

**SIXTY-EIGHTH DAY'S PROCEEDINGS
HALL OF THE HOUSE OF REPRESENTATIVES**

Little Rock, Arkansas
March 21, 2003

The House was called to order at 10:04 a.m. by Mr. Cleveland, the Speaker.
The following members answered to the roll call:

Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bolin, Bond, Bookout, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D.Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Green, Haak, Hardwick, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C.Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Norton, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, Smith, Stovall, Sullivan, Sumpter, C.Taylor, J.Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, White, Wood, Mr. Speaker.

Total99

The following member(s) was absent and did not answer to the roll call:
Borhauer.

Total01

A quorum was present.
Unanimous leave was granted for Representative(s) Borhauer.
The House stood and was led in prayer by Representative Jay Martin.
The House stood and gave the Pledge of Allegiance to the Flag.
The reading of the Journal of yesterday's proceedings was dispensed with.

HOUSE RESOLUTION NO.1028

BY: REPRESENTATIVE THOMASON

COMMENDING ALL ARKANSANS WHO, AS MEMBERS OF THE NATIONAL GUARD, RESERVE AND ACTIVE DUTY FORCES OF THE UNITED STATES OF AMERICA ARE INVOLVED IN OPERATION "IRAQI FREEDOM" AND SUPPORTING OUR NATION'S RESOLVE TO LIBERATE THE PEOPLE OF IRAQ FROM THE TYRANNICAL RULE OF SADDAM HUSSEIN.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES. THE RESOLUTION RECEIVED UNANIMOUS SUPPORT.

COMMITTEE REPORT

	March 21, 2003
JOINT BUDGET	PAUL WEAVER CHAIRPERSON
HOUSE BILL NO. 1258	DO PASS
BY JOINT BUDGET COMMITTEE	
HOUSE BILL NO. 1378	DO PASS
BY JOINT BUDGET COMMITTEE	
HOUSE BILL NO. 1645	DO PASS
BY REPRESENTATIVE COWLING AND BY SENATOR HORN	

COMMITTEE REPORT

	March 21, 2003
AGRICULTURE, FORESTRY AND ECONOMIC DEVELOPMENT	JIMMY "RED" MILLIGAN CHAIRPERSON
HOUSE BILL NO. 2256	DO PASS
BY REPRESENTATIVE NORTON	NON-CONTROVERSIAL
HOUSE BILL NO. 2344	DO PASS
BY REPRESENTATIVE LEDBETTER	NON-CONTROVERSIAL
HOUSE BILL NO. 2359	DO PASS
BY REPRESENTATIVE NAPPER	AS AMENDED #1
SENATE CONCURRENT RESOLUTION NO. 19	DO PASS
BY SENATOR WOOLDRIDGE	NON-CONTROVERSIAL

COMMITTEE REPORT, (continued)

SENATE BILL NO. 702	DO PASS
BY SENATOR CRITCHER	NON-CONTROVERSIAL
SENATE BILL NO. 858	DO PASS
BY SENATOR ALTES	

COMMITTEE REPORT

	March 21, 2003
STATE AGENCIES AND GOVERNMENTAL AFFAIRS	SARAH AGEE CHAIRPERSON
HOUSE BILL NO. 2336	DO PASS
BY REPRESENTATIVE SCHULTE	AS AMENDED #3
HOUSE BILL NO. 2372	DO PASS
BY REPRESENTATIVE KING	AS AMENDED #2
HOUSE BILL NO. 2641	DO PASS
BY REPRESENTATIVE KING	
SENATE BILL NO. 270	DO PASS
BY SENATOR FARIS	
SENATE BILL NO. 271	DO PASS
BY SENATOR FARIS	

COMMITTEE REPORT

	March 21, 2003
INSURANCE AND COMMERCE	PAUL BOOKOUT CHAIRPERSON
HOUSE BILL NO. 2755	DO PASS
BY REPRESENTATIVE WALTERS	AS AMENDED #1 & #2

COMMITTEE REPORT

	March 21, 2003
CITY, COUNTY AND LOCAL AFFAIRS	PHILLIP JACOBS CHAIRPERSON
HOUSE BILL NO. 1851	DO PASS
BY REPRESENTATIVE VERKAMP	
HOUSE BILL NO. 2759	DO PASS
BY REPRESENTATIVE KEY	NON-CONTROVERSIAL
SENATE CONCURRENT RESOLUTION NO. 20	DO PASS
BY SENATOR WOOLDRIDGE	

COMMITTEE REPORT

	March 21, 2003
AGING, CHILDREN AND YOUTH, LEGISLATIVE AND MILITARY AFFAIRS	JOYCE DEES CHAIRPERSON
HOUSE BILL NO. 1291 BY REPRESENTATIVE DEES	DO PASS, TO CONCUR IN SENATE AMENDMENT #1
HOUSE BILL NO. 1432 BY REPRESENTATIVE JUDY	DO PASS, TO CONCUR IN SENATE AMENDMENT #1
HOUSE BILL NO. 1484 BY REPRESENTATIVE JUDY	DO PASS, TO CONCUR IN SENATE AMENDMENT #1
HOUSE BILL NO. 1545 BY REPRESENTATIVE WOOD	DO PASS, TO CONCUR IN SENATE AMENDMENT #1
HOUSE BILL NO. 2471 BY REPRESENTATIVE MARTIN	DO PASS AS AMENDED #1
HOUSE BILL NO. 2579 BY REPRESENTATIVE DEES	DO PASS AS AMENDED #1
HOUSE RESOLUTION NO. 1026 BY REPRESENTATIVE GOSS	DO PASS
HOUSE RESOLUTION NO. 1028 BY REPRESENTATIVE THOMASON	DO PASS
HOUSE CONCURRENT RESOLUTION NO. 1025 BY REPRESENTATIVE KING	DO PASS AS AMENDED #1
HOUSE CONCURRENT RESOLUTION NO. 1026 BY REPRESENTATIVE KING	DO PASS AS AMENDED #1
HOUSE CONCURRENT RESOLUTION NO. 1028 BY REPRESENTATIVE KING	DO PASS AS AMENDED #1
HOUSE CONCURRENT RESOLUTION NO. 1030 BY REPRESENTATIVE KING	DO PASS AS AMENDED #1
SENATE CONCURRENT RESOLUTION NO. 9 BY SENATOR FARIS	DO PASS
SENATE CONCURRENT RESOLUTION NO. 12 BY SENATOR FARIS	DO PASS
SENATE CONCURRENT RESOLUTION NO. 13 BY SENATOR FARIS	DO PASS
SENATE CONCURRENT MEMORIAL RESOLUTION NO. 2 BY SENATOR FARIS	DO PASS

COMMITTEE REPORT

JUDICIARY	March 21, 2003
	MIKE HATHORN
	CHAIRPERSON
HOUSE BILL NO. 2248	DO PASS
BY REPRESENTATIVE BLAIR	AS AMENDED #3 & #4
HOUSE BILL NO. 2473	DO PASS
BY REPRESENTATIVE MARTIN	AS AMENDED #1
HOUSE BILL NO. 2523	DO PASS
BY REPRESENTATIVE HAAK	AS AMENDED #1

Upon motion of Representative Cleveland, **HOUSE BILL NO. 2536** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 2536

Amend **HOUSE BILL NO. 2536** as originally introduced:

Page 1, line 9, delete "TEACHER" and substitute "TEACHERS' AND OTHER EDUCATORS"

AND

Page 1, line 14, delete "TEACHER" and substitute "TEACHERS' AND OTHER EDUCATORS"

AND

Page 1, line 22, delete "Teacher" and substitute "Teachers' and Other Educators"

AND

Page 3, line 2, delete "benefits that" and substitute "benefits, including stipends and other supplemental pay, that"

AND

Page 3, line 4, delete "package with" and substitute "package, including stipends and other supplemental pay, with"

AND

Page 3, delete lines 5 through 7, substitute the following:

"that offered by surrounding states:

(6) To recommend superintendent compensation packages;

(7) To conduct market studies and other related studies that the commission deems relevant to address the salary issues raised by the Arkansas Supreme Court in the decision of Lake View School District No. 25 v. Huckabee, 351

Ark. 31 (2002); and

(8) Provide a report to the chair of the House Committee on Education, the chair of the Senate"

AND

Page 3, line 13, delete "Higher"

AND

Page 3, line 24, delete "Higher"

/s/ Herschel Cleveland

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative Cleveland, **HOUSE BILL NO. 2536** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 2536

Amend **HOUSE BILL NO. 2536** as originally introduced:

Page 3, delete line 12, and substitute the following:

"or the Governor.

