exceeds one hundred fifty thousand dollars (\$150,000), any additional moneys collected pursuant to this section shall be deposited in the Hazardous Substance Remedial Action Trust Fund.~~

~~(c) The Emergency Response Fund as created by this section shall be administered by the Director of the Arkansas Department of Environmental Quality who shall authorize expenditures from the fund for the following purposes:~~

~~(1) The purchase of any commodities or services necessary in taking response actions in connection with a release or a threatened release of hazardous substances; and~~

~~(2) For reimbursement of all costs incurred by the Arkansas Department of Environmental Quality in taking response actions in connection with a release or a threatened release of hazardous substances.~~

~~8-7-411. Limitations upon expenditures.~~

~~(a) An expenditure authorized under this subchapter shall be limited to those situations where spill control and countermeasures plans or contingency plans which are required by state or federal statutes or regulations do not apply or where the resources obligated under the plans prove insufficient to contain, control, or remove hazardous substances to the extent required to protect the public's health and safety.~~

~~(b) The Director of the Arkansas Department of Environmental Quality is not authorized to expend in excess of sixty thousand dollars (\$60,000) on any single response action without Arkansas Pollution Control and Ecology Commission approval.~~

~~8-7-412. Furnishing of information.~~

~~(a)(1) For the purpose of assisting in determining the need for response actions in connection with a release or threat of release of hazardous substances under this subchapter or for enforcing the provisions of this subchapter, any person who stores, treats, or disposes of hazardous substances, or, if necessary, to ascertain facts not available at the site or facility where such hazardous substances are stored, treated, or disposed of, any person who generates, transports, or otherwise handles or has handled hazardous substances shall, upon request of any officer or employee of the Arkansas Department of Environmental Quality,~~

~~furnish information relating to the substance and permit that person at all reasonable times to have access to and to copy all records relating to the substances and to inspect and obtain samples of any of the substances or other materials.~~

~~(2) However, any information which would constitute a trade secret under the Arkansas Trade Secrets Act, § 4-75-601 et seq., obtained by the department or its employees in the administration of this subchapter, except emission data, shall be kept confidential.~~

~~(b) Any violation of this section shall be unlawful and constitute a misdemeanor.~~

~~8-7-413. Liability of responsible parties.~~

~~(a) Responsible parties shall be liable to the state for all costs and expenditures of response actions incurred by the state and shall be liable to local governments for all costs and expenditures of response actions incurred by local governments.~~

~~(b)(1) No person shall be liable under this section for damages as a result of actions taken or committed at the direction of the Arkansas Department of Environmental Quality in the course of rendering care, assistance, or advice with respect to an incident creating a danger to public health or welfare or the environment as a result of any release of a hazardous substance or the threat thereof.~~

~~(2) This subsection shall not preclude liability for damages as the result of gross negligence or intentional misconduct on the part of the person. For the purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.~~

~~8-7-414. Apportionment of costs and expenditures.~~

~~(a)(1) Any party found liable for any costs or expenditures recoverable under §§ 8-7-413, 8-7-415, 8-7-416, and 8-7-418 which establishes by a preponderance of the evidence that only a portion of such costs or expenditures are attributable to his or her actions shall be required to pay only for that portion.~~

~~(2) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures, the court shall apportion the costs or expenditures, to the extent practicable, according to equitable principles, among the responsible parties.~~

~~(b)(1) In any action under this section, no responsible party shall be liable for more than that party's apportioned share of the amount expended for such response action.~~

~~(2) The apportioned share shall be based on a responsible party's portion of the total volume of the hazardous substance at the site in question at the time of action taken under this subchapter.~~

~~(3) Any expenditures required by the provisions of this subchapter made by a responsible party, before or after suit, shall be credited toward any apportioned share.~~

~~8-7-415. Recovery of expenditures generally.~~

~~(a) Making use of any and all appropriate existing state legal remedies, the Arkansas Department of Environmental Quality or the Attorney General shall act to recover the amount expended by the state for any and all response actions from any and all identified responsible parties for each facility or site.~~

~~(b) All moneys recovered from responsible parties for expenditures from the fund shall be deposited in the Emergency Response Fund.~~

~~8-7-416. Recovery of expenditures—Limitations.~~

~~(a) No person, including the state, may recover under the authority of this section, §§ 8-7-413--8-7-415, and 8-7-418 for any response costs or damages resulting from the application, in accordance with label directions, of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act.~~

~~(b) No person, including the state, may recover under the authority of this section for any response costs or damages resulting solely from an act or omission of a third party or from an act of God or an act of war.~~

~~8-7-417. Liens for expenditures and value of improvements.~~

~~(a) In the case that the owner of real property that is the location of a release or threatened release upon which response activities are performed under this subchapter is responsible in whole or in part for causing the release or threatened release, there shall exist a lien against such property for the moneys expended by the state, including, but not limited to, expenditures from the Emergency Response Fund. If the expenditure results in an~~

increase in the value of the property, the lien shall also be for the increase in value.

~~(b) The lien shall be effective upon the filing of a notice of lien by the state or by the state agency which made the expenditure. This notice shall be filed with the circuit clerk in the county in which the land is located.~~

~~(c) The lien obtained by this section shall not exceed the amount of expenditures, as itemized on an affidavit of expenditures attached to and filed with the notice of lien, and the increase in property value as a result of the response action taken, as determined by an independent appraisal. A copy of the appraisal shall also be attached to and filed with the notice of lien.~~

~~(d) The notice of lien shall be filed within thirty (30) days of the date of the last act performed on such property by the Arkansas Department of Environmental Quality or other affected state agency or its agent under this subchapter.~~

~~(e) Upon filing of the notice of lien, a copy with attachments shall be served upon the property owner in the manner provided for enforcement of mechanics' or materialmen's liens.~~

~~(f) Any and all moneys recovered by or reimbursed to the department pursuant to this section through voluntary agreements or court orders shall be deposited and credited to the account of the Emergency Response Fund.~~

~~8-7-418. Punitive damages.~~

~~If any person who is liable for a release or threatened release of a hazardous substance fails, without sufficient cause, to implement response action in accordance with representations made by the person to the Arkansas Department of Environmental Quality for the purposes of § 8-7-408 (c) or fails to properly provide response action upon order of the department, the person may be liable to the state for punitive damages in an amount equal to three (3) times the amount of any costs incurred by the state as a result of the failure to take proper action.~~

~~8-7-419. Appeals.~~

~~An appeal may be taken from any final order of the Arkansas Department of Environmental Quality issued under this subchapter as provided in §§ 8-4-205, 8-4-212-8-4-214, and 8-4-218-8-4-229, and in accordance with regulations promulgated by the Arkansas Pollution Control and Ecology Commission under this subchapter.~~

~~8-7-420. Liability for injuries, etc.— Exceptions.~~

~~(a) A person taking response action under this subchapter as a contractor for the Arkansas Department of Environmental Quality shall not be liable under this subchapter or under any other state law to any person for injuries, costs, damages, expenses, or other liability, including, but not limited to, claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss resulting from a release or threatened release of hazardous substances.~~

~~(b) However, the provisions of subsection (a) of this section shall not apply in case of a release that is caused by the conduct of the person taking response action which is negligent, grossly negligent, or which constitutes intentional misconduct.~~

~~(c) A state employee or an employee of a political subdivision who provides services relating to response action while acting within the scope of his authority as a governmental employee shall have the same exemption from liability subject to the other provisions of this section as is provided to the contractor under subsections (a) and (b) of this section.~~

~~(d)(1) Nothing in subsections (a) (c) of this section shall affect the liability of any person under warranty under state or common law.~~

~~(2) Nothing in this subsection shall affect the liability of an employer taking response action to any employee of any such employer under any provision of law, including any provision of any law relating to workers' compensation.~~

~~8-7-421. Recycling transactions.~~

~~(a) The purposes of this section are:~~

~~(1) To promote the reuse and recycling of scrap material in Arkansas while protecting human health and the environment;~~

~~(2) To promote the goals of the Arkansas Pollution Prevention Act, § 8-10-201 et seq., and related Arkansas legislation intended to encourage recycling;~~

~~(3) To create greater equity in the statutory treatment of recycled versus virgin materials;~~

~~(4) To remove the disincentives and impediments to recycling in Arkansas created as an unintended consequence of certain liability provisions contained in this subchapter; and~~

~~(5) To incorporate into this subchapter amendments to the federal~~

Comprehensive Environmental Response Compensation and Liability Act adopted by the United States Congress in 1999 in Pub. L. 106-113, thus ensuring that Arkansas law does not contain more stringent provisions than federal law.

~~(b)(1) For purposes of subsections (c) -- (f) of this section, a person who arranged for recycling of recyclable material shall not be a "responsible party" under § 8-7-403~~

~~(b)(1)(C) or (D) with respect to the recyclable materials.~~

~~(2) Nothing in this section shall be deemed to affect the liability of a person under § 8-7-403 (b)(1)(C) or (D) with respect to materials that are not recyclable materials as defined in subsection (c) of this section.~~

~~(c)(1) As used in this section, "recyclable material" means scrap paper, scrap plastic, scrap glass, scrap textiles, scrap rubber other than whole tires, scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent batteries, as well as minor amounts of material incident to, or adhering to, the scrap material as a result of its normal and customary use prior to becoming scrap.~~

~~(2) However, "recyclable material" does not include:~~

~~(A) Shipping containers of a capacity from thirty liters (30 l) to three thousand liters (3,000 l), whether intact or not, having any hazardous substance, but not metal bits and pieces or hazardous substances that form an integral part of the container, contained on, or adhering thereto; or~~

~~(B) Any item of material that contains polychlorinated biphenyls at a concentration in excess of fifty (50) parts per million or any new standard promulgated pursuant to applicable federal laws.~~

~~(d) Transactions involving scrap paper, scrap plastic, scrap glass, scrap textiles, or scrap rubber other than whole tires shall be deemed to be arranging for recycling of recyclable materials, if the person who arranged for the transaction by selling recyclable material or otherwise arranging for the recycling of recyclable material can demonstrate by a preponderance of the evidence that all of the following criteria were met at the time of the transaction:~~

~~(1) The recyclable material met a commercial specification grade;~~

~~(2) A market existed for the recyclable material;~~

~~(3) A substantial portion of the recyclable material was made available for use as feedstock for the manufacture of a salable new product;~~

~~(4) The recyclable material could have been a replacement or substitute for a virgin raw material, or the product to be made from the recyclable material could have been a replacement or substitute for a product made, in whole or in part, from virgin raw material;~~

~~(5) For transactions occurring ninety (90) days or more after August 13, 2001, the person exercised reasonable care to determine that the facility where the recyclable material was handled, processed, reclaimed, or otherwise managed by another person, i.e., a consuming facility, was in compliance with substantive, not procedural or administrative, provisions of any federal, state, or local environmental law or regulation or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material; and~~

~~(6) For purposes of this subsection, "reasonable care" shall be determined using criteria that include:~~

~~(A) The price paid in the recycling transaction;~~

~~(B) The ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with recyclable material; and~~

~~(C)(i) The result of inquiries made to the appropriate federal, state, or local environmental agency regarding the consuming facility's past and current compliance with substantive, not procedural or administrative, provisions of any federal, state, or local environmental law or regulation or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material.~~

~~(ii) For the purposes of this subsection, a requirement to~~

obtain a permit applicable to the handling, processing, reclamation, or other management activity associated with the recyclable materials shall be deemed to be a substantive provision.

~~(e)(1) Transactions involving scrap metal shall be deemed to be arranging for recycling, if the person who arranged for the transaction by selling recyclable material or otherwise arranging for the recycling of recyclable material can demonstrate by a preponderance of the evidence that at the time of the transaction the person:~~

~~(A) Met the criteria set forth in subsection (d) of this section with respect to the scrap metal;~~

~~(B) Was in compliance with any applicable regulations or standards regarding the storage, transport, management, or other activities associated with the recycling of scrap metal that the Arkansas Pollution Control and Ecology Commission promulgates subsequent to the enactment of this section and with regard to transactions occurring after the effective date of those regulations or standards; and~~

~~(C) Did not melt the scrap metal prior to the transaction.~~

~~(2) For purposes of subdivision (e)(1)(C) of this section, melting of scrap metal does not include the thermal separation of two (2) or more materials due to differences in their melting points, referred to as "sweating".~~

~~(3) Except for scrap metals that the federal Environmental Protection Agency or the commission excludes from this definition by regulation, for purposes of this subsection, the term "scrap metal" means:~~

~~(A) Bits and pieces of metal parts, such as bars, turnings, rods, sheets, or wire; or~~

~~(B) Metal pieces that may be combined together with bolts or soldering, such as radiators, scrap automobiles, or railroad box cars, which when worn or superfluous can be recycled.~~

~~(f) Transactions involving spent lead acid batteries, spent nickel cadmium batteries, or other spent batteries shall be deemed to be arranging for recycling, if the person who arranged for the transaction by selling recyclable material or otherwise arranging for the recycling of recyclable material can demonstrate by a preponderance of the evidence that at the time of the transaction:~~

~~(1) The person:~~

~~(A) Met the criteria set forth in subsection (d) of this section with respect to the spent lead acid batteries, spent nickel cadmium batteries, or other spent batteries, but did not recover the valuable components of those batteries; and~~

~~(B) With respect to transactions involving lead acid batteries, was in compliance with applicable federal and Arkansas environmental regulations or standards, and any amendments thereto, regarding the storage, transport, management, or other activities associated with the recycling of spent lead acid batteries;~~

~~(2) With respect to transactions involving nickel cadmium batteries, federal and Arkansas environmental regulations or standards were in effect regarding the storage, transport, management, or other activities associated with the recycling of spent nickel cadmium batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto; or~~

~~(3) With respect to transactions involving other spent batteries, federal and Arkansas environmental regulations or standards were in effect regarding the storage, transport, management, or other activities associated with the recycling of those batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto.~~

~~(g)(1) The exemptions set forth in subsections (d)–(f) of this section shall not apply if the person:~~

~~(A) Had an objectively reasonable basis to believe at the time of the recycling transaction:~~

~~(i) That the recyclable material would not be recycled;~~

~~(ii) That the recyclable material would be burned as fuel or for energy recovery or incineration; or~~

~~(iii) For transactions occurring more than ninety (90) days after August 13, 2001, that the consuming facility was not in compliance with a substantive, not procedural or administrative, provision of any federal, Arkansas, or local environmental law or regulation or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, or other management activities associated with the recyclable material;~~

~~(B) Had reason to believe that hazardous substances had been added to the recyclable material for purposes other than processing for recycling; or~~

~~(C) Failed to exercise reasonable care with respect to the management and handling of the recyclable material, including adhering to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances.~~

~~(2) For purposes of this subsection, an objectively reasonable basis for belief shall be determined using criteria that include:~~

~~(A) The size of the person's business;~~

~~(B) Customary industry practices, including customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances;~~

~~(C) The price paid in the recycling transaction; and~~

~~(D) The ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material.~~

~~(3) For purposes of this subsection, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activities associated with recyclable material shall be deemed to be a substantive provision.~~

~~(h) Nothing in this section shall be deemed to affect the liability of a person under § 8-7-403(b)(1)(A) or (B).~~

~~(i) The commission is authorized to promulgate additional regulations concerning this section.~~

~~(j) The exemptions provided in this section shall not affect any concluded judicial or administrative action or any pending judicial action initiated by the State of Arkansas before enactment of this section.~~

~~(k)(1) Any person who commences an action in contribution against a person who is not liable by operation of this section shall be liable to that person for all reasonable costs of defending that action, including all reasonable attorney's and expert witness fees.~~

~~(2) For the purpose of this subsection, the term "person" shall not include an agency, board, commission, or department of the State of Arkansas.~~

~~(l) Nothing in this section shall affect:~~

~~(1) Liability under any other federal, Arkansas, or local statute or regulation promulgated pursuant to any such statute, including any requirements promulgated by the commission under the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq.; or~~

~~(2) The ability of the commission to promulgate regulations under any other statute, including the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq.~~

~~(m) Nothing in this section shall be construed to:~~

~~(1) Affect any defenses or liabilities of any person to whom subdivision (b)(1) of this section does not apply; or~~

~~(2) Create any presumption of liability against any person to whom subdivision (b)(1) of this section does not apply.~~

collected for violations of the Arkansas Water and Air Pollution Control Act, is amended to read as follows:

(2) All moneys collected as civil penalties shall be deposited in the Emergency Response Fund Hazardous Substance Remedial Action Trust Fund as provided by ~~§ 8-7-410~~ § 8-7-509.

SECTION 6. Arkansas Code § 8-6-204(e)(2), concerning the penalties collected for violations of the Arkansas Solid Waste Management Act is amended to read as follows:

(2) All moneys collected as civil penalties pursuant to this section shall be deposited in the Emergency Response Fund Hazardous Substance Remedial Action Trust Fund as provided by ~~§ 8-7-410~~ § 8-7-509.

SECTION 7. Arkansas Code § 8-7-204(e)(2), concerning the penalties collected for violations of the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows:

(2) All moneys collected as civil penalties pursuant to this section shall be deposited in the Emergency Response Fund Hazardous Substance Remedial Action Trust Fund as provided by ~~§ 8-7-410~~ § 8-7-509.

SECTION 8. Arkansas Code § 8-7-503 is amended to read as follows:

8-7-503. Definitions.

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

- (1) "Commission" means the Arkansas Pollution Control and Ecology Commission;
- (2) "Department" means the Arkansas Department of Environmental Quality;
- (3) "Director" means the Director of the Arkansas Department of Environmental Quality;
- (4) "Federal act" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510;
- (5) "Fund" means the Hazardous Substance Remedial Action Trust Fund created by this subchapter;
- (6) "Hazardous substance" means:
 - (A)(i) As of March 21, 1985, any substance designated pursuant to § 311(b)(2)(A) of the Federal Water Pollution Control Act, Pub. L. 92-500;
 - (ii) Any element, compound, mixture, solution, or substance designated pursuant to § 102 of Title I of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510;
 - (iii) Any hazardous waste, including polychlorinated biphenyls, as defined by the Arkansas Hazardous Waste Management Act of 1979, 8-7-201 et seq., and the regulations promulgated thereunder;
 - (iv) Any toxic pollutant listed under § 307(a) of the Federal Water Pollution Control Act; (v) Any hazardous air pollutant listed under § 112 of the federal Clean Air Act; and
 - (vi) Any hazardous chemical substance or mixture regulated under § 7 of the federal Toxic Substances Control Act; and
 - (B) Any other substance or pollutant designated by regulations of the commission promulgated under this subchapter;
- (7) "Hazardous substance sites" means any sites or facilities where hazardous substances have been disposed of or from which there is a release or threatened release of hazardous substances;
- (8) "Person" means any individual, corporation, company, firm, partnership, association, trust, joint-stock company or trust, venture, state or federal government or agency, or any other legal entity, however organized;
- (9) "Releases of hazardous substances" means, for the purpose of this subchapter, any spilling, leaking, pouring, emitting, emptying, discharging, injecting,

escaping, leaching, dumping, or disposing of hazardous substances into the environment;

(10) "Remedial action" means action necessary to effect permanent control, abatement, prevention, treatment, or containment of releases and threatened releases, including the removal of hazardous substances from the environment where removal is necessary to protect public health and the environment. Such actions are intended to include investigations designed to determine the need for and scope of remedial action and such planning, legal, fiscal, economic, engineering, geological, technical, or architectural studies as necessary to plan and direct remedial actions, to recover the cost thereof, and to enforce the provisions of this subchapter;

(11) "Threatened release" means, for the purpose of this subchapter, any situation where a sudden or nonsudden release of hazardous substances can be reasonably expected, unless prevented by change of operation or installation or construction of containment or treatment devices or by removal or other remedial action; ~~and~~

(12) "Treatment", "storage", "disposal", "generation", and "hazardous waste" shall have the meaning provided in § 3 of the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., and the regulations promulgated pursuant to that subchapter; ~~and~~

(13) "Removal action" means:

(A) The necessary cleanup or removal of a released hazardous substance from the environment;

(B) Necessary actions taken in the event of a threatened release of a hazardous substance into the environment;

(C) Actions necessary to monitor, test, analyze, and evaluate a release or threatened release of a hazardous substance;

(D) Disposal or processing of removed material; or

(E) Other actions necessary to prevent, minimize, or mitigate damage to the public health or welfare or the environment that may otherwise result from a release or threatened release.

SECTION 9. Arkansas Code § 8-7-508 is amended to read as follows:

8-7-508. Remedial and removal authority of the department.

(a)(1) Upon finding that a hazardous substance site exists or may exist, the Arkansas Department of Environmental Quality may, upon reasonable notice and after opportunity for hearing, issue an order to any person liable for the site under § 8-7-512, if that person has caused or contributed to the release or threatened release of hazardous substances at the site. This order shall require that such remedial actions be taken as are necessary to investigate, control, prevent, abate, treat, or contain any releases or threatened releases of hazardous substances from the site.

~~(2) A person shall not be deemed to have caused or contributed to the release or threatened release of hazardous substances if such person merely provides financing or loans to another person or obtains title to property through foreclosure or through conveyance of property in total or partial satisfaction of a mortgage or other security interest in property.~~

~~(3)~~(2) The fact that such a site is or is not listed by the Arkansas Pollution Control and Ecology Commission pursuant to § 8-7-509 (e) shall in no manner limit the authority of the department under this subchapter.

(b) The Director of the Arkansas Department of Environmental Quality or any employee or authorized agent of the department may enter upon any private or public property for the purpose of collecting information under this subchapter and for initiating and implementing remedial actions.

(c) The director is authorized to initiate and implement remedial actions under this subchapter pursuant to the provisions of § 8-7-509.

(d) The department or any contractor of the department under this section, in taking removal or remedial actions pursuant to this subchapter, shall not be required to obtain any state or local permit for the portion of any ~~response~~ removal or remedial action conducted pursuant to this subchapter entirely on site, where the removal or remedial action is otherwise carried out in compliance with the regulations of the department.

(e) The director is authorized to initiate and implement removal actions under this

subchapter whenever there is a release or a threatened release of hazardous substances which may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment.

(f) Whenever the director has reason to believe that a release or threatened release of hazardous substances may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment, the director and the employees and the authorized representatives of the Arkansas Department of Environmental Quality shall have the right to enter upon any affected private or public property for the purpose of collecting information and for initiating and implementing appropriate removal or remedial actions.

(g) Removal actions are not authorized when the director has reasonable assurance that the person liable for a release or threatened release has committed to and is capable of initiating corrective and removal action in a timely manner and that the actions will achieve results equivalent to the results from removal action authorized in this section.

(h) Upon finding that a release or a threatened release of hazardous substances may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment, the director may, without notice or hearing, issue an order reciting the existence of such an imminent hazard and substantial endangerment and requiring that such removal actions be taken as he or she determines necessary to protect the health and safety of any affected or threatened persons or the environment and to otherwise meet the emergency.

(i) The order of the director issued under subsection (h) may include, but is not limited to, requiring any person responsible in whole or in part for the release or threatened release or any person in total or partial control of the site, facility, or transport vehicle from which the release or threatened release emanates, if that person has caused or contributed to the release or threatened release, to take such steps as are necessary to protect the public health and safety and the environment.

(j) The Director of the Arkansas Department of Environmental Quality is not authorized to expend in excess of two hundred fifty thousand dollars (\$250,000) on any single removal action without Arkansas Pollution Control and Ecology Commission approval.

(k)(1) The orders issued under subsection (h) may be issued verbally or in writing.

(2) If originally issued verbally, a written order shall be issued by the director confirming the verbal order as soon as reasonably possible to do so.

(l) Any person to whom an order issued under subsection (h) is directed shall comply with the order immediately but, upon written request to the commission within ten (10) days of the order being issued by the director, shall be afforded a hearing and administrative review of the order within ten (10) days after filing the written request.

(m) A person shall not be deemed to be liable for, responsible for, or to have caused or contributed to the release or threatened release of hazardous substances pursuant to any provision of this subchapter if the person merely provides financing or loans to another person or obtains title to property through foreclosure or through conveyance of property in total or partial satisfaction of a mortgage or other security interest in property.

SECTION 10. Arkansas Code § 8-7-509 is amended to read as follows:

8-7-509. Hazardous Substance Remedial Action Trust Fund.

(a) The Hazardous Substance Remedial Action Trust Fund is created.

(b) The Hazardous Substance Remedial Action Trust Fund will be administered by the Director of the Arkansas Department of Environmental Quality, who shall authorize expenditures from the Hazardous Substance Remedial Action Trust Fund.

(c)(1) Any moneys remaining in the Emergency Response Fund as of June 30, 2005, shall be transferred in their entirety to the Hazardous Substance Remedial Action Trust Fund.

(2) Beginning July 1, 2005, the Hazardous Substance Remedial Action Trust Fund shall consist of all moneys received as penalties under §§ 8-4-101 -- 8-4-106, 8-4-201 -- 8-4-229, 8-4-301 -- 8-4-313, 8-4-401 -- 8-4-409, 8-6-201 -- 8-6-214, 8-7-201 -- 8-7-226, 8-7-504, and 20-27-1001 -- 20-27-1007.

(3) In addition to all moneys appropriated by the General Assembly to the Hazardous Substance Remedial Action Trust Fund, there shall be deposited in the Hazardous Substance Remedial Action Trust Fund any moneys received by the state as a gift or donation to the Hazardous Substance Remedial Action Trust Fund and all interest earned upon money deposited in the Hazardous Substance Remedial Action Trust Fund, all fees assessed under § 8-7-518, all costs recovered from the Emergency Response Fund, all punitive damages collected pursuant to §8-7-517, and any other moneys legally designated for the Hazardous Substance Remedial Action Trust Fund.

~~(2)~~(4) In addition, there is authorized to be deposited in the Hazardous

Substance Remedial Action Trust Fund all moneys recovered pursuant to § 8-7-514 and all moneys received as penalties pursuant to § 8-7-504 ~~except for that portion of the civil penalties specified in § 8-7-504 (c) to be deposited in the Remedial Action Account of the Construction Assistance Revolving Loan Fund established pursuant to § 15-5-901.~~

(d) Ten percent (10%) of the moneys collected for the Hazardous Substance Remedial Action Trust Fund after July 1, 1991, shall be deposited in the Environmental Education Fund. Total deposit of funds shall not exceed two hundred seventy-five thousand dollars (\$275,000) per fiscal year. The remaining moneys in the Hazardous Substance Remedial Action Trust Fund may be expended by the director ~~solely for the purposes pursuant to provisions of subsection (e) of this section~~ as authorized by this subsection (d) and subsection (e) of this section:

(1) The costs and expenses reasonably necessary for the administration of this subchapter by the Arkansas Department of Environmental Quality;

(2) The state share mandated by § 104(c)(3) of the federal act, 42 U.S.C. § 9604 (c)(3); and

(3) To provide for the investigation, identification, containment, abatement, treatment, or control, including monitoring and maintenance, of hazardous substance sites within the state. The director may enter into the contracts and use the funds for those purposes directly associated with identification, investigation, containment, abatement, treatment, or control, including monitoring and maintenance, prescribed above, including:

(A) Hiring of personnel;

(B) Purchase, lease, or rental of equipment; and

Other necessary expenses related to the operation and implementation of this subchapter.

(e) The moneys in the Hazardous Substance Remedial Action Trust Fund may be expended by the director for removal actions, including:

(1) The purchase of any commodities or services necessary in taking removal actions in connection with a release or threatened release; and

(2) Reimbursement of all costs incurred by the Arkansas Department of Environmental Quality in taking removal actions in connection with a release or threatened release.

~~(e)(1)(f)(1)~~ (1) No expenditures from the Hazardous Substance Remedial Action Trust Fund, as authorized by subdivisions (d)(2) and (d)(3) of this section, shall be made prior to the approval by the Arkansas Pollution Control and Ecology Commission of a prioritized listing of hazardous substance sites at which remedial actions are authorized through the use of Hazardous Substance Remedial Action Trust Fund moneys. This listing shall be revised annually by the department and submitted to the commission for approval after public notice and opportunity for hearing.

(2) Upon a showing that a release of a hazardous substance at a site exists and will continue without expeditious remedial action, the commission may list the site on the prioritized listing pursuant to the procedures set out in § 8-4-202(e) prior to public notice and thereby authorize the director to expend funds pursuant to subdivision (d)(3) of this section. Such an emergency listing need not be supported by a factual showing of irreparable harm or imminent and substantial endangerment.

~~(f)(1)(g)(1)~~ (1) Notwithstanding the provisions of §§ 19-6-108 and §19-6-601, grants to the state under the federal Resource Conservation and Recovery Act and the federal Comprehensive Environmental Response, Compensation and Liability Act, as each may be amended from time to time, and otherwise from the federal Environmental Protection Agency received by the Treasurer of State from the federal government are declared to be cash funds restricted in their use and dedicated and are to be used solely as authorized in this subchapter and ~~§§ 15-5-901--15-5-906~~ §§ 15-5-1501 -- 15-5-1511.

(2) The cash funds, when received by the Treasurer of State, shall not be deposited or deemed to be a part of the State Treasury for the purposes of Arkansas Constitution, Article 5 § 29, Arkansas Constitution, Article 16 § 12, Arkansas Constitution, Amendment 20, or any other constitutional or statutory provisions.

(3) The Treasurer of State shall pay the cash funds to the Arkansas

Development Finance Authority for deposit in the ~~Remedial Action Account of the Construction Assistance~~ Brownfield Revolving Loan Fund established pursuant to ~~§ 15-5-901~~ § 15-5-1501, et seq. to be used for the purposes authorized by this subchapter and ~~§§ 15-5-901--15-5-906~~ §§ 15-5-1501 -- 15-5-1511.

(4) Such federal grants transferred directly to the Arkansas Development Finance Authority are declared to be cash funds restricted in their use and dedicated and to be used solely as authorized in this subchapter and ~~§§ 15-5-901--15-5-906~~ §§ 15-5-1501 -- 15-5-1511.

SECTION 11. Arkansas Code § 8-7-514 is amended to read as follows:

8-7-514. Recovery of expenditures generally.

(a) After an expenditure from the Hazardous Substance Remedial Action Trust Fund for a removal or remedial action, the Arkansas Department of Environmental Quality shall institute action to recover the expenditure from the person or persons liable for causing the hazardous substance release, including taking any appropriate legal action.

b) Making use of any and all appropriate existing state legal remedies, the department or the Attorney General shall act to recover the amount expended by the state for any and all ~~response~~ remedial or removal actions from any and all parties identified as responsible parties for each hazardous substance.

(c) All moneys recovered from responsible parties pursuant to this section shall be deposited in the fund.

SECTION 12. Arkansas Code § 8-7-515 is amended to read as follows:

8-7-515. Recovery of expenditures-limitations.

(a) No person, including the state, may recover under the authority of this section for any remedial or removal action costs or damages resulting from the application, in accordance with label directions of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act.

(b) No person, including the state, may recover under the authority of this section for any remedial or removal action costs or damages resulting solely from an act or omission of a third party or from an act of God or an act of war.

SECTION 13. Arkansas Code § 8-7-516 is amended to read as follows:

8-7-516. Liens for expenditures and value of improvements.

(a) If the owner of real property that is the location of a hazardous substance site upon which remedial or removal activity is performed under this subchapter is responsible, in whole or in part, for causing the hazardous substance release, there shall exist a lien against the property for the moneys expended. If the expenditure results in an increase in the value of the property, the lien shall also be for the increase in value.

(b) The lien shall be effective upon the filing by the Director of the Arkansas Department of Environmental Quality of a notice of lien with the circuit clerk in the county in which the land is located.

(c) The lien obtained by this section shall not exceed the amount of expenditures, as itemized on an affidavit of expenditures attached to and filed with the notice of lien, and the increase in property value as a result of the removal, remedial, or abatement action taken, as determined by an independent appraisal, a copy of which shall be attached to and filed with the notice of lien.

(d) The notice of lien shall be filed within thirty (30) days of the date of the last act performed on the property by the Arkansas Department of Environmental Quality or its agent under this subchapter.

(e) Upon filing of the notice of lien, a copy with attachments shall be served upon the property owner in the manner provided for enforcement of mechanics' or materialmen's liens.

(f) Any and all moneys recovered or reimbursed pursuant to this section through voluntary agreements or court orders shall be deposited and credited to the account of the ~~appropriate trust fund~~ Hazardous Substance Remedial Action Trust Fund.

SECTION 14. Arkansas Code § 8-7-517 is amended to read as follows:

8-7-517. Punitive damages.

If any person who is liable for a release or threat of release of a hazardous substance fails without sufficient cause to properly provide remedial or removal action upon order of the Arkansas Department of Environmental Quality, the person may be liable to the state for punitive damages in an amount equal to three (3) times the amount of any costs incurred by the state as a result of the failure to take proper action.

SECTION 15. Arkansas Code § 8-7-519 is amended to read as follows:
8-7-519. Appeals

An appeal may be taken from any final order of the Arkansas Department of Environmental Quality under this subchapter as provided in §§ 8-4-202, 8-4-210, 8-4-212--8-4-214, 8-4-218, 8-4-219, 8-4-221 8-4-222 —8-4-229 and in accordance with regulations promulgated by the Arkansas Pollution Control and Ecology Commission under this subchapter.