(i) The committee may make recommendations regarding compensation for classified employees."

AND

Page 3, line 13, delete "(i)(1)" and substitute "(j)(1)"

/s/ Herschel Cleveland

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative Cleveland, **HOUSE BILL NO. 2511** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 2511

Amend **HOUSE BILL NO. 2511** as originally introduced:

Page 1, line 9, delete "REDUCATION" and substitute "REDUCTION"

AND

Page 1, line 15, delete "REDUCATION" and substitute "REDUCTION"

/s/ Herschel Cleveland

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Haak, **HOUSE BILL NO. 2525** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 2525

Amend **HOUSE BILL NO. 2525** as engrossed, H3/18/03:

Add Senator Horn as a cosponsor of the bill

/s/ David Haak

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Agee, **HOUSE BILL NO. 2730** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 2730

Amend **HOUSE BILL NO. 2730** as engrossed, H3/18/03:

Delete SECTION 5 and substitute the following:

“SECTION 5. Arkansas Code § 6-51-605(m) is amended to read as follows:

(m)(1) The board shall annually require background investigations for all partners or shareholders with ten percent (10%) or more ownership interest in a school when the school seeks an original license.

(2) The board may establish a schedule for periodic background checks for partners or shareholders with ten percent (10%) or more ownership interest in a school when seeking renewal of a school license.

~~(2)(A)(n)(1) The Department of Arkansas State Police shall be authorized to conduct background investigations for applicants that have executed the appropriate release, and the background shall consist of whether the applicant has been convicted in any jurisdiction of a felony, a Class A misdemeanor, or a crime involving an act of violence. The partners or shareholders shall apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation.~~

~~(B)(2) The department shall be authorized to disseminate said background information to the board. The check shall conform to the applicable federal standards and shall include the taking of fingerprints.~~

(3) The applicant shall sign a release of information to the board and shall be responsible to the Department of Arkansas State Police for the payment of any fee associated with the criminal background check.

(4) Upon completion of the criminal background check, the Identification Bureau of the Department of Arkansas State Police shall forward all information obtained concerning the person in the commission of any offense listed in § 6-51-606(h)(3) to the board.

(5)(A) The board may issue a nonrenewable temporary license pending the results of the criminal background check.

(B) The license shall be valid for no more than six (6) months.

(C) Upon receipt of information from the Identification Bureau of the Department of Arkansas State Police that only one (1) of the partners or shareholders of the school holding the license has been convicted of any offense

listed in § 6-51-606(h)(3) the board shall revoke the license.”

AND

Delete SECTION 6, SECTION 7, and SECTION 8 and substitute the following:

“SECTION 6. Arkansas Code § 6-51-605 is amended by adding an additional subsections to read as follows:

(o)(1) The provisions of § 6-51-606(h) may be waived by the board upon the request of:

(A) An affected applicant for licensure; or

(B) The partners or shareholders of a school holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

(A) The age at which the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat.

(p)(1) Any information received by the board from the Identification Bureau pursuant to this section shall not be available for examination except by:

(A) The affected applicant for licensure or his or her authorized representative; or

(B) The person whose license is subject to revocation or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Department of Arkansas State Police.

(q) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

(r) Rights of privilege and confidentiality established in this section shall not extend to any document created for purposes other than the background check required by this section.

(s) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section.”

SECTION 7. Arkansas Code § 6-51-606(h)(3) is amended to read as follows:

(3) The applicant or licensee has pleaded guilty, entered a plea of nolo

contendere, or has been found guilty of a crime constituting a felony by a judge or jury in any state or federal court; or in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld, deferred, or suspended, by a court of this state, another state, or the federal government of:

(A) Any felony, or

(B) Any act involving moral turpitude, gross immorality, or which is related to the qualifications, functions, and duties of a licensee.

SECTION 8. Arkansas Code § 6-51-606(i) through (l) are amended to read as follows:

(i) The board shall have the power to revoke a license if in its discretion it determines that:

(1) The licensee has failed to cure a deficiency leading to a license probation within the time as may be reasonably prescribed by the board; or

(2) The licensee while on probation has been found by the board to have incurred an additional infraction of this subchapter; or

(3) The licensee has closed a school without first having completed the training of all students currently enrolled or having made tuition refunds to students or their lenders.

(j) The board may impose sanctions pursuant to § 25-15-217.

~~(k)(1)~~ Unless directed to do so by court order, the board shall not, for a period of five (5) years following revocation, reinstate the license of a school or allow an owner of any such school to seek licensure of another school.

(2) Upon expiration of licensure status, the school must apply for an original license in accordance with the provisions of this subchapter.

~~(k)(l)(1)~~ Upon closure of a school located in Arkansas and licensed under any provision of this subchapter, whether for license revocation or any other cause, all student ~~academic and~~ financial aid records for the previous ~~ten (10)~~ three (3) years ~~of the school's operation~~ and all student transcripts regardless of age must be delivered to the director.

(2) Delivered records shall be arranged in alphabetical order and stored in boxes or in data format at the discretion of the board.

(3) The director shall be responsible for the proper security, storage, and maintenance of all such records.

~~(l) No school shall incorporate the name "university" unless it is seeking to offer both undergraduate and graduate programs through the institutional and program certification of the Department of Higher Education."~~

AND

Delete SECTION 13 and substitute the following:

“SECTION 13. Arkansas Code § 6-51-609 is amended by adding additional subsections to read as follows:

(f)(1)(A) The board may issue a nonrenewable temporary license pending the results of the criminal background check.

(B) The temporary license shall be valid for no more than six (6) months.

(2) Upon receipt of information from the Identification Bureau of the Department of Arkansas State Police that the person holding the temporary license has been convicted of a felony, Class A misdemeanor, or a crime involving an act of violence for which a pardon has not been granted, the board shall immediately revoke the temporary license.

(g)(1) The provisions of subsection (d)(3) of this section may be waived by the board upon the request of:

(A) An affected applicant for licensure; or

(B) The person holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

(A) The age at which the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat.

(h)(1) Any information received by the board from the Identification Bureau pursuant to this section shall not be available for examination except by:

(A) The affected applicant for licensure or his or her authorized representative; or

(B) The person whose license is subject to revocation or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Department of Arkansas State Police.

(i) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

(j) Rights of privilege and confidentiality established in this section shall not extend to any document created for purposes other than the background check

required by this section.

(k) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section.”

AND

Delete SECTION 15 and substitute the following:

“SECTION 15. Arkansas Code § 6-51-617(c) is amended to read as follows:

(c)(1) In resolving disputes, the arbitration panel shall:

~~(1) Conduct the arbitration proceeding within fifteen (15) days after the request, unless both of the parties agree to an extension of time;~~

~~(2) Be be exempt from judicial redress for failure to exercise skill or care in the performance of its duties;.~~

(2) The arbitration proceeding, confirmation, or vacation of an award, and appeal shall be conducted pursuant to the Uniform Arbitration Act, §§ 16-108-201 et seq.

~~(3) Hear and receive evidence and examine witnesses at the arbitration proceeding before rendering a decision. In conducting the arbitration proceeding, the panel shall not be limited by the rules of evidence in receiving testimony relevant to the dispute;~~

~~(4) Have the power to issue subpoenas for evidence and witnesses in order to resolve the dispute before the panel; and~~

~~(5) Render a binding decision upon the parties by a vote of not less than a simple majority.”~~

/s/ Sarah Agee

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Agee, **HOUSE BILL NO. 2389** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 2389

Amend **HOUSE BILL NO. 2389** as engrossed, 03/13/03:

Page 2, line 8 add the following new subdivision:

“(3)(A) In addition to all other court costs provided by law, there shall be levied and collected a court cost of five dollars (\$5.00) from each defendant upon each conviction, each plea of guilty or nolo contendere, or each forfeiture of bond for all misdemeanors, traffic offenses which are misdemeanors or violations under state law or local ordinance, or other violations of state law or local ordinance in city court.

(B) The costs set forth in this subdivision (3) shall be imposed at the conclusion of each criminal case enumerated in subdivision (3)(A) of this section that does not end in an acquittal, dismissal, or, with the consent of the prosecution, a nolle prosequi.

(C) The costs shall be imposed at the conclusion of cases involving a suspended or probated sentence even though that sentence may be expunged or otherwise removed from the defendant's record.

(D) No municipality or town shall be liable for the payment of the costs taxed under this section in any instance where they are not collected.

(E) Any money collected under this subdivision (3) shall be remitted on or before the tenth day of the month following the month of collection to the State Treasury to the credit of the State Central Services Fund Account, there to be put into a separate account entitled "Public Defender Attorney Fees" to be used solely to defray costs to the Arkansas Public Defender Commission for representing indigent defendants in city court cases.”