SECTION 16. Arkansas Code § 8-7-521 is amended to read as follows:
8-7-521. Site Access for remedial or removal action.

(a) For purposes of responding to an administrative or judicial order or settlement entered pursuant to § 8-7-508, the owner or the operator of a facility which is a hazardous substance site, or any person who otherwise controls access to such facility, shall provide access to the Arkansas Department of Environmental Quality, any employee of the department, or any other person, duly designated by the Director of the Arkansas Department of Environmental Quality, who undertakes such activities as are required to carry out the terms of the said order or settlement.

(b) Any person who impedes or interferes with a person who is entitled to site access for the purpose of conducting remedial or removal action at a hazardous substance site pursuant to the terms of an administrative or judicial order or settlement may be assessed a civil penalty by the department in an administrative proceeding or by the court in a judicial proceeding for a site access injunction of up to ten thousand dollars (\$10,000) per day that site access is impeded.

(c) Any person who knowingly impedes or interferes with a person who is entitled to site access for the purpose of conducting remedial or removal action at a hazardous substance site pursuant to the terms of an administrative or judicial order or settlement shall be guilty of a misdemeanor, punishable by a fine of up to one thousand dollars (\$1,000) or imprisonment for up to one (1) year, or both.

SECTION 17. Title 8, Chapter 7, Subchapter 5 is amended to add a new subsection to read as follows:

8-7-1325. Appropriation.

On or after July 1, 2005, any appropriation made payable from the Emergency Response Fund shall be made payable from the Hazardous Substance Remedial Action Trust Fund.

SECTION 18. Arkansas Code § 19-5-929 is repealed:
~~19-5-929. Emergency Response Fund.~~

~~(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the Emergency Response Fund.~~

~~(b) This fund shall consist of all moneys received as penalties pursuant to §§ 8-4-101 - 8-4-106, 8-4-201 - 8-4-229, 8-4-301 - 8-4-313, 8-4-401 - 8-4-409, 8-6-201 - 8-6-214, 8-7-201 - 8-7-226, as may be provided by law, there to be administered by the Director of the Arkansas Department of Environmental Quality for those purposes as may be provided by law.~~

SECTION 19. Arkansas Code § 20-27-1002(b), concerning penalties collected for violations of the Removal of Asbestos Material Act, is amended to read as follows:

(b) All moneys collected as civil penalties shall be deposited in the Emergency Response Fund Hazardous Substance Remedial Action Trust Fund as provided by § ~~8-7-410(b)(1)~~ § 8-7-509.

SECTION 20. Emergency Clause. The General Assembly of the State of Arkansas hereby finds and determines that the decision of the Arkansas Supreme Court in Arkansas Department of Environmental Quality v. Brighton Corp. 352 Ark. 396, 102 S.W.3d 458 (2003), has raised questions regarding the factual proof required to establish a claim for cost recovery under the Arkansas Remedial Action

Trust Fund Act and regarding the retroactivity of the statute. The General Assembly further finds and determines that the doubts raised by the decision in the Brighton case have created substantial uncertainty regarding the enforcement authority of the Arkansas Department of Environmental Quality and the rights and responsibilities of private parties under the Arkansas Remedial Action Trust Fund Act, all of which require urgent resolution. Therefore, an emergency is declared to exist; and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005, and shall apply retroactively."

(SIGNED) SENATOR SHAWN WOMACK

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1099 was ordered engrossed.

On motion of Senator Faris, **Senate Bill No. 1151** was withdrawn from the Committee on PUBLIC TRANSPORTATION, and placed back on second reading for purpose of Amendment No. 2.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 2 to SENATE BILL NO. 1151

Amend **Senate Bill No. 1151** as engrossed, S3/17/05:

Page 1, delete lines 22 through 29 and substitute the following:

“(a)(1)(A) At his or her option, a lienholder may:

(i) Record the lien on the manufacturer's statement of origin; or

(ii) Record the lien on an existing certificate of title; and

(B) File with the Revenue Division of the Department of Finance and Administration a certified copy of the instrument creating and evidencing the lien or encumbrance.

(2) In the case of implements of husbandry, as defined in § 27-24-212, all-terrain vehicles, as defined in § 27-21-102, or mobile homes, as defined in § 27-14-207, or manufactured homes, as defined in § 27-14-207, at his or her option, a lienholder may:

(A) Record the lien on the manufacturer's statement of origin;

(B) Record the lien on an existing certificate of title; or

(C) File with the Revenue Division of the Department of Finance and Administration a certified copy of the instrument creating and evidencing the lien or encumbrance.”

AND

Page 1, line 30, delete “(2)” and substitute “~~(2)~~(3)”

AND

Page 1, line 32, delete “(3)” and substitute “~~(3)~~(4)”

AND

Page 1, line 36, delete “(4)” and substitute “~~(4)~~(5)”

(SIGNED) SENATOR STEVE FARIS

The Amendment was read for the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1151 was ordered engrossed.

On motion of Senator Glover, **Senate Bill No. 160** was withdrawn from the Committee on JOINT RETIREMENT AND SOCIAL SECURITY, and placed back on second reading for purpose of Amendment No. 2.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 2 to SENATE BILL NO. 160

Amend **Senate Bill No. 160** as engrossed, S2/8/05:

Page 1, delete lines 10 through 13 and substitute the following:
"AN ACT TO AMEND ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM LAWS CONCERNING BENEFITS FOR RETIRED PUBLIC SAFETY MEMBERS; AND FOR OTHER PURPOSES."

AND

Page 1, delete lines 16 through 19 and substitute the following:
"TO AMEND ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM LAWS CONCERNING BENEFITS FOR RETIRED PUBLIC SAFETY MEMBERS."

Page 1, delete lines 24 through 31 and substitute the following:
"SECTION 1. Arkansas Code Title 24, Chapter 4, Subchapter 6 is amended to add an additional section to read as follows:
24-4-622. Increase in benefits — Public safety members.
(a) Beginning July 1, 2005, the monthly retirement benefit payable to retirants and beneficiaries of the Arkansas Public Employees' Retirement System who are public safety members shall be increased by two percent (2%) of the benefit payable on June 1, 2005.
(b) The increase in benefits provided in subsection (a) of this section shall be added to the monthly benefit after the annual postretirement increase.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that, for the effective administration of this act and to avoid undue harm to the members and benefit recipients of the Arkansas Public Employees' Retirement System, this act should become effective on July 1, 2005. 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, 2005."

(SIGNED) SENATOR BOBBY GLOVER

The Amendment was read for the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 160 was ordered engrossed.

On motion of Senator Smith, **House Bill No. 2728** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 2728

Amend **House Bill No. 2728** as originally introduced:

Page 1, line 33, delete "satellite, Internet," and substitute "satellite,"

AND

Page 2, line 21, delete "satellite, Internet," and substitute "satellite,"

(SIGNED) SENATOR TERRY SMITH

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2728 was ordered engrossed.

On motion of Senator Johnson, **House Bill No. 2469** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 2469

Amend **House Bill No. 2469** as originally introduced:

Page 1, line 27, delete "attend" and substitute "receive"

AND

Page 1, line 28, delete "course approved" and substitute "course from an online, private, or governmental source approved"

(SIGNED) SENATOR BOB JOHNSON

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2496 was ordered engrossed.

On motion of Senator Malone, **House Bill No. 2552** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 2552

Amend **House Bill No. 2552** as originally introduced:

Immediately following Section 3, add the following new section:

"SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that clarification is needed to properly distribute moneys under the Master Settlement Agreement; that the distributions are for the benefit of the programs supported by tobacco settlement funds; and that the clarification is required immediately in order for the distributions for the current fiscal year to be correct. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

(SIGNED) SENATOR PERCY MALONE

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2552 was ordered engrossed.

On motion of Senator Baker, [House Bill No. 2504](#) was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
[Amendment No. 1 to HOUSE BILL NO. 2504](#)

Amend [House Bill No. 2504](#) as originally introduced:

Page 2, line 1, delete "8" and substitute "8 26"

And

Page 2, line 6, delete "13" and substitute "~~13~~ 26"

And

Page 2, line 12, delete "16" and substitute "27"

And

Page 2, line 23, delete "473" and substitute "563"

And

Page 3, line 18, delete "13" and substitute "16"

And

Add new sections immediately following Section 15 to read as follows:

" SECTION 16. Arkansas Code 19-4-906(a), Item Number (118), establishing the maximum authorized number of passenger motor vehicles, is amended to read as follows:

(118) University of Arkansas at Pine Bluff 44 49

SECTION 17. Arkansas Code 19-4-906(a), Item Number (061), establishing the maximum authorized number of passenger motor vehicles, is amended to read as follows:

(061) East Arkansas Community College 7 9

SECTION 18. Arkansas Code 19-4-906(a), Item Number (070), establishing the maximum authorized number of passenger motor vehicles, is amended to read as follows:

(070) Henderson State University ~~35~~ 45

SECTION 19. Arkansas Code 19-4-906(a), establishing the maximum authorized number of passenger motor vehicles, is amended by adding a new Item Number to read as follows:

(132) University of Arkansas Community College at Hope 20

SECTION 20. Arkansas Code 19-4-906(a), establishing the maximum authorized number of passenger motor vehicles, is amended by adding a new Item Number to read as follows:

(133) University of Arkansas Community College at Batesville 10
SECTION 21. Arkansas Code 19-4-906(a), establishing the maximum authorized number of passenger motor vehicles, is amended by adding a new Item Number to read as follows:

(134) University of Arkansas Community College at Morrilton 16
SECTION 22. Arkansas Code 19-4-906(a), establishing the maximum authorized number of passenger motor vehicles, is amended by adding a new Item Number to read as follows:

(135) Arkansas State University – Mountain Home 10
SECTION 23. Arkansas Code 19-4-906(a), establishing the maximum authorized number of passenger motor vehicles, is amended by adding a new Item Number to read as follows:

(136) Arkansas State University – Newport 9
SECTION 24. Arkansas Code 19-4-906(a), establishing the maximum authorized number of passenger motor vehicles, is amended by adding a new Item Number to read as follows:

(137) Black River Technical College 12
SECTION 25. Arkansas Code 19-4-906(a), establishing the maximum authorized number of passenger motor vehicles, is amended by adding a new Item Number to read as follows:

(138) Cossatot Community College of the Univ. of Arkansas 13
SECTION 26. Arkansas Code 19-4-906(a), establishing the maximum authorized number of passenger motor vehicles, is amended by adding a new Item Number to read as follows:

(139) Ouachita Technical College 10
SECTION 27. Arkansas Code 19-4-906(a), establishing the maximum authorized number of passenger motor vehicles, is amended by adding a new Item Number to read as follows:

(140) Ozarka College 12
SECTION 28. Arkansas Code 19-4-906(a), establishing the maximum authorized number of passenger motor vehicles, is amended by adding a new Item Number to read as follows:

(141) Southeast Arkansas College 6”
AND

appropriately renumber the sections of the bill.

(SIGNED) SENATOR GILBERT BAKER

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2504 was ordered engrossed.

On motion of Senator Salmon, [House Bill No. 2721](#) was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
[Amendment No. 1 to HOUSE BILL NO. 2721](#)

Amend [House Bill No. 2721](#) as originally introduced:

Delete Section 2 entirely and substitute:

"SECTION 2. Arkansas Code § 27-50-1203 is amended to read as follows:
27-50-1203. Arkansas Towing and Recovery Board -- Creation.

(a)(1) There is hereby created the Arkansas Towing and Recovery Board consisting of nine (9) members appointed by the Governor and confirmed by the Senate, who shall serve terms of three (3) years.

(2) ~~four~~ Four (4) members shall be appointed from the towing industry and shall be licensed by the board to engage in nonconsent towing, with one (1) of the members being a resident of each of the four (4) congressional districts; two (2) members who are permitted to engage in the consent-only business shall be appointed from the state at large; two (2) members who are not associated with the towing industry shall be appointed from the state at large; and one (1) member shall be appointed from the insurance industry.

~~(b) The board shall annually elect a chairman from its membership.~~

(b) The appointed board members shall be residents of the State of Arkansas at the time of appointment and throughout their terms.

(c)(1) The members shall determine by majority vote of the quorum of the board who shall serve as chair.

(2) The chair shall be elected annually from the membership of the board.

(d)(1) The board shall meet at such times and places that the chair deems necessary, but no meetings shall be held outside the State of Arkansas.

(2) Five (5) of the members of the board shall constitute a quorum for the purpose of transacting business.

(3) All actions of the board shall be by a quorum.

~~(e)(4)~~(e)(1) The board shall promulgate rules and regulations to carry out the intent of this subchapter and shall regulate the towing industry, including:

(A) Establishing reasonable licensing, insurance, and safety equipment requirements for any person engaging in nonconsent towing and related services under this subchapter; ~~and~~

(B) Establishing reasonable tow truck safety requirements for any tow vehicle as defined in this subchapter;

(C) Establishing a procedure to accept and investigate complaints for a consumer who claims that he or she has been overcharged for consent or nonconsent towing or storage fees;

(D) Determining and sanctioning excessive or unnecessary non-consensual towing fees charged to consumers;

(E) Requiring all entities permitted, licensed, or regulated under this subchapter to provide itemized billing for towing or storage fees that explains how the charges were calculated; and

(F) Requiring all entities permitted, licensed, or regulated under this subchapter to maintain a copy of their current maximum rate schedule posted in a conspicuous place and readily accessible to the public.

(2) The promulgation and adoption of rules and regulations shall in all respects be in the manner provided by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(3) After the promulgation and adoption of rules or regulations, any proposed change to add to, amend, repeal, or change any of the rules or regulations shall not have effect until reviewed and approved by the Subcommittee on Administrative Rules and Regulations of the Legislative Council subsequent to the time that the General Assembly next meets in regular session unless a finding exists that imminent peril to the public health, safety, or welfare requires immediate adoption, amendment, or repeal of the rules or regulations.

~~(d)(1)~~(f)(1) The board shall have the authority to levy applicable towing business license fees not to exceed one hundred dollars (\$100) per license, and the board shall have the authority to levy an applicable tow vehicle safety permit fee not to exceed twenty-five dollars (\$25.00) per tow vehicle safety permit.

(2) Furthermore, the board shall also have the authority to impose late filing fees in an amount not to exceed the original amount of the license fee or safety permit fee.

~~(e)~~(g)(1) The board shall have the authority to employ and discharge any personnel as may be necessary to administer and enforce the provisions of this subchapter and the rules and regulations promulgated hereunder.

(2) The board shall employ an investigator to investigate consumer complaints related to overcharging for consent or nonconsent towing or storage fees, violations of this subchapter, and violations of the rules promulgated by the Arkansas Towing and Recovery Board under this subchapter.

~~(f)~~(h) The board shall have the authority to obtain office space, furniture, stationery, and other proper supplies and conveniences reasonably necessary to carry out the provisions of this subchapter.

~~(g)~~(i) Each member of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

~~(h)(1)~~(j) The board shall have the authority to establish a maximum amount to be charged by a towing business for each notification to an owner and a lienholder as required by this subchapter.

~~(2) This authority shall not extend to the setting of any other rate or tariff within the towing industry."~~

AND

Delete Section 3 entirely

AND

Renumber the remaining sections of the bill

(SIGNED) SENATOR MARY A. SALMON

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2721 was ordered engrossed.

On motion of Senator Laverty, **House Bill No. 2941** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 2941

Amend **House Bill No. 2941** as engrossed, S3/17/05:

Add Senator Laverty as a cosponsor

AND

Delete everything after the enacting clause and substitute:

“SECTION 1. Arkansas Code Title 27, Chapter 15 is amended to add an additional subchapter to read as follows:

Subchapter 48.

Realtors® License Plate.

27-15-4801. Realtors® license plate authorized.

The Director of the Department of Finance and Administration shall issue a special Realtors® motor vehicle license plate in the manner and subject to the conditions prescribed in this subchapter.

27-15-4802. Design.

(a) The license plates issued under this subchapter shall be designed by the Arkansas Realtors® Association.

(b)(1) The design shall be submitted to the Director of the Department of Finance and Administration for the director's approval under the rules promulgated by the director.

(2)(A) Upon approval of the design by the director, the Arkansas Realtors® Association shall remit to the department a fee in the amount of six thousand dollars (\$6,000) to cover the cost of the initial order of the license plates.

(B) The fee shall be deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration and shall be credited as supplemental and in addition to all other funds as may be deposited for the benefit of the division.

(C) The fee shall not be considered or credited to the division as direct revenues.

(c) The Arkansas Realtors® Association may submit a newly designed license plate for approval and issuance by the director, but the director shall not approve more than one (1) new design each calendar year.

27-15-4803. Eligibility.

(a) The Department of Finance and Administration shall require proof of eligibility for a special license plate under this subchapter.

(b)(1) The applicant shall present proof that he or she is a member in good standing of the National Association of Realtors®.

(2) To establish membership in the National Association of Realtors®, the applicant shall present his or her membership card.

27-15-4804. Issuance — Renewal — Replacement.

(a) The owner of a motor vehicle who is a resident of the State of Arkansas and is eligible as provided under § 27-15-4803(b) may apply for and annually renew a special license plate that is issued under this subchapter.

(b) An applicant for a special license plate under this subchapter shall remit the following fees:

(1) The fee required by law for the registration and licensing of the motor vehicle;

(2) A fee in the amount of twenty-five dollars (\$25.00) to be remitted monthly to the Arkansas Real Estate Foundation; and

(3) A handling and administrative fee in the amount of ten dollars (\$10.00).

(c) To renew a special license plate under this subchapter, the owner of the motor vehicle shall remit the fees under subsection (b) of this section.

(d) To replace a special license plate issued under this subchapter:

(1) The owner of the motor vehicle shall remit the fee stated in subdivision (b)(3) of this section if the registration has not expired; or

(2) The owner of the motor vehicle shall remit the fees stated in subsection (b) of this section if the registration has expired.

(e) The division shall remit the fees collected under subdivision (b)(2) of this section on a monthly basis to the Arkansas Realtors® Association.

(f)(1) The fee remitted under subdivision (b)(3) of this section shall be deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration.

(2) The fee shall be credited as supplemental and in addition to all other funds as may be deposited for the benefit of the division.

(3) The fee shall not be considered or credited to the division as direct revenue.

(g) The registration of a special license plate under this subchapter may:

(1) Continue from year to year as long as it is renewed each year within the time and manner required by law; and

(2) Be renewed as provided under §§ 27-14-1012 and 27-14-1013.

(h) If an owner of a motor vehicle who was previously issued a special license plate under this subchapter fails to pay the fees required in subsection (c) of this section at the time of renewal, the owner shall be issued a permanent license plate as provided under §§ 27-14-1007 and 27-14-1008.

(i) Upon the expiration of the registration of a special license plate under this subchapter, the owner of the motor vehicle may replace the special license plate with:

(1) A permanent license plate under §§ 27-14-1007 and 27-14-1008;

(2) A personalized license plate;

(3) A different special license plate under this subchapter; or

(4) Any other special license plate that the person is entitled to receive under this chapter.

27-15-4805. Transfer to another vehicle.

The special Realtors® license plate may be transferred from one (1) vehicle to another as provided in § 27-14-914.

27-15-4806. Compliance with other laws.

The special Realtors® license plate shall comply with all other state motor vehicle laws relating to registration and licensing of motor vehicles, including the minimum number of license plate applications required under § 27-15-4004(a) and the discontinuation of the license plate under § 27-15-4004(b), except as specifically provided otherwise in this subchapter.

27-15-4807. Rules and regulations.

The Director of the Department of Finance and Administration shall promulgate reasonable rules and regulations and prescribe forms as the director determines to be necessary for effectively and efficiently carrying out the intent and purposes of this subchapter.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that realtors serve an important function in the state; that realtors use their motor vehicles in their business; and that this act is immediately necessary to allow realtors in the state the distinction of using a Realtors® license plate in the furtherance of their profession. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

(SIGNED) SENATOR RANDY LAVERTY

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2941 was ordered engrossed.

On motion of Senator Luker, **House Bill No. 2706** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 2706

Amend **House Bill No. 2706** as originally introduced:

Page 1, delete lines 22 through 36, and substitute the following:

"9-14-205. ~~Pleadings and motions~~ Information required in support cases.

~~(a) In all cases where the support and care of any child or children are involved, every complaint and responsive pleading filed, every motion to modify the decree, and every decree entered by the circuit court pursuant to this subchapter shall contain as much of the following information as is known or can with due diligence be discovered:~~

- ~~(1) The current mailing address of the plaintiff and the defendant;~~
- ~~(2) The name and address of the current employer of the plaintiff;~~
- ~~(3) The name and address of the current employer of the defendant;~~
- ~~(4) The social security number of the plaintiff; and~~
- ~~(5) The social security number of the defendant.~~

~~(b)(a)(1)~~ In support cases all cases in which the support and care of any child or children are involved, it shall be the duty of the plaintiff, defendant, custodial parent or physical custodian of the child, and the noncustodial parent to keep the clerk of the circuit court informed of his or her current address when a payment of support is directed to be paid through the registry of the court or keep the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration informed of his or her current address when a payment of support is directed to be paid through the Arkansas child support clearinghouse.

~~(1)(b)(1)~~ Each party to any paternity or child support proceeding is required to case in which the support and care of any child or children are involved shall file with the clerk of the circuit court and the Office of the Child Support Enforcement of the Revenue Division of the Department of Finance and Administration upon the entry of an order and to update, as appropriate, his or her name, social security number, residential and mailing address, telephone number, driver's license number, and the employer's name and address; and

(2)(A) Information required pursuant to subdivision (b)(1) of this section shall be filed on a form provided by the Administrative Office of the Courts for that purpose.

(B) Forms filed with the clerk of the circuit court pursuant to subdivision (b)(1) of this section shall be:

- (i) Maintained separately from the file of the case in which the support and care of any child or children are involved; and
- (ii) Considered confidential and shall be open to inspection only by the following persons or entities:

(a) The Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration;

(b) Attorneys of record for any party to the case, including, but not limited to, parties appearing pro se; and

(c) Any person or entity authorized by the circuit court in which the form is filed.

(2)(c) In any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the circuit court shall deem that state due process requirements for notice and service of process have been met with respect to the party upon delivery of written notice to the most recent residential or employer address filed with the ~~chancery~~ clerk of the circuit court pursuant to this subsection."

AND

Page 2, delete lines 1 through 25

(SIGNED) SENATOR JIM LUKER

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2706 was ordered engrossed.

On motion of Senator Wilkinson, **House Bill No. 2500** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 2500

Amend **House Bill No. 2500** as engrossed, H3/17/05:

Page 1, delete line 10, and substitute the following:

"ARKANSAS NATIONAL GUARD OR THE RESERVED FORCES OF THE UNITED STATES OF AMERICA FROM THE LICENSING"

AND

Page 1, delete line 16, and substitute the following:

"THE ARKANSAS NATIONAL GUARD OR THE RESERVED FORCES OF THE UNITED STATES OF AMERICA FROM THE"

AND

Page 1, delete line 29, and substitute the following:

"or noncommissioned officer of the Arkansas National Guard or the Reserved Forces of the United States of America;"

AND

Page 2, delete line 2, and substitute the following:

"Guard or the Reserved Forces of the United States of America;"

(SIGNED) SENATOR ED WILKINSON

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2500 was ordered engrossed.

On motion of Senator Wilkins, **House Bill No. 1525** was placed back on second reading for purpose of Amendment No. 2 and No. 3.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 2 to HOUSE BILL NO. 1525

Amend **House Bill No. 1525** as originally introduced:

Add Senator Steele as a cosponsor

AND

Add Representatives Blount, Chesterfield, Clemons, Davis, Dobbins, Goss, Lewellen, and Rainey as cosponsors

AND

Page 2, delete lines 2 through 10 entirely, and substitute the following:

"(b) Any tuition rate that is granted to residents of Arkansas shall be granted on the same terms to all persons, regardless of immigration status, who have attended a secondary educational institution in Arkansas for at least three (3) years and who have either graduated from an Arkansas high school or received a general education diploma in the state."

AND

If appropriate, renumber the remaining sections of the bill

(SIGNED) SENATOR HENRY "HANK" WILKINS

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 3 to HOUSE BILL NO. 1525

Amend **House Bill No. 1525** as originally introduced:

Add Senator Brown as a cosponsor

AND

Add Representative L. Smith as a cosponsor

(SIGNED) SENATOR HENRY "HANK" WILKINS

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 1525 was ordered engrossed.

On motion of Senator Salmon, **House Bill No. 1691** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 1691

Amend **House Bill No. 1691** as originally introduced:

Page 1, line 10, delete "REPEAL" and substitute "EXTEND"

AND

Page 1, line 14, delete "REPEAL" and substitute "EXTEND"

AND

Page 2, delete lines 5 and 6, and substitute the following:

"(4)(A) The excise tax on beer levied under subdivision (a)(3) of this section shall ~~expire on June 30, 2005~~ not extend past June 30, 2007.

(B) After June 30, 2007, the State Board of Education and the Department of Education shall fully budget, fund, and expend or commit to expend the replacement general revenue in addition to any other funding provided by law for essential programs such as subsidized child care for low-income families, the Arkansas Better Chance Program of the Department of Education, and the Child Care Development Fund in an amount equal to the appropriation level for the program."

(SIGNED) SENATOR MARY A. SALMON

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 1691 was ordered engrossed.

On motion of Senator Luker, **House Bill No. 1989** was withdrawn from the Committee on JUDICIARY, and placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 1989

Amend **House Bill No. 1989** as originally introduced:

Page 1, delete line 32 and substitute the following:

“private practice of law, appointed by the Arkansas Bar Association;

(7) One (1) member to be appointed by the Arkansas Municipal League; and

(8) One (1) member to be appointed by the Association of Arkansas Counties.”

AND

Page 2, line 17, delete “and”

AND

Page 2, delete line 21 and substitute the following:

“expansion of future district courts or positions;

(H) The effectiveness of any programs creating district judgeships with expanded jurisdiction; and

(I) The impact of Amendment 80 of the Arkansas Constitution on the district and city court systems.”

(SIGNED) SENATOR JIM LUKER

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 1989 was ordered engrossed.

On motion of Senator Higginbothom, **House Bill No. 2072** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 2072

Amend **House Bill No. 2072** as engrossed, H3/4/05:

Add Senator Higginbothom as a cosponsor of the bill

(SIGNED) SENATOR STEVE HIGGINBOTHOM

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2072 was ordered engrossed.

On motion of Senator Womack, **Senate Bill No. 74** was called up for the purpose of considering **Amendment No. 1** thereto, adopted by the House.

HALL OF THE HOUSE OF REPRESENTATIVES
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

Amendment No. 1 to SENATE BILL NO. 74

Amend **Senate Bill No. 74** as engrossed, S2/24/05:

Add the following Senators as cosponsors of the bill: Altes, Baker, Critcher, Faris, Glover, Hendren, Holt, Horn, G. Jeffress, B. Johnson, Lavery, Taylor, Trusty, Wilkinson, Wooldridge

AND

Add the following Representatives as cosponsors of the bill: Creekmore, Harris, Key, Lamoureux, Matayo, Ragland, Rosenbaum, Sample

(SIGNED) REPRESENTATIVE JOHNNY KEY

Amendment No. 1 to Senate Bill No. 74, adopted by the House, was read the first time, rules suspended, read the second time and concurred in, by the Senate.

(SIGNED) ANN CORNWELL, SECRETARY

On motion of Senator Womack, and without objection, the rules were suspended pertaining to passage of Amendment and Bill on the same day.

On motion of Senator Womack, **Senate Bill No. 74** was called up for third reading and final disposition.

SENATE BILL NO. 74

As Engrossed: S2/24/05 H3/28/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: SENATORS WOMACK, ALTES, BAKER, CRITCHER, FARIS, GLOVER, HENDREN, HOLT, HORN, G. JEFFRESS, B. JOHNSON, LAVERTY, J. TAYLOR, TRUSTY, WILKINSON, & WOOLDRIDGE

BY: REPRESENTATIVES D. CREEKMORE, HARRIS, KEY, LAMOUREUX, MATAYO, RAGLAND, ROSENBAUM, & SAMPLE

A Bill for an Act to be Entitled: AN ACT TO CREATE THE UNBORN CHILD PAIN AWARENESS AND PREVENTION ACT OF 2005; AND FOR OTHER PURPOSES.

Senate Bill No. 74 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total34

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Madison.

Total1

VOTING PRESENT:

Total0

Total number of votes cast.....34

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 74 was ordered enrolled.

On motion of Senator Malone, **Senate Bill No. 1031** was called up for the purpose of considering **Amendment No. 1** thereto, adopted by the House.

**HALL OF THE HOUSE OF REPRESENTATIVES
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION**

Amendment No. 1 to SENATE BILL NO. 1031

Amend **Senate Bill No. 1031** as originally introduced:

Page 5, delete lines 5 through 12 and substitute:

"(2) For any calendar year, the maximum tax credit under subdivision (g)(1) of this section may be increased by an additional amount not to exceed one million two hundred fifty thousand dollars (\$1,250,000) by the Director of the Department of Finance if a capital development company requests the increase and the requirements of subdivision (g)(3) of this section are met.

(3) By August 15 of the calendar year for which the maximum tax credit increase is requested, the director shall:

(A) Determine:

(i) The total amount of tax credits first claimed under this section during the most recent fiscal year;

(ii) The total amount of tax credits claimed under this section by all taxpayers during the most recent fiscal year; and

(iii) Based upon the amounts calculated under subdivisions (g)(3)(A)(i) and (ii) of this section, the estimated amount of tax credits that may be claimed under this section during the fiscal year that began on the most recent July 1;

(B) Based on the most recent revenue forecast and budget information, determine:

(i) The fiscal impact of the estimated tax credits under subdivision (g)(3)(A) of this section on the amount of general revenues available for distribution under § 19-5-202 for the fiscal year that began on the most recent July 1, including amounts to be distributed for the support of public schools; and

(ii) The fiscal impact of increasing the maximum tax credit under subdivision (g)(2) of this section on the amount of general revenues available for distribution under § 19-5-202 for the fiscal year that began on the most recent July 1, including amounts to be distributed for the support of public schools; and

(C) Certify the amount, if any, that the maximum tax credit shall be increased under subdivision (g)(2) of this section such that the resulting estimated amount of general revenues available for distribution under § 19-5-202 for the fiscal year that began on the most recent July 1, including amounts to be distributed for the support of public schools, is sufficient to meet the budgeted needs of state agencies and public schools funded by general revenues."

(SIGNED) REPRESENTATIVE BRUCE MALOCH

Amendment No. 1 to Senate Bill No. 1031, adopted by the House, was read the first time, rules suspended, read the second time and concurred in, by the Senate.

(SIGNED) ANN CORNWELL, SECRETARY

On motion of Senator Malone, and without objection, the rules were suspended pertaining to passage of Amendment and Bill on the same day.

On motion of Senator Malone, **Senate Bill No. 1031** was called up for third reading and final disposition.

SENATE BILL NO. 1031
As Engrossed H3/1/6/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR MALONE
BY: REPRESENTATIVES MALOCH & ROEBUCK

A Bill for an Act to be Entitled: AN ACT TO AMEND THE ARKANSAS CAPITAL DEVELOPMENT COMPANY ACT TO LIMIT THE MAXIMUM AMOUNT OF TAX CREDITS AVAILABLE; AND FOR OTHER PURPOSES.

Senate Bill No. 1031 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 1031**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1031 was ordered enrolled.

On motion of Senator Brown, the Senate resolved itself into the Committee of the Whole for the purpose of recognizing and commending Alpha Kappa Alpha sorority and the Beta Phi Omega Chapter.

Without objection, the Committee of the Whole was dissolved, and the Senate took up its regular order of business.

On motion of Senator Faris, the rules were suspended in considering **House Bill No. 2623** at this time.

On motion of Senator Faris, **House Bill No. 2623** was withdrawn from the Committee on STATE AGENCIES AND GOVERNMENTAL AFFAIRS, and placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 2623

Amend **House Bill No. 2623** as engrossed, H3/24/05 by:

Add Representatives Adcock, Bond, Bright, Chesterfield, Edwards, L. Evans, Hardwick, Jeffrey, J. Johnson, Key, Maloch, Matayo, Mathis, Maxwell, Pace, Pickett, S. Prater, Reep, Roebuck, Saunders, Schulte, Scroggin, Sumpter, Walters and Wills as cosponsors of the bill

AND

Add Senator Faris as cosponsor of the bill

AND

Page 2, delete line 26, and substitute the following:

“(3)(A) Members of the House of Representatives serving on the committee shall serve two-year terms.

“(B) Members of the Senate serving on the committee shall serve four-year terms.”