/s/ Sarah Agee

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative Roebuck, **HOUSE BILL NO. 2399** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 2399

Amend **HOUSE BILL NO. 2399** as originally introduced:

Page 2, delete lines 8 through 11, and substitute the following:

“Security Identification Area, or at an aircraft ramp; or

(C) Planning and accepting flight documents at the ticket counter or gate.”

AND

Page 2, line 32, delete “and is in” and substitute “and who is a flight crew member in”

/s/ Tommy Roebuck

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Sullivan, **HOUSE BILL NO. 2727** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 2727

Amend **HOUSE BILL NO. 2727** as engrossed, H3/18/03:

Page 1, line 33, delete “(a)” and substitute “(a)(1)”

AND

Page 2, delete lines 1 through 9, and substitute the following:

“regulations of the director.

(3) The Arkansas Cattlemen’s Foundation may periodically submit a newly-designed license plate for approval and issue by the director of the department, with not more than one (1) new license plate design issued per calendar year.

(b)(1) Upon approval of the design by the Director of the Department of Finance and Administration, the Arkansas Cattlemen’s Foundation 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 each newly designed license plate.

(2) This fee shall be deposited to 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.

(3) The fee shall not be considered or credited to the division as direct revenues.”

AND

Page 2, delete lines 14 through 36, and Page 3, delete lines 1 through 33, and substitute the following:

“27-15-3903. Application for special Arkansas Cattlemen’s Foundation license plate - Fee - Disposition of fee.

(a) Any motor vehicle owner may apply for and renew annually a special Arkansas Cattlemen’s Foundation license plate.

(b)(1) Upon payment of the fee required by law for registration of the motor vehicle, payment of twenty-five dollars (\$25.00) to cover the design use contribution, and payment of an additional handling and administrative fee of ten dollars (\$10.00) for the special Arkansas Cattlemen’s Foundation license plate, the Department of Finance and Administration shall issue to the vehicle owner a special Arkansas Cattlemen’s Foundation license plate that bears the approved design.

(2)(A) The handling and administrative fee of ten dollars (\$10.00) shall be deposited to the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration and shall be credited to the division as supplemental and in addition to all other funds as may be deposited for the benefit of the division.

(B) The handling and administrative fee shall not be considered or credited to the division as direct revenue.

(3) The design use contribution of twenty-five dollars (\$25.00) shall be remitted monthly to the Arkansas Cattlemen’s Foundation to be used for foundation purposes.”

AND

Page 3, line 35, delete “27-15-3906” and substitute “27-15-3904”

AND

Page 4, line 2, delete “27-15-3905” and substitute “27-15-3903”

AND

Page 4, delete lines 6 through 13, and substitute the following:

“(b)(1) A motor vehicle owner who was previously issued a plate with a Arkansas Cattlemen’s Foundation design authorized by this subchapter and who does not pay a design use contribution of twenty-five dollars (\$25.00) at a subsequent time of registration shall be issued a new plate that does not bear the

design, as otherwise provided by law."

AND

Page 4, line 19, delete "27-15-3907" and substitute "27-15-3905"

AND

Page 4, delete lines 24 through 28

AND

Page 4, line 30, delete "27-15-3909" and substitute "27-15-3906"

/s/ Scott Sullivan

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Penix, **HOUSE BILL NO. 1981** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 1981

Amend **HOUSE BILL NO. 1981** as engrossed, H3/14/03:

Page 1, line 30 delete "person" and substitute "passenger"

AND

Page 2, line 8 delete "(B)" and substitute "(B)(i)"

AND

Page 2, delete line 12 and substitute the following:

"community service.

(ii) If the court orders community service, the court shall clearly set forth in written findings the reasons for the order of community service;"

AND

Page 2, line 16 delete "(B)" and substitute "(B)(i)"

AND

Page 2, line 19, delete "and" and substitute "or"

AND

Page 2, delete line 20 and substitute the following:

"twenty (120) days of community service.

(ii) If the court orders community service, the court shall clearly set forth in written findings the reasons for the order of community service;"

AND

Page 2, line 25 delete "(B)" and substitute "(B)(i)"

AND

Page 2, delete line 29 and substitute the following:

"service and shall be guilty of a felony.

(ii) If the court orders community service, the court shall clearly set forth in written findings the reasons for the order of community service; and"

AND

Page 2, line 34 delete "(B)" and substitute "(B)(i)"

AND

Page 4, delete line 2 and substitute the following:

"service and shall be guilty of a felony.

(ii) If the court orders community service, the court shall clearly set forth in written findings the reasons for the order of community service."

/s/ Kevin Penix

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative Martin, **HOUSE BILL NO. 1589** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 1589

Amend **HOUSE BILL NO. 1589** as originally introduced:

Page 1, delete line 35 and substitute:

"first degree is a Class B felony if, for conduct which occurred within the five (5) years preceding the commission of the current offense, the:"

AND

Page 2, delete line 21 and substitute:

"second degree is a Class C felony if, for conduct which occurred within the five (5) years preceding the commission of the current offense, the:"

AND

Page 3, delete line 6 and substitute:

“third degree is a Class D felony if, for conduct which occurred within the five (5) years preceding the commission of the current offense, the:”

/s/ Jay Martin

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Norton, **HOUSE BILL NO. 2615** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 2615

Amend **HOUSE BILL NO. 2615** as originally introduced:

Add Representatives S. Prater, Lamoureux, Dickinson, Rosenbaum, Hutchinson, and Parks as cosponsors of the bill

/s/ James Norton

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Napper, **HOUSE BILL NO. 2188** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 2188

Amend **HOUSE BILL NO. 2188** as originally introduced:

Delete everything after the enacting clause and substitute the following:

“SECTION 1. Arkansas Code Title 5, Chapter 62, Subchapter 1 is amended to add additional sections to read as follows:

5-62-102. Aggravated cruelty to animals.

(a) A person commits the offense of aggravated cruelty to animals if he or she purposely tortures or starves any companion animal.

(b) Aggravated cruelty to animals is a Class D felony.

(c) Nothing in this section shall be construed as prohibiting conduct that is otherwise authorized by law or legal privilege, including, but not limited to:

(1) Protecting livestock and poultry under § 20-19-102; and

(2) Engaging in practices lawful under the Arkansas Veterinary Medical Practice Act, § 17-101-101 et seq.

(d) Nothing in this section shall be construed as prohibiting any person who knows or has reasonable cause to know that a stray or abandoned companion animal poses a threat to a person, companion animal, or domesticated animal as defined in § 20-19-102(a)(1) from taking protective action by killing the animal that poses the threat.

(e)(1) For purposes of this section, "companion animal" means any animal possessed by, cared for by, or in the custody of a person for the primary purpose of providing companionship or property protection, rather than for agricultural or business purposes.

(2) "Companion animal" includes any dog or cat whether or not the dog or cat is possessed by, cared for by, or in the custody of any person.

5-62-103. Mental health evaluation and counseling.

(a) In addition to all other penalties provided by law, if a person enters a plea of guilty or nolo contendere to, or is found guilty of, a violation of §§ 5-62-101 or 5-62-102, the court may order the defendant to undergo a psychiatric or psychological evaluation and psychiatric or psychological counseling or treatment.

(b) The cost of any evaluation, counseling, or treatment may be ordered paid by the defendant up to the jurisdictional limit of the court.

5-62-104. Disposition of abused animals.

(a) Upon the charge or arrest of any person for violating the provisions of §§ 5-62-101 or 5-62-102, any law enforcement officer, animal control officer, or agent of

a society incorporated for the prevention of cruelty to animals may seize and take custody of all animals in the possession of the arrested person.

(b) If the person pleads guilty or nolo contendere to, or is found guilty of, violating §§ 5-62-101 or 5-62-102, the court may assign custody of the abused animal or animals to a society that is incorporated for the prevention of cruelty to animals.

5-62-105. Animal Research Excluded.

The provisions of §§ 5-62-101 through 5-62-104 do not apply to research and education activities conducted in accordance with the Animal Welfare Act, 7 U.S.C. § 2131 et seq. as it existed on January 1, 2003, or the Health Research Extension Act of 1985, Pub. L. No. 99-158 as it existed on January 1, 2003, or to research and education activities conducted at facilities that have in place institutional policies that provide assurance that the activities are conducted pursuant to the Animal Welfare Act or Health Research Extension Act of 1985.