AND

Page 4, line 29, delete “and advisory committees”

AND

Page 7, line 6, delete “two-month” and substitute “two-year”

AND

Page 7, delete lines 35 and 36

AND

Page 8, delete lines 1 through 8

AND

Page 8, line 10, delete "25-37-114" and substitute "25-37-113"

AND

Page 10, line 10, delete "25-37-115" and substitute "25-37-114"

AND

Page 10, line 32, delete "25-37-116" and substitute "25-37-115"

AND

Page 11, line 5, delete "25-37-117" and substitute "25-37-116"

AND

Page 11, line 12, delete "25-37-118" and substitute "25-37-117"

AND

Page 11, line 13, delete "or its advisory"

AND

Page 11, line 14, delete "committee"

AND

Page 11, line 18, delete "25-37-119" and substitute "25-37-118"

AND

Page 11, line 24, delete "25-37-120" and substitute "25-37-119"

AND

Page 12, line 5, delete "25-37-121" and substitute "25-37-120"

AND

Page 12, line 16, delete "25-37-122" and substitute "25-37-121"

AND

Immediately following SECTION 2, add an additional section to read as follows:

"SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the citizens and taxpayers of the State of Arkansas benefit when state government operates at maximum efficiency; that the inefficient operation of state government results in the ineffective use of state financial resources; and that a review of state government to ensure its efficient operation would result in cost savings to the citizens of the state and enhance the delivery of state benefits. Therefore, an emergency is declared to exist

and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

(SIGNED) SENATOR STEVE FARIS

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2623 was ordered engrossed.

On motion of Senator Steele, the rules were suspended in considering **Senate Bill No. 1121** at this time.

On motion of Senator Steele, **Senate Bill No. 1121** was withdrawn from the Committee on PUBLIC HEALTH, WELFARE AND LABOR, and placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to SENATE BILL NO. 1121

Amend **Senate Bill No. 1121** as originally introduced:

Page 1, delete line 13 and substitute the following:
 "TO DISABLED PERSONS; REQUIRING USE OF RESPECTFUL LANGUAGE IN THE ARKANSAS CODE REGARDING INDIVIDUALS WITH DISABILITIES; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:
 "AN ACT TO ALLOW DISABLED PERSONS ACTIVE PARTICIPATION IN THE STATE OPERATIONS THAT AFFECT THEM; AND REQUIRING USE OF RESPECTFUL LANGUAGE IN THE ARKANSAS CODE REGARDING INDIVIDUALS WITH DISABILITIES."

AND

Page 3, delete line 32 and substitute the following:
"and support funded or administered by the department."

SECTION 2. Arkansas Code Title 1, Chapter 2, Subchapter 1 is amended to add an additional section to read as follows:

1-2-124. Respectful language — Disabilities.

(a)(1) The General Assembly recognizes that language used in reference to individuals with disabilities shapes and reflects society's attitudes towards people with disabilities. Many of the terms currently used diminish the humanity and natural condition of having a disability. Certain terms are demeaning and create an invisible barrier to inclusion as equal community members.

(2) The General Assembly finds it necessary to clarify preferred language for new and revised laws by requiring the use of terminology that puts the person before the disability.

(b)(1) In any bill or resolution, the Bureau of Legislative Research shall avoid all references to:

(A) "Disabled";

- (B) "Developmentally disabled";
- (C) "Mentally disabled";
- (D) "Mentally ill";
- (E) "Mentally retarded";
- (F) "Handicapped";
- (G) "Cripple"; and
- (H) "Crippled".

(2) The Arkansas Code Revision Commission is directed to change such references in any existing statute or resolution as sections including these references are otherwise amended by law.

(3) The Bureau of Legislative Research and the Arkansas Code Revision Commission are directed to replace terms referenced in subdivision (b)(1) of this section as appropriate with the following revised terminology:

- (A) "Individuals with disabilities";
- (B) "Individuals with developmental disabilities";
- (C) "Individuals with mental illness"; and
- (D) "Individuals with mental retardation".

(c) No statute or resolution is invalid because it does not comply with this section."

AND

Page 3, line 34, delete "SECTION 2" and substitute "SECTION 3."

(SIGNED) SENATOR TRACY STEELE

The Amendment was read for the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1121 was ordered engrossed.

The President declared the morning hour to have expired.

On motion of Senator Whitaker, the Senate resolved itself into the Committee of the Whole for the purpose of Senate Bill No. 132.

Without objection, the Committee of the Whole was dissolved, and the Senate took up its regular order of business.

On motion of Senator Whitaker, **Senate Bill No. 132** was called up for third reading and final disposition.

SENATE BILL NO. 132
As Engrossed: S3/21/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

BY: SENATORS WHITAKER, ARGUE, SALMON, & B. JOHNSON
BY: REPRESENTATIVES LEDBETTER, BORHAUER, & ROSENBAUM

A Bill for an Act to be Entitled: AN ACT TO FORM COUNTYWIDE ADMINISTRATIVE UNITS FOR SCHOOL DISTRICTS; AND FOR OTHER PURPOSES.

Senator Miller spoke against the Bill. Senator Argue spoke for the Bill. Senator Hill spoke on the Bill. Senator Smith made a motion for immediate consideration, motion carried.

Senate Bill No. 132 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Broadway, Brown, Bryles, Capps, Faris, Higginbothom, Hill, Horn, B. Johnson, Malone, Salmon, T. Smith, Steele, Trusty, Whitaker, Wilkins, Wooldridge, Mr. President.

Total21

NEGATIVE: Glover, Hendren, G. Jeffress, J. Jeffress, Miller, Taylor.

Total6

ABSENT OR NOT VOTING: Bookout, Critcher, Lavery, Luker, Madison, Wilkinson.

Total6

VOTING PRESENT: Holt, Womack.

Total2

Total number of votes cast.....29

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senator Whitaker moved that the vote by which **Senate Bill No. 132** passed be reconsidered and that motion be laid upon the table, which motion prevailed and the motion to reconsider was laid on the table.

Senate Bill No. 132 was ordered immediately transmitted to the House as passed.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 266** at this time.

On motion of Senator Bisbee, **Senate Bill No. 266** was placed back on second reading for purpose of Amendment No. 6.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 6 to SENATE BILL NO. 266

Amend **Senate Bill No. 266** as engrossed, S3/30/05:

Page 1, line 25 delete "Training" and substitute "Training or Part-time II Training"

(SIGNED) SENATOR SUE MADISON

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 266 was ordered engrossed.

On motion of Senator Broadway, **House Bill No. 2976** was called up for third reading and final disposition.

HOUSE BILL NO. 2976

As Engrossed: H3/23/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVE FITE

A Bill for an Act to be Entitled: *AN ACT TO REQUIRE SCHOOL DISTRICTS TO ALLOW STUDENTS TO CARRY AND USE PRESCRIPTION ASTHMA INHALERS AND AUTO-INJECTABLE EPINEPHRINE WHILE IN SCHOOL, AT ON-SITE SCHOOL-SPONSORED ACTIVITIES, AND AT OFF-SITE SCHOOL-SPONSORED ACTIVITIES; AND FOR OTHER PURPOSES.*

House Bill No. 2976 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill 18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2976 was ordered immediately returned to the House as passed.

On motion of Senator Johnson, **Senate Bill No. 998** was called up for third reading and final disposition.

SENATE BILL NO. 998
As Engrossed: S3/22/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR B. JOHNSON

A Bill for an Act to be Entitled: AN ACT CONCERNING COVERAGE AND REIMBURSEMENT FOR AUDIOLOGY SERVICES; AND FOR OTHER PURPOSES.

Senate Bill No. 998 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 998**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total	35
NEGATIVE:	
Total	0
ABSENT OR NOT VOTING:	
Total	0
VOTING PRESENT:	
Total	0
Total number of votes cast.....	35
Necessary to the adoption of the Emergency Clause	24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 998 was ordered immediately transmitted to the House.

On motion of Senator Horn, **Senate Bill No. 1089** was called up for third reading and final disposition.

SENATE BILL NO. 1089
As Engrossed: S3/16/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR HORN

A Bill for an Act to be Entitled: AN ACT TO ESTABLISH THE ARKANSAS LIFELINE INDIVIDUAL VERIFICATION EFFORT CORPORATION; AND FOR OTHER PURPOSES.

Senate Bill No. 1089 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1089 was ordered immediately transmitted to the House as passed.

On motion of Senator Altes, **Senate Bill No. 1092** was called up for third reading and final disposition.

SENATE BILL NO. 1092

As Engrossed: S3/17/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: SENATORS ALTES, BROADWAY, & HORN

BY: REPRESENTATIVES WALTERS & GLIDEWELL

A Bill for an Act to be Entitled: AN ACT TO CLARIFY ARKANSAS LAWS CONCERNING CONSTRUCTION MANAGEMENT; AND FOR OTHER PURPOSES.

Senate Bill No. 1092 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 1092**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1092 was ordered immediately transmitted to the House.

On motion of Senator Altes, **Senate Bill No. 1093** was called up for third reading and final disposition.

SENATE BILL NO. 1093
As Engrossed: S3/17/05 S3/29/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

BY: SENATORS ALTES, BROADWAY, & HORN
BY: REPRESENTATIVES WALTERS & GLIDEWELL

A Bill for an Act to be Entitled: AN ACT CONCERNING THE USE OF DESIGN-BUILD CONSTRUCTION BY PUBLIC SCHOOL DISTRICTS; AND FOR OTHER PURPOSES.

Senate Bill No. 1093 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1093 was ordered immediately transmitted to the House as passed.

On motion of Senator Altes, **Senate Bill No. 1095** was called up for third reading and final disposition.

SENATE BILL NO. 1095
As Engrossed: S3/17/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATORS ALTES, BROADWAY,& HORN
BY: REPRESENTATIVES WALTERS, & GLIDEWELL

A Bill for an Act to be Entitled: AN ACT CONCERNING ENERGY SAVINGS CONTRACTS FOR SCHOOL DISTRICTS; AND FOR OTHER PURPOSES.

Senate Bill No. 1095 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1095 was ordered immediately transmitted to the House as passed.

On motion of Senator Altes, **Senate Bill No. 1164** was called up for third reading and final disposition.

SENATE BILL NO. 1164

As Engrossed: S3/29/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: SENATOR ALTES

A Bill for an Act to be Entitled: AN ACT CONCERNING ETHICS IN THE PUBLIC SCHOOL PROCUREMENT PROCESS; AND FOR OTHER PURPOSES.

Senate Bill No. 1164 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill 18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1164 was ordered immediately transmitted to the House as passed.

On motion of Senator J. Jeffress, **Senate Bill No. 940** was called up for third reading and final disposition.

SENATE BILL NO. 940
As Engrossed: S3/23/05 S3/28/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

BY: SENATORS J. JEFFRESS & ARGUE
BY: REPRESENTATIVES BURRIS, KENNEY, RAINEY, MAHONY, & SAUNDERS

A Bill for an Act to be Entitled: *AN ACT TO AMEND THE ELIGIBILITY REQUIREMENTS FOR THE ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM; AND TO INCREASE THE AMOUNT OF THE AWARD; AND FOR OTHER PURPOSES.*

Senate Bill No. 940 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 940**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 940 was ordered immediately transmitted to the House.

On motion of Senator Bryles, **Senate Bill No. 1039** was called up for third reading and final disposition.

SENATE BILL NO. 1039
As Engrossed: S3/16/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR BRYLES

A Bill for an Act to be Entitled: AN ACT TO PROVIDE FOR THE ENFORCEMENT OF LAWS REGULATING JUNKYARDS THAT ARE VISIBLE FROM THE MAIN-TRAVELED WAY OF ANY INTERSTATE OR PRIMARY STATE HIGHWAY; AND FOR OTHER PURPOSES.

Senate Bill No. 1039 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1039 was ordered immediately transmitted to the House as passed.

On motion of Senator Whitaker, **Senate Bill No. 762** was called up for third reading and final disposition.

SENATE BILL NO. 762
As Engrossed: S3/30/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR WHITAKER

A Bill for an Act to be Entitled: *AN ACT TO PROTECT TOURISM IN THE STATE OF ARKANSAS BY AUTHORIZING NATIVE ARKANSAS WINERIES TO ASSIST A PURCHASER OF WINE AT THE WINERY BY SHIPPING THE PURCHASE TO THE PURCHASER'S HOME WITHIN THE STATE OF ARKANSAS; AND FOR OTHER PURPOSES.*

Senate Bill No. 762 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total	35
NEGATIVE:	
Total	0
ABSENT OR NOT VOTING:	
Total	0
VOTING PRESENT:	
Total	0
Total number of votes cast	35
Necessary to the passage of the bill	18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 762 was ordered immediately transmitted to the House as passed.

On motion of Senator Broadway, **Senate Bill No. 465** was called up for third reading and final disposition.

SENATE BILL NO. 465
As Engrossed: S3/23/05 S3/28/05 S3/29/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR BROADWAY
BY: REPRESENTATIVES BOLIN &, SCROGGIN

A Bill for an Act to be Entitled: *AN ACT TO ENSURE THE SAFE TRANSPORTATION OF CERTAIN INDIVIDUALS ON BUSES AND OTHER VEHICLES; TO PROHIBIT CERTAIN USES OF NONCONFORMING VANS AS DEFINED BY THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS; AND FOR OTHER PURPOSES.*

Senate Bill No. 465 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total	34
NEGATIVE: Altes.	
Total	1
ABSENT OR NOT VOTING:	
Total	0
VOTING PRESENT:	
Total	0
Total number of votes cast	35
Necessary to the passage of the bill	18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 465**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total34

NEGATIVE: Altes.

Total1

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 465 was ordered immediately transmitted to the House.

On motion of Senator Broadway, **Senate Bill No. 468** was called up for third reading and final disposition.

SENATE BILL NO. 468
As Engrossed: S3/17/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR BROADWAY

A Bill for an Act to be Entitled: AN ACT TO AMEND THE ARKANSAS WORKFORCE IMPROVEMENT GRANT PROGRAM; AND FOR OTHER PURPOSES.

Senate Bill No. 468 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 468 was ordered immediately transmitted to the House as passed.

On motion of Senator Critcher, **Senate Bill No. 1156** was called up for third reading and final disposition.

SENATE BILL NO. 1156
As Engrossed: S3/22/05 S3/24/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR CRITCHER

A Bill for an Act to be Entitled: AN ACT TO BE KNOWN AS THE "TIRE SAFETY ACT OF 2005".

Senate Bill No. 1156 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total34

NEGATIVE: Altes.

Total1

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1156 was ordered immediately transmitted to the House as passed.

On motion of Senator Hill, **Senate Bill No. 1173** was called up for third reading and final disposition.

SENATE BILL NO. 1173
As Engrossed: S3/24/05 S3/28/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR HILL
BY: REPRESENTATIVE THOMASON

A Bill for an Act to be Entitled: AN ACT TO CHANGE THE EFFECTIVE DATE OF UNCODIFIED § 88 OF ACT 1273 OF 2003, AS AMENDED; AND FOR OTHER PURPOSES.

Senate Bill No. 1173 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 1173 was ordered immediately transmitted to the House as passed.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

SENATE BILL NO. 266, BY SENATOR MADISON,

beg leave to report that we have carefully compared the engrossed copy with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Madison, **Senate Bill No. 266** was ordered re-referred to the Committee on CITY, COUNTY AND LOCAL AFFAIRS.

On motion of Senator Glover, **House Bill No. 2338** was called up for third reading and final disposition.

HOUSE BILL NO. 2338

As Engrossed: H3/2/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVES PETRUS, THOMPSON, KENNEY, ANDERSON, T.

HUTCHINSON, J. MARTIN, SCROGGIN, THYER, & WALTERS

BY: SENATOR GLOVER

A Bill for an Act to be Entitled: AN ACT PROHIBITING THE CONDUCT OF VOYEURISM; AND FOR OTHER PURPOSES.

House Bill No. 2338 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2338 was ordered immediately returned to the House as passed.

On motion of Senator Womack, **House Bill No. 1768** was called up for third reading and final disposition.

**HOUSE BILL NO. 1768
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE KEY
BY: SENATOR WOMACK**

A Bill for an Act to be Entitled: AN ACT TO PROVIDE FOR AN ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE FOR THE OFFENSE OF POSSESSION OF ALCOHOL BY A MINOR; AND FOR OTHER PURPOSES.

House Bill No. 1768 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill 18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 1768 was ordered immediately returned to the House as passed.

On motion of Senator Womack, **House Bill No. 2444** was called up for third reading and final disposition.

**HOUSE BILL NO. 2444
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION**

**BY: REPRESENTATIVES KEY, BERRY, J. JOHNSON, MEDLEY, S. PRATER,
REEP, & ROEBUCK**

A Bill for an Act to be Entitled: AN ACT TO INCLUDE LICENSED PHYSICAL THERAPISTS AS PRACTITIONERS FOR PURPOSES OF THE MEDICAL, NURSING, HOSPITAL, AND AMBULANCE SERVICE LIEN ACT; AND FOR OTHER PURPOSES.