SECTION 2. Arkansas Code § 20-19-102(a)(1) is amended to read as follows:

(a)(1) "Domesticated animals" includes, but is not limited to, sheep, goats, horses, cattle, swine, and poultry.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that adequate investigative, enforcement, and intervention resources will not be available for the identification of serious offenders and appropriate rehabilitative efforts unless the General Assembly recognizes, by the upgrading of extreme crimes against animals to the status of a felony, the seriousness of the threat against society posed by such violators. 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."

/s/ Steve Napper

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Napper, **HOUSE BILL NO. 2358** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 2358

Amend **HOUSE BILL NO. 2358** as originally introduced:

Page 4, delete lines 26 and 27 and substitute the following:

“(9) “Personal insurance” means private passenger automobile, homeowners, motorcycle, mobile-homeowners, non-commercial dwelling fire insurance, non-commercial farm owners, boat, personal watercraft, snowmobile, and recreational vehicle policies.”

/s/ Steve Napper

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Medley, **HOUSE BILL NO. 2820** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 2820

Amend **HOUSE BILL NO. 2820** as originally introduced:

Page 1, line 11, delete "ACCESS TO COMMUNITY-BASED CARE;" and substitute "ACCESS TO ELDERCHOICES, A COMMUNITY-BASED CARE PROGRAM;"

AND

Page 1, line 18, delete "COMMUNITY-BASED CARE;" and substitute "ELDERCHOICES, A COMMUNITY-BASED CARE PROGRAM;"

AND

Page 1, line 28, delete "through a home" and substitute "through the Elderchoices care program, a home"

AND

Page 1, line 32, delete "age restrictions."

AND

Page 1, line 33, delete "allowances that" and substitute "allowances for Level 1 and Level 2 ElderChoices applications that "

AND

Page 2, line 1, delete "the Medicaid" and substitute "the Elderchoices Medicaid"

AND

Page 2, delete lines 4 through 7

AND

Page 2, line 8, delete "(3)" and substitute "(2)"

AND

Page 2, delete line 13 and substitute the following:

"2003, and provide services according to funding availability."

/s/ Jim Medley

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Napper, **HOUSE BILL NO. 2750** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 2750

Amend **HOUSE BILL NO. 2750** as originally introduced:

Delete everything after the enactment clause and substitute the following:

"SECTION 1. Effective January 1, 2004, Arkansas Code Title 23, Chapter 81, is amended to add a new subchapter to read as follows:

23-81-601. Title.

This subchapter may be cited as the "Viatical Settlements Act".

23-81-602. Definitions.

As used in this subchapter:

(1)(A) "Advertising" means any written, electronic, or printed communication that is directly or indirectly published, disseminated, circulated, or placed before the public for the purpose of creating an interest in or inducing a person to sell a life insurance policy under a viatical settlement contract.

(B) "Advertising" includes any communication by means of film strip, motion picture, or video, and any message recorded by telephone or transmitted on radio, television, the Internet, or similar communications media;

(2) "Business of viatical settlements" means an activity involved in the offering, soliciting, negotiating, procuring, effectuating, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning,

pledging, hypothecating or in any other manner of viatical settlement contract or purchase agreement;

(3) "Chronically ill" means:

(A) Being unable to perform at least two (2) activities of daily living, such as eating, toileting, transferring, bathing, dressing, or continence;

(B) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or

(C) Having a level of disability similar to that described in subdivision (3)(A) of this subsection, as determined by the Secretary of Health and Human Services;

(4)(A) "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or any entity that has a direct ownership in a policy or certificate that is the subject of a viatical settlement contract:

(i) Whose principal activity related to the transaction is providing funds to effect the viatical settlement or purchase of one or more viaticated policies; and

(ii) Who has an agreement in writing with one or more licensed viatical settlement providers to finance the acquisition of a viatical settlement contract.

(B) "Financing entity" does not include a nonaccredited investor or viatical settlement purchaser;

(5) "Fraudulent viatical settlement act" means:

(A) Acts or omissions committed by any person who, knowingly or with the intent to defraud and for the purpose of depriving another of property or for pecuniary gain, commits or permits its employees or its agents to engage in acts including:

(i) Presenting, causing to be presented, preparing, or concealing false material information with knowledge or belief that the information will be presented to or by a viatical settlement provider, viatical settlement broker, viatical settlement purchaser, financing entity, insurer, insurance producer, or any other person, as part of, in support of, or concerning a fact material to one (1) or more of the following:

(a) An application for the issuance of a viatical settlement contract or insurance policy;

(b) The underwriting of a viatical settlement contract or insurance policy;

(c) A claim for payment or benefit under a viatical

settlement contract or insurance policy;

(d) Premiums paid on an insurance policy;

(e) Payments and changes in ownership or beneficiary made under the terms of a viatical settlement contract or insurance policy;

(f) The reinstatement or conversion of an insurance policy;

(g) In the solicitation, offer, effectuation, or sale of a viatical settlement contract or insurance policy;

(h) The issuance of written evidence of viatical settlement contract or insurance policy; or

(i) A financing transaction; or

(ii) Employing any device, scheme, or artifice to defraud related to viaticated policies;

(B) In the furtherance of a fraud or to prevent the detection of a fraud, committing or permitting its employees or its agents to:

(i) Remove, conceal, alter, destroy, or sequester from the Insurance Commissioner the assets or records of a licensee or other person engaged in the business of viatical settlements;

(ii) Misrepresent or conceal the financial condition of a licensee, financing entity, insurer, or other person;

(iii) Transact the business of viatical settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of viatical settlements; or

(iv) File with the commissioner or the chief insurance regulatory official of another jurisdiction, a document containing false information or otherwise conceals information about a material fact from the commissioner;

(C) Embezzlement, theft, misappropriation, or conversion of moneys, funds, premiums, credits, or other property of a viatical settlement provider, insurer, insured, viator, insurance policyowner, or any other person engaged in the business of viatical settlements or insurance;

(D)(i) Recklessly entering into, brokering, or otherwise dealing in a viatical settlement contract, the subject of which is a life insurance policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, where the viator or the viator's agent intended to defraud the policy's issuer.

(ii) For purposes of this subdivision (5)(D), "recklessly" means engaging in the conduct in conscious and clearly unjustifiable disregard of a

substantial likelihood of the existence of the relevant facts or risks, the disregard of which involves a gross deviation from acceptable standards of conduct; or

(E) Attempting to commit, assisting, aiding, or abetting in the commission of, or conspiracy to commit the acts or omissions specified in subdivision (5) of this section;

(6) "Person" means a natural person or a legal entity including an individual, partnership, limited liability company, association, trust, or corporation;

(7) "Policy" means an individual or group policy, group certificate, contract, or arrangement of life insurance affecting the rights of a resident of this state or bearing a reasonable relation to this state, regardless of whether delivered or issued for delivery in this state;

(8)(A) "Related provider trust" means a titling trust or other trust established by a licensed viatical settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction.

(B) The trust shall have a written agreement with the licensed viatical settlement provider under which:

(i) The provider is responsible for ensuring compliance with all statutory and regulatory requirements; and

(ii) The trust agrees to make all records and files related to viatical settlement transactions available to the commissioner as if those records and files were maintained directly by the licensed viatical settlement provider;

(9) "Special purpose entity" means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide either direct or indirect access to institutional capital markets for a financing entity or licensed viatical settlement provider;

(10) "Terminally ill" means having an illness or sickness that is reasonably expected to result in death in twenty-four (24) months or fewer;

(11)(A) "Viatical settlement broker" means a person that on behalf of a viator and for a fee, commission, or other valuable consideration, offers or attempts to negotiate viatical settlement contracts between a viator and one (1) or more viatical settlement providers.

(B) Notwithstanding the manner in which the viatical settlement broker is compensated, a viatical settlement broker is deemed to represent only the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator.

(C) "Viatical settlement broker" does not include an attorney, certified public accountant, or a financial planner accredited by a nationally recognized

accreditation agency, who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser;

(12)(A) "Viatical settlement contract" means a written agreement establishing the terms under which compensation or anything of value will be paid, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the insurance policy or certificate of insurance.

(B) "Viatical settlement contract" includes a contract for a loan or other financing transaction with a viator under subdivision (12)(A) of this section, other than a loan by a life insurance company under the terms of the life insurance contract or a loan secured by the cash value of a policy.

(C) "Viatical settlement contract" includes an agreement with a viator to transfer ownership or change the beneficiary designation at a later date, regardless of the date that compensation is paid to the viator;

(13)(A) "Viatical settlement provider" means a person, other than a viator, that enters into or effectuates a viatical settlement contract.

(B) "Viatical settlement provider" does not include:

(i) A bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan;

(ii) The issuer of a life insurance policy providing accelerated benefits under State Insurance Department Rule 60, "Accelerated Benefits In Life Insurance Policies," and under the contract;

(iii) An authorized or eligible insurer that provides stop loss coverage to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust;

(iv) A natural person who enters into or effectuates no more than one (1) agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit;

(v) A financing entity;

(vi) A special purpose entity;

(vii) A related provider trust;

(viii) A viatical settlement purchaser; or

(ix) An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended, who purchases a viaticated policy from a

viatical settlement provider:

(14)(A) "Viatical settlement purchaser" means a person who, for the purpose of deriving an economic benefit:

(i) Gives a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy;

(ii) Owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract; or

(iii) Is the beneficiary of a life insurance policy that has been or will be the subject of a viatical settlement contract.

(B) "Viatical settlement purchaser" does not include:

(i) A licensee under this subchapter;

(ii) An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended;

(iii) A financing entity;

(iv) A special purpose entity; or

(v) A related provider trust;

(15) "Viaticated policy" means a life insurance policy or certificate that has been acquired by a viatical settlement provider under a viatical settlement contract; and

(16)(A) "Viator" means the owner of a life insurance policy or a certificate holder under a group policy who enters or seeks to enter into a viatical settlement contract.

(B) "Viator" does not include:

(i) A licensee under this subchapter;

(ii) An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended;

(iii) A financing entity;

(iv) A special purpose entity; or

(v) A related provider trust.

23-81-603. License requirements.

(a)(1) A person who is not licensed by the State Insurance Department to sell life or disability policies in Arkansas shall not operate as a viatical settlement provider or viatical settlement broker unless the person obtains a license from the Insurance Commissioner of the state of residence of the viator.

(2)(A) If there is more than one (1) viator on a single policy and the viators are residents of different states, the viatical settlement shall be governed by

the law of the state in which the viator having the largest percentage of ownership resides.

(B) If the viators hold equal ownership, the viatical settlement shall be governed by the law of the state of residence of one (1) viator agreed upon in writing by all viators.

(b) Application for a viatical settlement provider or viatical settlement broker license shall be made to the Insurance Commissioner by the applicant on a form prescribed by the commissioner, and these applications shall be accompanied by the fees specified in State Insurance Department Rule 57, "Insurance Department Administrative and Regulatory Fees."

(c)(1) Licenses may be renewed from year to year on the anniversary date upon payment of the annual renewal fees specified in Arkansas Insurance Department Rule 57, "Insurance Department Administrative and Regulatory Fees."

(2) Failure to pay the fees by the renewal date results in expiration of the license.

(d)(1) The applicant shall provide information on forms required by the commissioner.

(2) The commissioner may, at any time, require the applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees.

(3) The commissioner may refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member who may materially influence the applicant's conduct meets the standards under this subchapter.

(e)(1) A license issued under this subchapter to a legal entity authorizes all partners, officers, members, and designated employees to act as viatical settlement providers or viatical settlement brokers.

(2) Each person under subdivision (e)(1) of this section who is licensed as a viatical settlement provider or viatical settlement broker shall be named in the application and any supplements to the application.

(f) Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and issue a license if the commissioner finds that the applicant:

(1) If a viatical settlement provider, has provided a detailed plan of operation;

(2) Is competent and trustworthy and intends to act in good faith in the capacity required by the license for which the applicant has applied;

(3) Has a good business reputation and has had experience, training, or education to be qualified in the business for which the license is applied;

(4) If a legal entity, provides a certificate of good standing from the state of its domicile; and

(5) If a viatical settlement provider or viatical settlement broker, has provided an anti-fraud plan that meets the requirements of § 23-81-612(g).

(g) The commissioner shall not issue a license to a nonresident applicant, unless a written designation of an agent for service of process is filed and maintained with the commissioner or unless the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner.

(h) Each viatical settlement provider or viatical settlement broker shall provide to the commissioner new or revised information about officers, ten percent (10%) or more stockholders, partners, directors, members, or designated employees within thirty (30) days of the change.

23-81-604. License revocation and denial.

(a) The Insurance Commissioner may suspend, revoke, or refuse to issue or renew the license of a viatical settlement provider or viatical settlement broker if the commissioner finds that:

(1) The applicant or licensee made a material misrepresentation in the application for the license;

(2) The licensee or any officer, partner, member, or key management personnel has pleaded guilty or nolo contendere to, or is found guilty of, fraudulent or dishonest practices and is subject to a final administrative action or is otherwise shown to be untrustworthy or incompetent;

(3) The viatical settlement provider demonstrates a pattern of unreasonable payments to viators;

(4) The licensee or any officer, partner, member, or key management personnel has been found guilty of, or has pleaded guilty or nolo contendere to, a felony, or to a misdemeanor involving fraud or moral turpitude, regardless of whether a judgment of conviction has been entered by the court;

(5) The viatical settlement provider has entered into any viatical settlement contract that has not been approved under this subchapter;

(6) The viatical settlement provider has failed to honor contractual obligations set out in a viatical settlement contract;

(7) The licensee no longer meets the requirements for initial licensure;

(8) The viatical settlement provider has assigned, transferred, or pledged a viaticated policy to:

(A) A person other than a viatical settlement provider licensed in this state;

(B) A viatical settlement purchaser;

(C) An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended;

(D) A financing entity;

(E) A special purpose entity; or

(F) A related provider trust; or

(9) The licensee or any officer, partner, member, or key management personnel has violated any provision of this subchapter.

(b) If the commissioner denies a license application or suspends, revokes, or refuses to renew the license of a viatical settlement provider or viatical settlement broker, the commissioner shall conduct a hearing under the Arkansas Administrative Procedure Act.

23-81-605. Approval of viatical settlement contracts and disclosure statements.

(a) A person shall not use a viatical settlement contract form or provide to a viator a disclosure statement form in this state unless the form has been filed with and approved by the Insurance Commissioner.

(b)(1) The commissioner shall refuse to approve a viatical settlement contract form or disclosure statement form if the commissioner determines that the form contains provisions that are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator.

(2) The commissioner may, by rule or regulation, require the submission of advertising material related to the sale of viatical settlement contracts.

23-81-606. Reporting requirements and privacy.

(a) Each licensee shall file with the Insurance Commissioner on or before March 1 of each year an annual statement containing information as the commissioner prescribes by regulation.

(b) Except as otherwise allowed or required by law, no viatical settlement provider, viatical settlement broker, insurance company, insurance producer, information bureau, rating agency or company, or any other person with actual knowledge of an insured's identity, shall disclose to any other person an insured's identity as an insured, or the insured's financial or medical information, unless the disclosure:

(1) Is necessary to effect a viatical settlement between the viator and

a viatical settlement provider, and the viator and insured have provided prior written consent to the disclosure;

(2) Is provided in response to an investigation or examination by the commissioner or any other governmental officer or agency under § 23-81-612(c);

(3) Is a term of or condition to the transfer of a policy by one (1) viatical settlement provider to another viatical settlement provider;

(4) Is necessary to permit a financing entity, related provider trust, or special purpose entity to finance the purchase of policies by a viatical settlement provider, and the viator and insured have provided prior written consent to the disclosure;

(5) Is necessary to allow the viatical settlement provider or viatical settlement broker or their authorized representatives to make contacts for the purpose of determining health status; or

(6) Is required to purchase stop loss coverage.

23-81-607. Examination or investigations.

(a) Authority, scope, and scheduling of examinations.

(1) The Insurance Commissioner may conduct an examination under this subchapter of a licensee as often as the commissioner in his or her sole discretion deems appropriate.

(2) For purposes of completing an examination of a licensee under this subchapter, the commissioner may examine or investigate any person, or the business of any person if necessary or material, in the sole discretion of the commissioner to complete the examination of the licensee.

(3) In lieu of an examination under this subchapter of any foreign or alien licensee licensed in this state, the commissioner may accept an examination report on the licensee as prepared by the commissioner for the licensee's state of domicile or port-of-entry state.

(b) Record retention requirements.

(1) A person required to be licensed by this subchapter shall for five (5) years retain copies of any:

(A) Proposed, offered, or executed contract, purchase agreement, underwriting document, policy form, and application from the date of the proposal, offer, or execution of the contract or purchase agreement, whichever is later;

(B) Check, draft, or other evidence and documentation related to the payment, transfer, deposit, or release of funds from the date of the transaction; and

(C) Any other record and documents related to the requirements of this subchapter.

(2) This section does not relieve a person of the obligation to produce these documents to the commissioner after the retention period has expired if the person has retained the documents.

(3) Records required to be retained by this section must be legible and complete and may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record.