House Bill No. 2444 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2444 was ordered immediately returned to the House as passed.

On motion of Senator Womack, **House Bill No. 2855** was called up for third reading and final disposition.

**HOUSE BILL NO. 2855
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE MATAYO**

A Bill for an Act to be Entitled: AN ACT TO BE KNOWN AS THE "EYE PROTECTION ACT OF 2005".

House Bill No. 2855 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill 18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2855 was ordered immediately returned to the House as passed.

On motion of Senator Altes, **House Bill No. 2611** was called up for third reading and final disposition.

HOUSE BILL NO. 2611
As Engrossed: H3/18/05 S3/24/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

BY: REPRESENTATIVES WALTERS, ANDERSON, BERRY, BORHAUER, CHILDERS, HARRIS, T. HUTCHINSON, JACKSON, KENNEY, LAMOUREUX, M. MARTIN, MATAYO, MEDLEY, PRITCHARD, PYLE, & EDWARDS
BY: SENATORS ALTES, TRUSTY, & WILKINSON

A Bill for an Act to be Entitled: AN ACT CONCERNING THE REPORTING OF INFORMATION PERTAINING TO CONTROLLED SUBSTANCE LABS SEIZURES; AND FOR OTHER PURPOSES.

House Bill No. 2611 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2611 was ordered returned to the House as passed as amended.

On motion of Senator Altes, **House Bill No. 2124** was called up for third reading and final disposition.

**HOUSE BILL NO. 2124
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION**

**BY: REPRESENTATIVES BRIGHT, COOK, DICKINSON, DUNN, GEORGE, J.
HUTCHINSON, OVERBEY, REEP, SCROGGIN, & WELLS**

A Bill for an Act to be Entitled: AN ACT TO AUTHORIZE THE ARKANSAS FALLEN FIREFIGHTERS' MEMORIAL SPECIAL LICENSE PLATE; AND FOR OTHER PURPOSES.

House Bill No. 2124 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill 18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2124 was ordered immediately returned to the House as passed.

On motion of Senator Faris, **House Bill No. 2917** was called up for third reading and final disposition.

**HOUSE BILL NO. 2917
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE BURRIS**

A Bill for an Act to be Entitled: AN ACT CONCERNING THE DEFINITION FOR OBJECTIVE EVIDENCE NECESSARY TO PROVE PERMANENT DISABILITY IN OCCUPATIONAL HEARING LOSS CASES; AND FOR OTHER PURPOSES.

House Bill No. 2917 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **House Bill No. 2917**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2917 was ordered immediately returned to the House as passed.

On motion of Senator Holt, the rules were suspended in considering **Senate Bill No. 993** at this time.

On motion of Senator Holt, **Senate Bill No. Senate** was placed back on second reading for purpose of Amendment No. 2.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 2 to SENATE BILL NO. 993

Amend **Senate Bill No. 993** as engrossed, S3/10/05:

Page 1, line 27 delete "shall" and substitute "may"

AND

Page 1, line 32 delete "shall" and substitute "may"

AND

Page 1, line 33 delete "have" and substitute "may have"

AND

Page 2, line 1 delete "shall" and substitute "may"

AND

Page 2, line 2 delete "have" and substitute "may have"

AND

Page 2, line 6 delete "shall" and substitute "may"

AND

Page 2, line 7 delete "have" and substitute "may have"

(SIGNED) SENATOR JIM HOLT

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 993 was ordered engrossed.

On motion of Senator J. Jeffress, **House Bill No. 1559** was called up for third reading and final disposition.

HOUSE BILL NO. 1559

As Engrossed: H3/3/05 H3/7/05 S3/15/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVES SUMPTER, ADCOCK, ABERNATHY, ADAMS, BLAIR, BLOUNT, BURRIS, CHESTERFIELD, DAVIS, ELLIOTT, FITE, FLOWERS, D. JOHNSON, J. JOHNSON, KIDD, LEDBETTER, W. LEWELLEN, MAHONY, MATHIS, RAINEY, SAUNDERS, WALTERS, WILLS, & WYATT

BY: SENATORS J. JEFFRESS & ARGUE

A Bill for an Act to be Entitled: *AN ACT TO PROVIDE ADDITIONAL FUNDING FOR THE PUBLIC SCHOOL EMPLOYEES' HEALTH INSURANCE PROGRAM; AND FOR OTHER PURPOSES.*

Senator Glover spoke for the Bill.

Senator Horn spoke for the Bill.

Senator Miller spoke for the Bill.

Senator Womack spoke for the Bill.

Senator Argue spoke for the Bill.

Senator Smith spoke for the Bill.

Senator Critcher spoke for the Bill.

Senator Jeffress closed for the Bill.

House Bill No. 1559 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total	35
NEGATIVE:	
Total	0
ABSENT OR NOT VOTING:	
Total	0
VOTING PRESENT:	
Total	0
Total number of votes cast	35
Necessary to the passage of the bill	18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **House Bill No. 1559**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total	35
NEGATIVE:	
Total	0
ABSENT OR NOT VOTING:	
Total	0
VOTING PRESENT:	
Total	0
Total number of votes cast	35
Necessary to the adoption of the Emergency Clause	24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 1559 was ordered immediately returned to the House as passed as amended.

On motion of Senator Baker, **House Bill No. 2907** was called up for third reading and final disposition.

**HOUSE BILL NO. 2907
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE S. PRATER**

A Bill for an Act to be Entitled: AN ACT TO REPEAL ARKANSAS CODE § 23-13-101 CONCERNING HOURS OF DUTY AND REST PERIOD OF DRIVERS.

House Bill No. 2907 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2907 was ordered immediately returned to the House as passed.

On motion of Senator Salmon, **House Bill No. 2876** was called up for third reading and final disposition.

**HOUSE BILL NO. 2876
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE J. MARTIN**

A Bill for an Act to be Entitled: AN ACT TO AMEND THE REQUIREMENTS RELATED TO A PETITION FOR ADOPTION; AND FOR OTHER PURPOSES.

House Bill No. 2876 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2876 was ordered immediately returned to the House as passed.

On motion of Senator Salmon, **House Bill No. 2715** was called up for third reading and final disposition.

**HOUSE BILL NO. 2715
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE CHILDERS**

A Bill for an Act to be Entitled: AN ACT TO ESTABLISH CONDITIONS UNDER THE COMMUNITY MATCH LOAN PROGRAM BY WHICH A PHYSICIAN MAY PRACTICE A DESIGNATED SPECIALTY IN A QUALIFIED RURAL COMMUNITY; AND FOR OTHER PURPOSES.

House Bill No. 2715 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill 18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2715 was ordered immediately returned to the House as passed.

On motion of Senator Salmon, **House Bill No. 2687** was called up for third reading and final disposition.

**HOUSE BILL NO. 2687
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE D. JOHNSON**

A Bill for an Act to be Entitled: AN ACT TO CLARIFY OPERATION OF THE ARKANSAS SAFETY-NET BENEFIT FUND; AND FOR OTHER PURPOSES.

House Bill No. 2687 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2687 was ordered immediately returned to the House as passed.

On motion of Senator Salmon, **House Bill No. 2414** was called up for third reading and final disposition.

HOUSE BILL NO. 2414

As Engrossed: H3/24/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVES S. PRATER & BOND

A Bill for an Act to be Entitled: *AN ACT TO LIMIT THE TRANSFERABILITY OF PERMITS OF APPROVAL FOR LONG-TERM CARE FACILITIES; TO PLACE A MORATORIUM ON NEW RESIDENTIAL CARE FACILITIES; TO PLACE A MORATORIUM ON NEW OR ADDITIONAL RESIDENTIAL CARE FACILITY BEDS; AND FOR OTHER PURPOSES.*

House Bill No. 2414 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2414 was ordered immediately returned to the House as passed.

On motion of Senator Salmon, **House Bill No. 2116** was called up for third reading and final disposition.

HOUSE BILL NO. 2116
As Engrossed: H3/7/05 S3/29/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVES THOMPSON & MAHONY
BY: SENATORS BROADWAY & SALMON

A Bill for an Act to be Entitled: AN ACT TO AMEND ARKANSAS LAWS CONCERNING THE DISSEMINATION OF CRIMINAL HISTORY INFORMATION; AND FOR OTHER PURPOSES.

House Bill No. 2116 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **House Bill No. 2116**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2116 was ordered immediately returned to the House as passed as amended.

On motion of Senator Broadway, **House Bill No. 2557** was called up for third reading and final disposition.

**HOUSE BILL NO. 2557
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE J. JOHNSON**

A Bill for an Act to be Entitled: AN ACT TO PROVIDE FOR THE PUBLIC EDUCATION SALVAGE COMPUTER LOAN PROGRAM; AND FOR OTHER PURPOSES.

House Bill No. 2557 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2557 was ordered immediately returned to the House as passed.

On motion of Senator Broadway, **House Bill No. 2530** was called up for third reading and final disposition.

HOUSE BILL NO. 2530

As Engrossed: H3/21/05 H3/25/03

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVES DANGEAU, SAUNDERS, ABERNATHY, COOK, DICKINSON, DUNN, EDWARDS, L. EVANS, EVERETT, FITE, HARDWICK, JEFFREY, REEP, ROGERS, & WALTERS

A Bill for an Act to be Entitled: AN ACT TO RENAME THE DIRECTOR OF THE DEPARTMENT OF EDUCATION AS THE COMMISSIONER OF EDUCATION; TO REORGANIZE THE DEPARTMENT OF EDUCATION INTO DEPARTMENTS; TO REVISE THE DIVISION OF ACADEMIC ACCOUNTABILITY UNDER THE COMMISSIONER OF EDUCATION; TO RENAME THE DIVISION OF PUBLIC SCHOOL ACADEMIC FACILITIES AS THE DIVISION OF PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION OF THE DEPARTMENT OF EDUCATION AND TO PROVIDE THAT EFFECTIVE JULY 1, 2007, THE DIVISION SHALL BE UNDER THE COMMISSIONER OF EDUCATION; AND FOR OTHER PURPOSES.

House Bill No. 2530 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35
 Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **House Bill No. 2530**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35
 Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2530 was ordered immediately returned to the House as passed.

On motion of Senator Critcher, **House Bill No. 2367** was called up for third reading and final disposition.

HOUSE BILL NO. 2367

As Engrossed: S3/30/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVES LEDBETTER & WYATT

A Bill for an Act to be Entitled: AN ACT TO AUTHORIZE PUBLIC WATER AUTHORITIES TO CONSTRUCT AND OPERATE WASTEWATER TREATMENT PLANTS; AND FOR OTHER PURPOSES.

House Bill No. 2367 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Wooldridge, Mr. President.

Total34

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT: Womack.

Total1

Total number of votes cast.....35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2367 was ordered immediately returned to the House as passed as amended.

On motion of Senator Lavery, **House Bill No. 2754** was called up for third reading and final disposition.

**HOUSE BILL NO. 2754
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE OVERBEY**

A Bill for an Act to be Entitled: AN ACT TO CLARIFY THE LAW REGARDING MOTORIZED BICYCLES TO ENSURE THE SAFETY OF CHILDREN WHO ARE OPERATING THE MOTORIZED BICYCLES AND THEIR PASSENGERS; AND FOR OTHER PURPOSES.

House Bill No. 2754 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2754 was ordered immediately returned to the House as passed.

On motion of Senator Womack, **House Bill No. 2790** was called up for third reading and final disposition.

HOUSE BILL NO. 2790
As Engrossed: H3/16/05 H3/23/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE MATAYO
BY: SENATOR WOMACK

A Bill for an Act to be Entitled: *AN ACT TO STREAMLINE ADOPTIONS OF CHILDREN IN THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES; AND FOR OTHER PURPOSES.*

House Bill No. 2790 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill 18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 2790 was ordered immediately returned to the House as passed.

On motion of Senator Bisbee, **Senate Bill No. 457** was withdrawn from the Committee on JOINT BUDGET, and placed back on second reading for purpose of Amendment No. 5 and No. 6.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 5 to SENATE BILL NO. 457

Amend **Senate Bill No. 457** as engrossed, S3/28/05:

Page 2, delete lines 3 through 12 in their entirety and substitute the following:

"(1) 9945 COMMISSIONER OF EDUCATION	1	\$204,620	\$208,599
(2) 9952 DEPUTY COMMISSIONER OF EDUCATION	1	\$125,039	\$127,824
(3) 9502 ASST COMM. RESEARCH & TECHNOLOGY	1	\$88,497	\$90,728
(4) 9501 ASST COMM. FISCAL & ADMIN. SVCS.	1	\$88,497	\$90,728
(5) ASST COMM. HUMAN RESOURCES	1	\$88,497	\$90,728
(6) ASST COMM. LEARNING SERVICES	1	\$88,497	\$90,728
(7) DIRECTOR, DIV OF PS ACCOUNTABILITY	1	\$88,497	\$90,728
(8) 9277 ADE LITIGATION ATTORNEY	1	\$81,617	\$83,717
(9) 9039 ED DIRECTOR OF COMMUNICATIONS	1	\$65,000	\$66,785

And

Appropriately renumber the Item Nos. of Section 1.

And

Page 4, line 11, delete "356" and substitute "355"

And

Add a new section immediately following Section 21 to read as follows:

" SECTION 22. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. EXCEPTIONS TO MAXIMUM SALARY LEVELS. In order that qualified education personnel may be recruited and retained, the Department of Education may exceed the maximum salary levels set out in dollars in Section 1 of this Act by no more than twenty-five percent (25%) for the following positions authorized in Section 1 of this Act:

- 9952 DEPUTY COMMISSIONER OF EDUCATION
- 9502 ASST COMMISSIONER, RESEARCH AND TECHNOLOGY
- 9501 ASST COMMISSIONER, FISCAL & ADMINISTRATIVE SERVICES
- ASST COMMISSIONER, HUMAN RESOURCES
- ASST COMMISSIONER, LEARNING SERVICES
- DIRECTOR, DIVISION OF PUBLIC SCHOOL ACCOUNTABILITY
- 9277 ADE LITIGATION ATTORNEY
- 9039 EDUCATION DIRECTOR OF COMMUNICATIONS

Any salary adjustments administered under the provisions of this Section shall be determined by comparing the qualifications and salary levels of similar employees in school districts or in other state education agencies.

The provisions of this section shall be in effect only from July 1, 2005 through June 30, 2007."

And Appropriately renumber the sections of the bill.

(SIGNED) SENATOR DAVID BISBEE

The Amendment was read for the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 6 to SENATE BILL NO. 457

Amend **Senate Bill No. 457** as engrossed, S3/28/05:

Add a new section immediately following Section 21 to read as follows:

"SECTION 22. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. ESTABLISHMENT OF A "POSITION POOL". (a) To address needs emerging from statewide education issues and the necessity of recruiting and retaining qualified personnel, the Arkansas Department of Education or its successor agency is authorized for the 2005-2007 biennium a pool of twenty five (25) non-classified positions at a maximum salary level not to exceed one hundred twenty five thousand dollars (\$125,000) per year. These positions are to be used by the Department of Education in the event that the personal services needs of the Department during the 2005-2007 biennium require additional positions, either by title or in number, that are not authorized by the General Assembly in Section 1 of this Act. These positions may also be used to properly classify positions when the Department does not have a vacant position available with the appropriate title and salary level.

(b) To address needs emerging from statewide education issues and the necessity of recruiting and retaining qualified personnel, the Arkansas Department of Education or its successor agency is authorized for the 2005-2007 biennium a pool of twenty five (25) classified positions at up to a grade twenty six (26). These positions are to be used by the Department of Education in the event that the personal services needs of the Department during the 2005-2007 biennium require additional positions, either by classification or in number, that are not authorized by the General Assembly in Section 1 of this Act. These positions may also be used to properly classify positions when the Department does not have a vacant position available with the appropriate title and grade level.

(c) Any salary determinations or adjustments administered under the provisions of Subsections (a) and (b) of this Section shall be made by comparing the qualifications and salary levels of similar employees in school districts or in other state education agencies.

(d) The Department of Education is authorized to access the pool positions authorized in this Section at any time during the biennium when it is determined by the Director that the need exists. The Director shall provide a quarterly report of the justification for the need to allocate titles from this growth pool to the Chief Fiscal Officer of the State and to the Arkansas Legislative Council for review. The report shall also include an accounting of the names, titles, and salaries of personnel whose salaries have been adjusted under provisions of Subsections (a) and (b) of this Section.