(c) Conduct of examinations.

(1)(A) Upon determining that an examination should be conducted, the commissioner shall issue an examination warrant appointing one or more examiners to perform the examination and instructing them as to the scope of the examination.

(B) In conducting the examination, the examiner shall observe those guidelines and procedures in the Examiners' Handbook adopted by the National Association of Insurance Commissioners.

(C) The commissioner may also employ other guidelines or procedures as the commissioner may deem appropriate.

(2)(A) Each licensee or person from whom information is sought, its officers, directors, and agents shall provide to the examiners timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents, assets, and computer or other recordings relating to the property, assets, business, and affairs of the licensee being examined.

(B) The officers, directors, employees, and agents of the licensee or person shall facilitate the examination and aid in the examination to the extent that it is within their power to do so.

(C) The refusal of a licensee, by its officers, directors, employees, or agents to submit to examination or to comply with any reasonable written request of the commissioner shall be grounds for suspension, refusal, or nonrenewal of any license or authority held by the licensee to engage in the viatical settlement business or other business subject to the commissioner's jurisdiction.

(D) Any proceedings for the suspension, revocation, or refusal to issue or renew any license or authority shall be conducted under the Arkansas Administrative Procedure Act.

(3)(A) The commissioner shall have the power to issue subpoenas, to administer oaths, and to examine under oath any person as to any matter pertinent to the examination.

(B) Upon the failure or refusal of a person to obey a subpoena,

the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence.

(C) The failure to obey the court order shall be punishable as contempt of court.

(4) When making an examination under this subchapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be paid by the licensee that is the subject of the examination.

(5)(A) This subchapter does not limit the commissioner's authority to terminate or suspend an examination in order to pursue other legal or regulatory action under the insurance laws of this state.

(B) Findings of fact and conclusions made as the result of any examination shall be prima facie evidence in any legal or regulatory action.

(6) This subchapter does not limit the commissioner's authority to use or to make public any final or preliminary examination report, any examiner or licensee workpapers or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action which the commissioner may deem appropriate.

(d) Examination reports.

(1) Examination reports shall be comprised of only facts appearing upon the books, records, or other documents of the licensee, its agents or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs, and those conclusions and recommendations as the examiners find reasonably warranted from the facts.

(2)(A) No later than sixty (60) days following completion of the examination, the examiner in charge shall file with the Insurance Commissioner a verified written report of examination under oath.

(B) Upon receipt of the verified report, the commissioner shall transmit the report to the examinee, with a notice affording the examinee a reasonable opportunity of not more than thirty (30) days from the date the commissioner causes the report to be transmitted to make a written submission or rebuttal with respect to any matters contained in the examination report.

(3) If the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate any proceedings or actions provided by law.

(e) Confidentiality of examination information.

(1) Names and individual identification data for all viators shall be considered private and confidential information and shall not be disclosed by the Insurance Commissioner, unless required by law.

(2)(A)(i) Except as otherwise provided in this subchapter or by the law of another state or jurisdiction that is substantially similar to this subchapter, all examination reports, working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this subchapter, or in the course of analysis or investigation by the commissioner of the financial condition or market conduct of a licensee, shall be confidential and privileged.

(ii) Information under subdivision (e)(2)(A)(i) of this section shall not be subject to disclosure under the Arkansas Freedom of Information Act of 1967 or §§ 25-15-101 through 25-15-109, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

(B) The commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(3) Documents, materials, or other information, including all working papers and copies thereof, in the possession or control of the National Association of Insurance Commissioners and its affiliates and subsidiaries shall be confidential and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action if they are:

(A) Created, produced, or obtained by or disclosed to the association and its affiliates or subsidiaries in the course of assisting an examination made under this subchapter, or assisting a commissioner in the analysis or investigation of the financial condition or market conduct of a licensee; or

(B) Disclosed to the association and its affiliates or subsidiaries under subsection (e)(4) of this section by a commissioner.

(4) Neither the commissioner nor any person that received the documents, material, or other information under this section while acting under the authority of the commissioner, including the National Association of Insurance Commissioners and its affiliates and subsidiaries, shall be permitted to testify in any private civil action concerning any confidential documents, materials, or information subject to subdivision (e)(1) of this section.

(5) In order to assist in the performance of the commissioner's duties, the commissioner:

(A) May share documents, materials, or other information,

including the confidential and privileged documents, materials, or information subject to subdivision (e)(1) of this section; with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, if the recipient of the information agrees to maintain the confidentiality and privileged status of the document, material, communication, or other information;

(B)(i) May receive documents, materials, communications, or information, including otherwise confidential and privileged documents, materials, or information from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions.

(ii) The commissioner shall maintain as confidential or privileged any document, material, or information received with notice or with the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(C) May enter into agreements governing, sharing, and use of information consistent with this subsection (e).

(6) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subdivision (e)(4) of this section.

(7) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection (e) shall be available and enforced in any proceeding in, and in any court of, this state.

(8) This subchapter does not prohibit the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the commissioner of any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time or to the National Association of Insurance Commissioners, if the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this subchapter.

(f) Conflict of interest.

(1)(A) An examiner may not be appointed by the commissioner if the examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination under this subchapter.

(B) However, this section does not automatically preclude an examiner from being:

(i) A viator;

(ii) An insured in a viaticated insurance policy; or

(iii) A beneficiary in an insurance policy that is proposed to be viaticated.

(2) Notwithstanding subdivision (f)(1) of this section, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though these persons may from time to time be similarly employed or retained by persons subject to examination under this subchapter.

(g) Cost of examinations.

Each person or organization examined under this subchapter shall pay to the State Insurance Department those expenses and costs authorized under § 23-61-206.

(h) Immunity from liability.

(1) No cause of action shall arise nor shall any liability be imposed against the commissioner, the commissioner's authorized representative, or any examiner appointed by the commissioner for any statement made or conduct performed in good faith while implementing this subchapter.

(2)(A) No cause of action shall arise, nor shall any liability be imposed against any person for communicating or delivering information or data to the commissioner or the commissioner's authorized representative, or appointed examiner under an examination made under this subchapter, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.

(B) Subsection (h)(2) of this section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person identified in subdivisions (h)(1) and (h)(2)(A) of this section.

(3)(A) A person identified in subdivisions (h)(1) or (h)(2) of this section shall be entitled to an award of attorney's fees and costs if he or she is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of the implementation of this subchapter and the party bringing the action was not substantially justified in doing so.

(B) For purposes of this subdivision (h)(3), a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

(i)(1) Investigative authority of the commissioner.

(2) The commissioner may investigate suspected fraudulent viatical settlement acts and persons engaged in the business of viatical settlements.

23-81-608. Disclosure.

(a)(1) With each application for a viatical settlement, a viatical settlement provider or viatical settlement broker shall provide the viator with a minimum of the disclosures under subdivision (a)(2) of this section no later than the time the application for the viatical settlement contract is signed by all parties.

(2) The disclosures shall be provided in a separate document that is signed by the viator and the viatical settlement provider or viatical settlement broker, and shall inform the viator that:

(A) There are possible alternatives to viatical settlement contracts, including any accelerated death benefits or policy loans offered under the viator's life insurance policy;

(B) Some or all of the proceeds of the viatical settlement may be taxable under federal income tax and state franchise and income taxes, and that the viator should seek assistance from a professional tax advisor;

(C) Proceeds of the viatical settlement could be subject to the claims of creditors;

(D) Receipt of the proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other government benefits or entitlements, and that the viator should obtain advice from the appropriate government agencies;

(E)(i) The viator has the right to rescind a viatical settlement contract for fifteen (15) calendar days after the receipt of the viatical settlement proceeds by the viator, as provided in § 23-81-609(c).

(ii) If the insured dies during the rescission period, the settlement contract shall be deemed to have been rescinded, subject to repayment of all viatical settlement proceeds and any premiums, loans, and loan interest to the viatical settlement provider or purchaser;

(F) Funds will be sent to the viator within three (3) business days after the viatical settlement provider has received the insurer or group administrator's acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated;

(G) Entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate, to be forfeited by the viator and that the viator should seek assistance from a financial adviser;

(H)(i) Disclosure to a viator shall include distribution of a

brochure describing the process of viatical settlements.

(ii) The National Association of Insurance Commissioners' form for the brochure shall be used unless one is developed by the commissioner;

(l) The disclosure document shall contain the following language: "All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."; and

(J)(i) The insured may be contacted by either the viatical settlement provider or broker or its authorized representative for the purpose of determining the insured's health status.