(e) If the Department of Education requests continuation of any "Position Pool" position(s) as established herein during the next biennium, the position(s) must be requested as a new position(s) in the agency's biennial budget request.

(f) Determining the number of personnel to be employed by a state agency is the prerogative of the General Assembly and is usually accomplished by delineating the maximum number of personnel by identifying job titles and the maximum grade or salary attached to those titles. The General Assembly has determined that the Arkansas Department of Education could be operated more efficiently if some flexibility is given to that agency. That flexibility is being accomplished by providing a position pool in Subsections (a) and (b) of this Section and since the General Assembly has granted the agency broad powers under the growth pool concept, it is both necessary and appropriate that the General Assembly maintain oversight of the utilization of the position pool by requiring review of the Legislative Council in the utilization of the position pool. Therefore, the requirement of review by the Legislative Council is not a severable part of this section. If the requirement of review by the Legislative Council is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

The provisions of this section shall be in effect only from July 1, 2005 through June 30, 2007."

And

Appropriately renumber the sections of the bill.

(SIGNED) SENATOR DAVID BISBEE

The Amendment was read for the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 457 was ordered engrossed.

On motion of Senator Bisbee, **Senate Bill No. 874** was withdrawn from the Committee on JOINT BUDGET, and placed back on second reading for purpose of Amendment No. 2.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 2 to SENATE BILL NO. 874

Amend **Senate Bill No. 874** as engrossed, S3/15/05:

Page 2, delete line 14 in its entirety and substitute the following:

"(6) 909Z PROGRAM SUPPORT MANAGER	1	GRADE 22
(7) SCHOOL BUS DRIVER TRAINER	5	GRADE 20
(8) SCHOOL BUS TRANS. INSP.	5	GRADE 18"

And

Appropriately renumber the Item Nos. of Section 1

And

Page 2, line 18, delete "15" and substitute "25"

(SIGNED) SENATOR SHANE BROADWAY

The Amendment was read for the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 874 was ordered engrossed.

On motion of Senator Bisbee, **House Bill No. 1097** was placed back on second reading for purpose of Amendment No. 1.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
Amendment No. 1 to HOUSE BILL NO. 1097

Amend **House Bill No. 1097** as originally introduced:

Page 2, delete line 4 in its entirety and substitute the following:

"(1) 8902 PCE BD DIRECTOR	1	\$88,983	\$91,223
(2) 8903 PCE BD ASSOCIATE DIRECTOR	1	\$42,500	\$43,775"

And

Appropriately renumber the Item Nos. of Section 1

And

Page 2, line 7, delete "3" and substitute "4"

And

Page 2, line 25, delete "\$ 147,861 \$ 151,866" and substitute "\$ 190,361 \$ 195,641"

And

Page 2, line 27, delete "48,953 49,902" and substitute "62,857 64,216"

And

Page 2, line 34, delete "\$ 278,814 \$ 283,768" and substitute "\$ 335,218 \$ 341,857"

(SIGNED) SENATOR PERCY MALONE

The Amendment was read the first time, rules suspended, read the second time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 1097 was ordered engrossed.

On motion of Senator Bisbee, the Senate resolved itself into the Committee of the Whole for the purpose of JOINT BUDGET BILLS.

Without objection, the Committee of the Whole was dissolved, and the Senate took up its regular order of business.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 40** at this time.

On motion of Senator Bisbee, **Senate Bill No. 40** was called up for third reading and final disposition.

**SENATE BILL NO. 40
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE ARKANSAS GEOLOGICAL COMMISSION FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 40 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total	0
Total number of votes cast	35
Necessary to the passage of the bill	27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 40**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total	35
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NEGATIVE:

Total	0
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ABSENT OR NOT VOTING:

Total	0
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VOTING PRESENT:

Total	0
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Total number of votes cast	35
Necessary to the adoption of the Emergency Clause	24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 40 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 54** at this time.

On motion of Senator Bisbee, **Senate Bill No. 54** was called up for third reading and final disposition.

**SENATE BILL NO. 54
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE CAPITOL ZONING DISTRICT COMMISSION FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 54 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 54**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 54 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 56** at this time.

On motion of Senator Bisbee, **Senate Bill No. 56** was called up for third reading and final disposition.

**SENATE BILL NO. 56
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE JUDICIAL DISCIPLINE AND DISABILITY COMMISSION FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 56 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 56**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 56 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 62** at this time.

On motion of Senator Bisbee, **Senate Bill No. 62** was called up for third reading and final disposition.

**SENATE BILL NO. 62
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE ARKANSAS CODE REVISION COMMISSION FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 62 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 62**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 62 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 79** at this time.

On motion of Senator Bisbee, **Senate Bill No. 79** was called up for third reading and final disposition.

**SENATE BILL NO. 79
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE ARKANSAS MINORITY HEALTH COMMISSION FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 79 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 79**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 79 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 80** at this time.

On motion of Senator Bisbee, **Senate Bill No. 80** was called up for third reading and final disposition.

**SENATE BILL NO. 80
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR THE ARKANSAS MINORITY HEALTH COMMISSION FOR THE MINORITY HEALTH INITIATIVE OF THE TARGETED STATE NEEDS PROGRAMS FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 80 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 80**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 80 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 85** at this time.

On motion of Senator Bisbee, **Senate Bill No. 85** was called up for third reading and final disposition.

**SENATE BILL NO. 85
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR OPERATING AND OTHER EXPENSES OF THE NOAA WEATHER WARNING SYSTEM AND FOR OPERATING AND OTHER EXPENSES OF THE PUBLIC TRANSPORTATION PROGRAM FOR THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 85 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 85**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 85 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 86** at this time.

On motion of Senator Bisbee, **Senate Bill No. 86** was called up for third reading and final disposition.

**SENATE BILL NO. 86
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE DEPARTMENT OF FINANCE AND ADMINISTRATION - ALCOHOLIC BEVERAGE CONTROL ENFORCEMENT DIVISION FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 86 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 86**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 86 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 104** at this time.

On motion of Senator Bisbee, **Senate Bill No. 104** was called up for third reading and final disposition.

**SENATE BILL NO. 104
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE ARKANSAS SENTENCING COMMISSION FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 104 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 104**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 104 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 149** at this time.

On motion of Senator Bisbee, **Senate Bill No. 149** was called up for third reading and final disposition.

**SENATE BILL NO. 149
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE ARKANSAS BUILDING AUTHORITY FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 149 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 149**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 149 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 198** at this time.

On motion of Senator Bisbee, **Senate Bill No. 198** was called up for third reading and final disposition.

**SENATE BILL NO. 198
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE**

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE ARKANSAS COMMISSION ON LAW ENFORCEMENT STANDARDS AND TRAINING FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 198 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 198**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 198 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 238** at this time.

On motion of Senator Bisbee, **Senate Bill No. 238** was called up for third reading and final disposition.

SENATE BILL NO. 238
As Engrossed: S3/2/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE STATE CRIME LABORATORY FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2007; AND FOR OTHER PURPOSES.

Senate Bill No. 238 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 238**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 238 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Bill No. 531** at this time.

On motion of Senator Bisbee, **Senate Bill No. 531** was called up for third reading and final disposition.

SENATE BILL NO. 531
As Engrossed: S3/23/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR ONE PERCENT TO PREVENT FOR THE STATE CHILD ABUSE AND NEGLECT PREVENTION BOARD; AND FOR OTHER PURPOSES.

Senate Bill No. 531 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 531**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 531 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 536** at this time.

On motion of Senator Bisbee, **Senate Bill No. 536** was called up for third reading and final disposition.

SENATE BILL NO. 536
As Engrossed: S3/28/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT - TOURIST INFORMATION BUREAUS; AND FOR OTHER PURPOSES.

Senate Bill No. 536 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 536**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the passage of the bill24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 536 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 540** at this time.

On motion of Senator Bisbee, **Senate Bill No. 540** was called up for third reading and final disposition.

SENATE BILL NO. 540
As Engrossed: S3/28/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR THE OFFICE OF INFORMATION TECHNOLOGY FOR THE AERIAL PHOTOGRAPHY, CENTERLINE FILE AND ARKANSAS E-CORRIDOR PROGRAMS; AND FOR OTHER PURPOSES.

Senate Bill No. 540 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 540**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 540 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **Senate Bill No. 542** at this time.

On motion of Senator Bisbee, **Senate Bill No. 542** was called up for third reading and final disposition.

SENATE BILL NO. 542
As Engrossed: S3/28/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE

A Bill for an Act to be Entitled: *AN ACT TO MAKE AN APPROPRIATION TO THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY - LANDFILL POST-CLOSURE TRUST FUND; AND FOR OTHER PURPOSES.*

Senate Bill No. 542 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill27

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **Senate Bill No. 542**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

Senate Bill No. 542 was ordered immediately transmitted to the House.

On motion of Senator Bisbee, the rules were suspended in considering **House Bill No. 1376** at this time.

On motion of Senator Bisbee, **House Bill No. 1376** was called up for third reading and final disposition.

**HOUSE BILL NO. 1376
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE ABERNATHY**

A Bill for an Act to be Entitled: AN ACT TO ESTABLISH A "GROWTH POOL" OF POSITIONS FOR TWO-YEAR INSTITUTIONS OF HIGHER EDUCATION; AND FOR OTHER PURPOSES.

House Bill No. 1376 was placed on third reading and final disposition, the question being: Shall the Bill pass?

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast.....35

Necessary to the passage of the bill18

So the bill passed and the title as read was agreed to.

(SIGNED) ANN CORNWELL, SECRETARY

There being an emergency clause attached to **House Bill No. 1376**, the President ordered the Secretary to call the roll upon the adoption of the emergency clause.

The Secretary called the roll, and the following members voted:

AFFIRMATIVE: Altes, Baker, Bisbee, Bookout, Broadway, Brown, Bryles, Capps, Critcher, Faris, Glover, Hendren, Higginbothom, Hill, Holt, Horn, G. Jeffress, J. Jeffress, B. Johnson, Laverty, Luker, Madison, Malone, Miller, Salmon, T. Smith, Steele, Taylor, Trusty, Whitaker, Wilkins, Wilkinson, Womack, Wooldridge, Mr. President.

Total35

NEGATIVE:

Total0

ABSENT OR NOT VOTING:

Total0

VOTING PRESENT:

Total0

Total number of votes cast35

Necessary to the adoption of the Emergency Clause24

So the Emergency Clause was adopted.

(SIGNED) ANN CORNWELL, SECRETARY

House Bill No. 1376 was ordered immediately returned to the House as passed.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on CITY, COUNTY AND LOCAL AFFAIRS, to whom was referred:

SENATE BILL NO. 266, BY SENATOR MADISON,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass, as Amended No. 6.

Respectfully submitted,

(SIGNED) SENATOR BROWN, CHAIRMAN

(SIGNED) SENATORS MADISON, BISBEE, STEELE

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

SENATE BILL NO. 993, BY SENATOR HOLT, ET AL,

beg leave to report that we have carefully compared the engrossed copy with the original and we find the same correctly engrossed.

Respectfully submitted,

(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Holt, **Senate Bill No. 993** was ordered re-referred to the Committee on PUBLIC TRANSPORTATION.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on PUBLIC TRANSPORTATION, to whom was referred:

SENATE BILL NO. 993, BY SENATOR HOLT,

beg leave to report that we have had the same under consideration, and herewith return the same with the recommendation that it do pass.

Respectfully submitted,

(SIGNED) SENATOR STEELE, CHAIRMAN

(SIGNED) SENATOR HOLT, LAVERTY, BAKER, ALTES

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

SENATE BILL NO. 160, BY SENATOR GLOVER,

beg leave to report that we have carefully compared the engrossed copy with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Glover, **Senate Bill No. 160** was ordered re-referred to the Committee on JOINT RETIREMENT AND SOCIAL SECURITY.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

SENATE BILL NO. 1000, BY SENATOR BROADWAY,
SENATE BILL NO. 1008, BY SENATOR BROADWAY,
SENATE BILL NO. 1124, BY SENATOR STEELE,
SENATE BILL NO. 1168, BY SENATOR J. BOOKOUT,

beg leave to report that we have carefully compared the engrossed copies with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

SENATE BILL NO. 1099, BY SENATOR WOMACK,
SENATE BILL NO. 1121, BY SENATOR STEELE,

beg leave to report that we have carefully compared the engrossed copies with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Womack, **Senate Bill No. 1099** was ordered re-referred to the Committee on PUBLIC HEALTH, WELFARE AND LABOR.

On motion of Senator Steele, **Senate Bill No. 1121** was ordered re-referred to the Committee on PUBLIC HEALTH, WELFARE AND LABOR.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

SENATE BILL NO. 1151, BY SENATOR FARIS,

beg leave to report that we have carefully compared the engrossed copy with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Faris, **Senate Bill No. 1151** was ordered re-referred to the Committee on PUBLIC TRANSPORTATION.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

HOUSE BILL NO. 1525, BY REPRESENTATIVE ELLIOTT,
HOUSE BILL NO. 2072, BY REPRESENTATIVE PICKETT,
HOUSE BILL NO. 2469, BY REPRESENTATIVE BORHAUER,
HOUSE BILL NO. 2500, BY REPRESENTATIVE THOMASON,
HOUSE BILL NO. 2504, BY REPRESENTATIVE J. HUTCHINSON,
HOUSE BILL NO. 2552, BY REPRESENTATIVE LEDBETTER,
HOUSE BILL NO. 2706, BY REPRESENTATIVE MAHONY,
HOUSE BILL NO. 2721, BY REPRESENTATIVE KENNEY,
HOUSE BILL NO. 2728, BY REPRESENTATIVE D. EVANS,
HOUSE BILL NO. 2941, BY REPRESENTATIVE PYLE,

beg leave to report that we have carefully compared the engrossed copies with the original and we find the same correctly engrossed.

Respectfully submitted,

(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

HOUSE BILL NO. 1691, BY REPRESENTATIVE COWLING,

beg leave to report that we have carefully compared the engrossed copy with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Salmon, **House Bill No. 1691** was ordered re-referred to the Committee on REVENUE AND TAXATION.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

HOUSE BILL NO. 1989, BY REPRESENTATIVE CHILDERS,

beg leave to report that we have carefully compared the engrossed copy with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Luker, **House Bill No. 1989** was ordered re-referred to the Committee on JUDICIARY.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

HOUSE BILL NO. 2623,
BY REPRESENTATIVES J. MARTIN, WOOD,

beg leave to report that we have carefully compared the engrossed copy with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Faris, **House Bill No. 2623** was ordered re-referred to the Committee on STATE AGENCIES AND GOVERNMENTAL AFFAIRS.

HOUSE CONCURRENT RESOLUTION NO. 1020
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE W. LEWELLEN

HOUSE CONCURRENT RESOLUTION RECOGNIZING AND
COMMENDING ALPHA KAPPA ALPHA SORORITY, INC., AND THE BETA PI
OMEGA CHAPTER OF ALPHA KAPPA ALPHA SORORITY, INC.

House Concurrent Resolution No. 1020 was read the first time, rules
suspended, read the second time and placed on the Calendar.

HOUSE BILL NO. 1669
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVES JACKSON, BOLIN

A Bill for an Act to be Entitled: AN ACT TO PROHIBIT PERSONS FROM
SIMULTANEOUSLY HOLDING THE POSITION OF JUSTICE OF THE PEACE AND
THE POSITION OF CITY COUNCIL MEMBER; AND FOR OTHER PURPOSES.

House Bill No. 1669 was read the first time, rules suspended, read the
second time and referred to the Committee on CITY, COUNTY AND LOCAL
AFFAIRS.

HOUSE BILL NO. 1905
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE ROSENBAUM

A Bill for an Act to be Entitled: AN ACT CONCERNING VOTER
QUALIFICATIONS AFTER OBTAINING AN ABSENTEE BALLOT; AND FOR
OTHER PURPOSES.

House Bill No. 1905 was read the first time, rules suspended, read the
second time and referred to the Committee on STATE AGENCIES AND
GOVERNMENTAL AFFAIRS.

HOUSE BILL NO. 2085
As Engrossed: H3/30/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVES LEDBETTER &
MAHONY

A Bill for an Act to be Entitled: AN ACT TO REQUIRE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION TO ADOPT GROUNDWATER STANDARDS AND GROUNDWATER CLASSIFICATIONS; AND FOR OTHER PURPOSES.

House Bill No. 2085 was read the first time, rules suspended, read the second time and referred to the Committee on PUBLIC HEALTH, WELFARE AND LABOR.

HOUSE BILL NO. 2415
As Engrossed: H3/16/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVES OVERBEY, MAHONY, & BOLIN

A Bill for an Act to be Entitled: AN ACT TO AMEND THE PROCEDURE FOR ISSUANCE AND USE OF MOTOR VEHICLE DEALER'S LICENSE PLATES; AND FOR OTHER PURPOSES.

House Bill No. 2415 was read the first time, rules suspended, read the second time and referred to the Committee on PUBLIC TRANSPORTATION.

HOUSE BILL NO. 2437

As Engrossed: H3/3/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVES ABERNATHY, ADAMS, BOLIN, BOYD, BURRIS, COOK, COOPER, DAVENPORT, DICKINSON, EVERETT, FITE, GEORGE, HARRIS, JACKSON, JEFFREY, KENNEY, MACK, MALOCH, MATHIS, NICHOLS, NORTON, PATE, PETRUS, S. PRATER, SAMPLE, SAUNDERS, SCROGGIN, SULLIVAN, THOMPSON, WALTERS, WOOD, & WYATT

A Bill for an Act to be Entitled: AN ACT TO DEVELOP GUIDELINES FOR CONCURRENT ENROLLMENT COURSES THAT MAY BE TAUGHT ALONG WITH ADVANCED PLACEMENT COURSES IN HIGH SCHOOLS; TO REPEAL THE CONCURRENT ENROLLMENT COURSE APPROVAL PANEL; AND FOR OTHER PURPOSES.

House Bill No. 2437 was read the first time, rules suspended, read the second time and referred to the Committee on EDUCATION.

HOUSE BILL NO. 2442

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVE D. JOHNSON

A Bill for an Act to be Entitled: AN ACT TO CREATE THE OFFENSE OF MOTION PICTURE PIRACY; AND FOR OTHER PURPOSES.

House Bill No. 2442 was read the first time, rules suspended, read the second time and referred to the Committee on JUDICIARY.

HOUSE BILL NO. 2495
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE PACE

A Bill for an Act to be Entitled: AN ACT CONCERNING PERMITS AND FEES FOR FIREWORKS DISPLAYS; AND FOR OTHER PURPOSES.

House Bill No. 2495 was read the first time, rules suspended, read the second time and referred to the Committee on STATE AGENCIES AND GOVERNMENTAL AFFAIRS.

HOUSE BILL NO. 2525
As Engrossed: H3/30/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE J. MARTIN

A Bill for an Act to be Entitled: *AN ACT TO CLARIFY THE REQUIREMENTS FOR THE OFFENSE OF ENDANGERING THE WELFARE OF A MINOR IN THE FIRST DEGREE; TO CREATE THE OFFENSE OF ENDANGERING THE WELFARE OF A MINOR IN THE THIRD DEGREE; AND FOR OTHER PURPOSES.*

House Bill No. 2525 was read the first time, rules suspended, read the second time and referred to the Committee on JUDICIARY.

HOUSE BILL NO. 2533
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVES BRIGHT & ABERNATHY

A Bill for an Act to be Entitled: AN ACT TO ALLOW FUNERAL DIRECTORS TO ACCESS MILITARY DISCHARGE RECORDS IF THEY ARE ASSISTING WITH THE VETERAN'S FUNERAL AND HAVE A SIGNED AND NOTARIZED AUTHORIZATION FROM THE VETERAN'S SPOUSE, CHILD, OR NEXT OF KIN; AND FOR OTHER PURPOSES.

House Bill No. 2533 was read the first time, rules suspended, read the second time and referred to the Committee on CITY, COUNTY AND LOCAL AFFAIRS.

HOUSE BILL NO. 2604
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE KEY

A Bill for an Act to be Entitled: AN ACT TO PROTECT THE EDUCATIONAL ENVIRONMENT OF CHILDREN IN THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES; TO AUTHORIZE THE DEPARTMENT OF HUMAN SERVICES TO COMMUNICATE WITH A CHILD'S SCHOOL ON CUSTODY-RELATED MATTERS THAT MIGHT AFFECT THE CHILD'S ABILITY TO LEARN; AND FOR OTHER PURPOSES.

House Bill No. 2604 was read the first time, rules suspended, read the second time and referred to the Committee on EDUCATION.

HOUSE BILL NO. 2610

As Engrossed: H3/11/05 H3/25/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVES BURRIS, KENNEY, RAINEY, MAHONY, & SAUNDERS

BY: SENATORS J. JEFFRESS & ARGUE

A Bill for an Act to be Entitled: *AN ACT TO AMEND THE ELIGIBILITY REQUIREMENTS FOR THE ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM; AND TO INCREASE THE AMOUNT OF THE AWARD; AND FOR OTHER PURPOSES.*

House Bill No. 2610 was read the first time, rules suspended, read the second time and referred to the Committee on EDUCATION.

HOUSE BILL NO. 2616

As Engrossed: H3/30/05

EIGHTY-FIFTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVE J. MARTIN

A Bill for an Act to be Entitled: *AN ACT TO CLARIFY THE REQUIREMENTS FOR THE OFFENSE OF ENDANGERING THE WELFARE OF AN INCOMPETENT PERSON IN THE FIRST DEGREE; TO CREATE THE OFFENSE OF ENDANGERING THE WELFARE OF AN INCOMPETENT PERSON IN THE THIRD DEGREE; AND FOR OTHER PURPOSES.*

House Bill No. 2616 was read the first time, rules suspended, read the second time and referred to the Committee on JUDICIARY.

HOUSE BILL NO. 2636
As Engrossed: H3/30/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE HARRELSON

A Bill for an Act to be Entitled: AN ACT TO MAKE TECHNICAL CORRECTIONS CONCERNING THE SALARIES OF JUDGES AND OTHER PERSONNEL OF THE VARIOUS DISTRICT COURTS; AND FOR OTHER PURPOSES.

House Bill No. 2636 was read the first time, rules suspended, read the second time and referred to the Committee on PUBLIC HEALTH, WELFARE AND LABOR.

HOUSE BILL NO. 2665
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE LEDBETTER

A Bill for an Act to be Entitled: AN ACT TO ENCOURAGE THE USE OF SHIELDED OUTDOOR LIGHTING; AND FOR OTHER PURPOSES.

House Bill No. 2665 was read the first time, rules suspended, read the second time and referred to the Committee on PUBLIC HEALTH, WELFARE AND LABOR.

HOUSE BILL NO. 2681
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE JACKSON

A Bill for an Act to be Entitled: AN ACT TO REGULATE THE OWNERSHIP AND POSSESSION OF CERTAIN LARGE CARNIVORES; TO PROHIBIT THE OWNERSHIP AND POSSESSION OF CERTAIN LARGE CARNIVORES; TO IMPOSE FEES; TO PRESCRIBE THE POWERS AND DUTIES OF MUNICIPAL AND COUNTY GOVERNMENTS; AND FOR OTHER PURPOSES.

House Bill No. 2681 was read the first time, rules suspended, read the second time and referred to the Committee on CITY, COUNTY AND LOCAL AFFAIRS.

HOUSE BILL NO. 2703
As Engrossed: H3/23/05 H3/25/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE CHESTERFIELD

A Bill for an Act to be Entitled: *AN ACT TO ENSURE THE SAFETY OF SCHOOL CHILDREN WHO ARE TRANSPORTED ON SCHOOL BUSES OPERATED BY PRIVATE COMPANIES AND FROM INDEPENDENT CONTRACTORS WITH ACCESS TO SCHOOL CHILDREN; AND FOR OTHER PURPOSES.*

House Bill No. 2703 was read the first time, rules suspended, read the second time and referred to the Committee on EDUCATION.

HOUSE BILL NO. 2732
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE RAINEY

A Bill for an Act to be Entitled: AN ACT TO ENSURE THE PRESERVATION OF HISTORICAL ARTIFACTS OF SCHOOL DISTRICTS SUBJECT TO REORGANIZATION OR RECLASSIFICATION; AND FOR OTHER PURPOSES.

House Bill No. 2732 was read the first time, rules suspended, read the second time and referred to the Committee on EDUCATION.

HOUSE BILL NO. 2734
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE RAINEY

A Bill for an Act to be Entitled: AN ACT TO ASSIST RESULTING SCHOOL DISTRICTS WITH DEBT RELIEF RESULTING FROM A CONSOLIDATION REQUIRED BY LAW; AND FOR OTHER PURPOSES.

House Bill No. 2734 was read the first time, rules suspended, read the second time and referred to the Committee on EDUCATION.

HOUSE BILL NO. 2735
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE MCDANIEL,
BY: SENATOR BOOKOUT

A Bill for an Act to be Entitled: AN ACT TO AMEND ARKANSAS LAWS PERTAINING TO COMMUNITY REDEVELOPMENT; TO CLARIFY THE DEFINITION OF "TAXING UNIT"; AND FOR OTHER PURPOSES.

House Bill No. 2735 was read the first time, rules suspended, read the second time and referred to the Committee on REVENUE AND TAXATION.

HOUSE BILL NO. 2807
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE LAMOUREUX

A Bill for an Act to be Entitled: AN ACT CONCERNING ACKNOWLEDGEMENT OF SATISFACTION OF DEEDS OF TRUST ON RECORD; AND FOR OTHER PURPOSES.

House Bill No. 2807 was read the first time, rules suspended, read the second time and referred to the Committee on INSURANCE AND COMMERCE.

HOUSE BILL NO. 2812
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVES FLOWERS, DAVIS, J. JOHNSON, & WILLIS

A Bill for an Act to be Entitled: AN ACT TO AMEND THE LAW REGARDING ASSISTANCE FOR INDIGENT PERSONS; TO ENSURE APPROPRIATE TREATMENT OF PROVIDERS; AND FOR OTHER PURPOSES.

House Bill No. 2812 was read the first time, rules suspended, read the second time and referred to the Committee on PUBLIC HEALTH, WELFARE AND LABOR.

HOUSE BILL NO. 2832
As Engrossed: H3/25/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVES EDWARDS & PATE

A Bill for an Act to be Entitled: *AN ACT TO AMEND ARKANSAS CODE § 26-27-318 CONCERNING COUNTY COURT HEARINGS AND COLLECTION OF ASSESSMENTS.*

House Bill No. 2832 was read the first time, rules suspended, read the second time and referred to the Committee on CITY, COUNTY AND LOCAL AFFAIRS.

HOUSE BILL NO. 2852
As Engrossed: H3/11/05
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE COWLING

A Bill for an Act to be Entitled: *AN ACT PERTAINING TO THE LICENSURE REQUIREMENTS FOR INSURANCE AGENTS, BROKERS, ADJUSTERS AND INSURANCE CONSULTANTS; AND FOR OTHER PURPOSES.*

House Bill No. 2852 was read the first time, rules suspended, read the second time and referred to the Committee on INSURANCE AND COMMERCE.

HOUSE BILL NO. 2900
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE MALOCH

A Bill for an Act to be Entitled: AN ACT TO PROVIDE FOREIGN AND ALIEN INSURERS A RETALIATORY CREDIT UNDER ARKANSAS INSURANCE LAW; TO CLARIFY THAT RETALIATORY TAXES DO NOT INCLUDE ANY FEES, ASSESSMENTS, MATERIAL OBLIGATIONS, OR LICENSE FEES OF INSURANCE AGENTS AND PRODUCERS; AND FOR OTHER PURPOSES.

House Bill No. 2900 was read the first time, rules suspended, read the second time and referred to the Committee on INSURANCE AND COMMERCE.

HOUSE BILL NO. 2966
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE ANDERSON

A Bill for an Act to be Entitled: AN ACT CONCERNING VOTER REGISTRATION; TO AMEND AMENDMENT 51 OF THE ARKANSAS CONSTITUTION; AND FOR OTHER PURPOSES.

House Bill No. 2966 was read the first time, rules suspended, read the second time and referred to the Committee on STATE AGENCIES AND GOVERNMENTAL AFFAIRS.

HOUSE BILL NO. 2969
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVE SAUNDERS

A Bill for an Act to be Entitled: AN ACT TO AMEND ARKANSAS CODE § 14-51-301; AND FOR OTHER PURPOSES.

House Bill No. 2969 was read the first time, rules suspended, read the second time and referred to the Committee on CITY, COUNTY AND LOCAL AFFAIRS.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

SENATE BILL NO. 457, BY JOINT BUDGET COMMITTEE,
SENATE BILL NO. 874, BY JOINT BUDGET COMMITTEE,

beg leave to report that we have carefully compared the engrossed copies with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

On motion of Senator Bisbee, **Senate Bill No. 457** was ordered re-referred to the Committee on JOINT BUDGET.

On motion of Senator Bisbee, **Senate Bill No. 874** was ordered re-referred to the Committee on JOINT BUDGET.

ARKANSAS SENATE
EIGHTY-FIFTH GENERAL ASSEMBLY
REGULAR SESSION

March 31, 2005

Mr. President:

We, your Committee on ENGROSSED BILLS, to whom was referred:

HOUSE BILL NO. 1097, BY JOINT BUDGET COMMITTEE,

beg leave to report that we have carefully compared the engrossed copy with the original and we find the same correctly engrossed.

Respectfully submitted,
(SIGNED) JOHN PAUL CAPPS, CHAIRMAN

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SENATE BILLS TRANSMITTED TO THE HOUSE
AS PASSED

SENATE BILL NO. 40
SENATE BILL NO. 54
SENATE BILL NO. 56
SENATE BILL NO. 62
SENATE BILL NO. 79
SENATE BILL NO. 80
SENATE BILL NO. 85
SENATE BILL NO. 86
SENATE BILL NO. 104
SENATE BILL NO. 132
SENATE BILL NO. 149
SENATE BILL NO. 198

SENATE BILL NO. 238
SENATE BILL NO. 465
SENATE BILL NO. 468
SENATE BILL NO. 531
SENATE BILL NO. 536
SENATE BILL NO. 540
SENATE BILL NO. 542
SENATE BILL NO. 762
SENATE BILL NO. 940
SENATE BILL NO. 998
SENATE BILL NO. 1039
SENATE BILL NO. 1089
SENATE BILL NO. 1092
SENATE BILL NO. 1093
SENATE BILL NO. 1095
SENATE BILL NO. 1156
SENATE BILL NO. 1164
SENATE BILL NO. 1173

SENATE CONCURRENT RESOLUTION TRANSMITTED
TO THE HOUSE AS ADOPTED

SENATE CONCURRENT RESOLUTION NO. 16

HOUSE BILLS RETURNED TO THE HOUSE
AS PASSED

HOUSE BILL NO. 1376
HOUSE BILL NO. 1768
HOUSE BILL NO. 2124
HOUSE BILL NO. 2338
HOUSE BILL NO. 2414
HOUSE BILL NO. 2444
HOUSE BILL NO. 2530
HOUSE BILL NO. 2557
HOUSE BILL NO. 2687

HOUSE BILL NO. 2715

HOUSE BILL NO. 2754

HOUSE BILL NO. 2790

HOUSE BILL NO. 2855

HOUSE BILL NO. 2876

HOUSE BILL NO. 2907

HOUSE BILL NO. 2917

HOUSE BILL NO. 2976

HOUSE BILLS RETURNED TO THE HOUSE

AS PASSED AS AMENDED

HOUSE BILL NO. 1559, AS AMENDED NO. 1

HOUSE BILL NO. 2116, AS AMENDED NO. 1

HOUSE BILL NO. 2367, AS AMENDED NO. 1

HOUSE BILL NO. 2611, AS AMENDED NO. 1

HOUSE BILLS TRANSMITTED TO THE SENATE

AS PASSED

HOUSE BILL NO. 1669

HOUSE BILL NO. 1905

HOUSE BILL NO. 2085

HOUSE BILL NO. 2415

HOUSE BILL NO. 2437

HOUSE BILL NO. 2442

HOUSE BILL NO. 2495

HOUSE BILL NO. 2525

HOUSE BILL NO. 2533

HOUSE BILL NO. 2604

HOUSE BILL NO. 2610

HOUSE BILL NO. 2616

HOUSE BILL NO. 2665

HOUSE BILL NO. 2681

HOUSE BILL NO. 2703

HOUSE BILL NO. 2732

HOUSE BILL NO. 2734

HOUSE BILL NO. 2735
HOUSE BILL NO. 2807
HOUSE BILL NO. 2812
HOUSE BILL NO. 2832
HOUSE BILL NO. 2852
HOUSE BILL NO. 2900
HOUSE BILL NO. 2966
HOUSE BILL NO. 2969

HOUSE CONCURRENT RESOLUTION TRANSMITTED
TO THE SENATE AS ADOPTED

HOUSE CONCURRENT RESOLUTION NO. 1020

On motion of Senator Hill, the Senate adjourned until 11:00 a.m., Friday, April 1,
2005.

PRESIDENT OF THE SENATE

SECRETARY OF THE SENATE