(ii) This contact is limited to once every three (3) months if the insured has a life expectancy of greater than one (1) year, and no more than once per month if the insured has a life expectancy of one (1) year or less.

(b)(1) A viatical settlement provider shall provide the viator with a minimum of the disclosures in subdivision (b)(2) no later than the date the viatical settlement contract is signed by all parties.

(2) The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and the viatical settlement provider or viatical settlement broker, and shall provide the following information:

(A) The affiliation, if any, between the viatical settlement provider and the issuer of the insurance policy to be viaticated;

(B) The name, address, and telephone number of the viatical settlement provider;

(C) If an insurance policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the viator shall be informed of the possible loss of coverage on the other lives under the policy and shall be advised to consult with his or her insurance producer or the insurer issuing the policy for advice on the proposed viatical settlement;

(D)(i) The dollar amount of the current death benefit payable to the viatical settlement provider under the policy or certificate.

(ii) If known, the viatical settlement provider shall also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the viatical settlement provider's interest in those benefits; and

(E) The name, business address, and telephone number of the independent third party escrow agent, and the fact that the viator or owner may inspect or receive copies of the relevant escrow, trust agreements, or documents.

(c) If the provider transfers ownership or changes the beneficiary of the insurance policy, the provider shall communicate the change in ownership or beneficiary to the insured within twenty (20) days after the change.

23-81-609. General rules.

(a)(1) If the viator is the insured, a viatical settlement provider entering into a viatical settlement contract shall first obtain:

(A) A written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract; and

(B) A document in which the insured consents to the release of his or her medical records to a viatical settlement provider, viatical settlement broker, and the insurance company that issued the life insurance policy covering the life of the insured.

(2)(A) Within twenty (20) days after a viator executes documents necessary to transfer any rights under an insurance policy or within twenty (20) days of entering any agreement, option, promise, or any other form of understanding, expressed or implied, to viaticate the policy, the viatical settlement provider shall give written notice to the insurer that issued that insurance policy that the policy has or will become a viaticated policy.

(B) The notice shall be accompanied by the documents required by subdivision (a)(3) of this section.

(3)(A) The viatical provider shall deliver a copy of the medical release required under subdivision (a)(1)(B) of this section, a copy of the viator's application for the viatical settlement contract, the notice required under subdivision (a)(2) of this section, and a request for verification of coverage to the insurer that issued the life policy that is the subject of the viatical transaction.

(B) The National Association of Insurance Commissioners' form for verification shall be used unless the commissioner adopts different standards for verification.

(4) The insurer shall respond to a request for verification of coverage

submitted on an approved form by a viatical settlement provider within thirty (30) calendar days of the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the insurance contract.

(5)(A) No later than the time of execution of the viatical settlement contract, the viatical settlement provider shall obtain a witnessed document in which the viator:

(i) Consents to the viatical settlement contract;

(ii) Represents that he or she has a complete understanding of the viatical settlement contract;

(iii) Represents that he or she has a complete understanding of the benefits of the life insurance policy; and

(iv) Acknowledges that he or she is entering into the viatical settlement contract freely and voluntarily.

(B) If the insured has a terminal or chronic illness or condition, in addition to obtaining the information required under subdivision (5)(A) of this section, the viatical settlement provider shall obtain a witnessed document in which the viator acknowledges that the insured has a terminal or chronic illness and that the terminal or chronic illness or condition was diagnosed after the life insurance policy was issued.

(6) If a viatical settlement broker performs any of these activities required of the viatical settlement provider, the provider is deemed to have fulfilled the requirements of this section.

(b) Any medical information solicited or obtained by a licensee shall be subject to the applicable provisions of state law relating to confidentiality of medical information.

(c)(1) All viatical settlement contracts entered into in this state shall provide the viator with an unconditional right to rescind the contract for at least fifteen (15) calendar days from the receipt of the viatical settlement proceeds.

(2) If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment to the viatical settlement provider or purchaser of all viatical settlement proceeds, and any premiums, loans, and loan interest that have been paid by the viatical settlement provider or purchaser.

(d)(1) The viatical settlement provider shall instruct the viator to send the executed documents required to effect a change in ownership, assignment, or change in beneficiary directly to the independent escrow agent.

(2)(A) Within three (3) business days after the date the escrow agent

receives the document, or from the date the viatical settlement provider receives the documents, if the viator erroneously provides the documents directly to the provider, the provider shall pay or transfer the proceeds of the viatical settlement into an escrow or trust account maintained in a state or federally-chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

(B) Upon payment of the settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership, assignment, or change in beneficiary forms to the viatical settlement provider or to the related provider trust.

(C) Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment, or change in designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the viator.

(e) Failure to tender consideration to the viator for the viatical settlement contract within the time specified under § 23-81-608(a)(2)(f) renders the viatical settlement contract voidable by the viator for lack of consideration until the time consideration is tendered to and accepted by the viator.

(f)(1) Contacts with the insured for the purpose of determining the health status of the insured by the viatical settlement provider or viatical settlement broker after the viatical settlement has occurred:

(A) Shall only be made by the viatical settlement provider or broker licensed in this state or by its authorized representatives; and

(B) Shall be limited to once every three (3) months for insureds with a life expectancy of more than one (1) year, and to no more than once per month for insureds with a life expectancy of one (1) year or less.

(2) The provider or broker shall explain the procedure for these contacts at the time the viatical settlement contract is entered into.

(3) The limitations in subsection (f) of this section shall not apply to any contacts with an insured for reasons other than determining the insured's health status.

(4) Viatical settlement providers and viatical settlement brokers shall be responsible for the actions of their authorized representatives.

23-81-610. Prohibited practices.

(a) It is a violation of this subchapter for any person to enter into a viatical settlement contract within a two-year period commencing with the date of issuance of the insurance policy or certificate unless the viator certifies to the viatical settlement provider that one (1) or more of the following conditions have been met within the two-year period:

(1) The policy was issued upon the viator's exercise of conversion rights arising out of a group or individual policy, if the total of the time covered under the conversion policy plus the time covered under the prior policy is at least twenty-four (24) months.

(2) The time covered under a group policy shall be calculated without regard to any change in insurance carriers, if the coverage has been continuous and under the same group sponsorship;

(3) The viator is a charitable organization exempt from taxation under 26 U.S.C. § 501 (c)(3);

(4) The viator is not a natural person, but is a corporation, limited liability company, partnership, or similar entity;

(5) The viator submits independent evidence to the viatical settlement provider that one (1) or more of the following conditions have been met within the two-year period:

(A) The viator or insured is terminally or chronically ill;

(B) The viator's spouse dies;

(C) The viator divorces his or her spouse;

(D) The viator retires from full-time employment;

(E) The viator becomes physically or mentally disabled and a physician determines that the disability prevents the viator from maintaining full-time employment;

(F) The viator was the insured's employer at the time the policy or certificate was issued and the employment relationship terminated;

(G) A final order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor of the viator, adjudicating the viator bankrupt or insolvent, or approving a petition seeking reorganization of the viator or appointing a receiver, trustee, or liquidator to all or a substantial part of the viator's assets;

(H) The viator experiences a significant decrease in income that is unexpected and that impairs the viator's reasonable ability to pay the policy premium; or

(I) The viator or insured disposes of his or her ownership interests in a closely held corporation.

(b)(1) Copies of the independent evidence described in subdivision (d)(1) of this section and documents required by § 23-81-609(a) shall be submitted to the insurer when the viatical settlement provider submits a request to the insurer for verification of coverage.

(2) The copies shall be accompanied by a letter of attestation from the

viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider; and

(c) If the viatical settlement provider submits to the insurer a copy of the owner or insured's certification described in subdivision (a)(5) of this section when the provider submits a request to the insurer to transfer the policy or certificate to the viatical settlement provider, the copy shall be deemed to conclusively establish that the viatical settlement contract satisfies the requirements of this section and the insurer shall timely respond to the request.

23-81-611. Advertising for viatical settlements.

(a)(1) This section shall apply to any advertising of viatical settlement contracts, or related products or services intended for dissemination in this state, including Internet advertising viewed by persons located in this state.

(2) Where disclosure requirements are established under federal law or regulation, this section shall be interpreted to minimize or eliminate the conflict wherever possible.

(b)(1)(A) Every viatical settlement licensee shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its contracts, products, and services.

(B) A system of control shall include regular routine notification, at least once a year, to agents and others authorized by the viatical settlement licensee who disseminate advertisements of the requirements and procedures for approval prior to the use of any advertisements not furnished by the viatical settlement licensee.

(2) All advertisements under this subchapter, regardless of by whom they were written, created, designed, or presented, shall be the responsibility of the viatical settlement licensee, as well as the individual who created or presented the advertisement.

(c)(1) Advertisements shall be truthful and shall not mislead in fact or by implication.

(2) The form and content of an advertisement of a viatical settlement contract shall be sufficiently complete and clear so as to avoid deception.

(3)(A) The advertisement shall not have the capacity or tendency to mislead or deceive.

(B) Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(d)(1) The information required to be disclosed under this section shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

(2)(A) An advertisement shall not omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving viators as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax effect.

(B) The fact that the viatical settlement contract offered is made available for inspection before consummation of the sale, or an offer is made to refund the payment if the viator is not satisfied or that the viatical settlement contract includes a "free look" period that satisfies or exceeds legal requirements, does not remedy misleading statements.

(3) An advertisement shall not use the name or title of a life insurance company or a life insurance policy unless the advertisement has been approved by the insurer.

(4) An advertisement shall not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or is in any manner an incorrect or improper practice.

(5)(A) The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to any benefit or service unless true.

(B) An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.

(6)(A) Testimonials, appraisals, or analysis used in advertisements shall be genuine, shall represent the current opinion of the author, shall be applicable to any viatical settlement contract product or service advertised, and shall be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators as to the nature or scope of the testimonials, appraisals, analysis, or endorsement.

(B) In using testimonials, appraisals, or analysis, the viatical settlement licensee makes as its own all the statements contained therein, and the statements are subject to all the provisions of this section.

(C) If the individual making a testimonial, appraisal, analysis, or an endorsement has a financial interest in the viatical settlement provider or related entity as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be

prominently disclosed in the advertisement.

(D)(i) An advertisement shall not state or imply that a viatical settlement contract benefit or service has been approved or endorsed by a group of individuals, society, association, or other organization unless that is the fact and unless any relationship between an organization and the viatical settlement licensee is disclosed.

(ii) If the entity making the endorsement or testimonial is owned, controlled, or managed by the viatical settlement licensee, or receives any payment or other consideration from the viatical settlement licensee for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.

(E) When an endorsement refers to benefits received under a viatical settlement contract, all pertinent information shall be retained by the viatical settlement licensee for a period of five (5) years after its use.

(e)(1) An advertisement shall not contain statistical information unless it accurately reflects recent and relevant facts.

(2) The source of all statistics used in an advertisement shall be identified.

(f) An advertisement shall not disparage insurers, viatical settlement providers, viatical settlement brokers, insurance producers, policies, services, or methods of marketing.

(g)(1) The name of the viatical settlement licensee shall be clearly identified in all advertisements about the licensee or its viatical settlement contract, products or services, and if any specific viatical settlement contract is advertised, the viatical settlement contract shall be identified either by form number or some other appropriate description.

(2) If an application is part of the advertisement, the name of the viatical settlement provider shall be shown on the application.

(h) An advertisement shall not use a trade name, group designation, name of the parent company of a viatical settlement licensee, name of a particular division of the viatical settlement licensee, service mark, slogan, symbol, or other device or reference without disclosing the name of the viatical settlement licensee, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the viatical settlement licensee, or to create the impression that a company other than the viatical settlement licensee would have any responsibility for the financial obligation under a viatical settlement contract.

(i) An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical

materials used by a government program or agency or otherwise would tend to mislead prospective viators into believing that the solicitation is in some manner connected with a government program or agency.

(j)(1) An advertisement may state that a viatical settlement licensee is licensed in the state where the advertisement appears, if it does not exaggerate that fact or suggest or imply that competing viatical settlement licensees may not be so licensed.

(2) The advertisement may request the audience to consult the licensee's web site or contact the department of insurance for the licensee's state to find out if the state requires licensing and, if so, whether the viatical settlement provider or viatical settlement broker is licensed.

(k) An advertisement shall not create the impression that the viatical settlement provider, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its viatical settlement contracts are recommended or endorsed by any government entity.

(l)(1) The name of the actual licensee shall be stated in all of its advertisements.

(2) An advertisement shall not use a trade name, any group designation, name of any affiliate or controlling entity of the licensee, service mark, slogan, symbol, or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual licensee or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the licensee.

(m) An advertisement shall not directly or indirectly create the impression that any division or agency of the State of Arkansas or of the United States government endorses, approves or favors:

(1) Any viatical settlement licensee or its business practices or methods of operation;

(2) The merits, desirability, or advisability of any viatical settlement contract;

(3) Any viatical settlement contract; or

(4) Any life insurance policy or life insurance company.

(n) If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.

(o) If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percent of face value

obtained by viators contracting with the licensee during the past six (6) months.

23-81-612. Fraud prevention and control.

(a) Fraudulent viatical settlement acts – Interference and participation of felons prohibited.

(1) A person shall not commit a fraudulent viatical settlement act.

(2) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this subchapter or an investigation of suspected or actual violations of this subchapter.

(3) A person in the business of viatical settlements shall not knowingly or intentionally permit any person to participate in the business of viatical settlements who has pleaded guilty or nolo contendere to or been found guilty of a felony involving dishonesty or breach of trust.

(b) Fraud warning required.

(1) Viatical settlement contracts and applications for viatical settlements, regardless of the form of transmission, shall contain the following statement or a substantially similar statement:

“Any person who knowingly presents false information in an application for insurance or viatical settlement contract is guilty of a crime and may be subject to fines and confinement in prison.”

(2) The failure to include the statement under subdivision (b)(1) of this section does not constitute a defense in a prosecution for a fraudulent viatical settlement act.

(c) Mandatory reporting of fraudulent viatical settlement acts.

(1) Any person engaged in the business of viatical settlements having knowledge or a reasonable belief that a fraudulent viatical settlement act is being, will be, or has been committed, shall provide to the Insurance Commissioner the information required by, and in a manner prescribed by, the commissioner.

(2) Any other person having knowledge or a reasonable belief that a fraudulent viatical settlement act is being, will be, or has been committed may provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.

(d) Immunity from liability.

(1) No civil liability shall be imposed on and no cause of action shall arise from a person furnishing information concerning suspected, anticipated, or completed fraudulent viatical settlement acts or suspected or completed fraudulent insurance acts, if the information is provided to or received from:

(A) The commissioner or the commissioner’s employees,

agents, or representatives;

(B) Federal, state, or local law enforcement or regulatory officials or their employees, agents, or representatives;

(C) A person involved in the prevention and detection of fraudulent viatical settlement acts or that person's agents, employees, or representatives;

(D) The National Association of Insurance Commissioners; National Association of Securities Dealers; the North American Securities Administrators Association; or their employees, agents, or representatives, or other regulatory body overseeing life insurance, viatical settlements, securities, or investment fraud; or

(E) The life insurer that issued the life insurance policy covering the life of the insured.

(2)(A) Subdivision (d)(1) of this section shall not apply to statements made with actual malice.

(B) In an action brought against a person for filing a report or furnishing other information concerning a fraudulent viatical settlement act or a fraudulent insurance act, the party bringing the action shall specifically plead any allegation that subdivision (d)(1) of this section does not apply because the person filing the report or furnishing the information did so with actual malice.

(3)(A) A person identified in subdivision (d)(1) of this section shall be entitled to an award of attorney's fees and costs if he or she is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of activities in implementing this subchapter and the party bringing the action was not substantially justified in doing so.

(B) For purposes of subdivision (d)(3), a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

(4) This section does not abrogate or modify common law or statutory privileges or immunities enjoyed by a person described in subdivision (d)(1) of this section.

(e) Confidentiality.

(1) The documents and evidence provided under subsection (d) of this section or obtained by the commissioner in an investigation of suspected or actual fraudulent viatical settlement acts shall be privileged and confidential, shall not be a public record, and shall not be subject to discovery or subpoena in a civil or criminal action.

(2) Subdivision (e)(1) of this section does not prohibit the release by

the commissioner of documents and evidence obtained in an investigation of suspected or actual fraudulent viatical settlement acts:

(A) In administrative or judicial proceedings to enforce laws administered by the commissioner;

(B) To federal, state, or local law enforcement or regulatory agencies, to an organization established for the purpose of detecting and preventing fraudulent viatical settlement acts, or to the National Association of Insurance Commissioners; or

(C) At the discretion of the commissioner, to a person in the business of viatical settlements that is aggrieved by a fraudulent viatical settlement act.

(3) Release of documents and evidence under subdivision (e)(2) of this section does not abrogate or modify the privilege granted in subdivision (e)(1) of this section.

(f)(1) Other law enforcement or regulatory authority.

(2) This subchapter does not:

(A) Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law;

(B) Prevent or prohibit a person from voluntarily disclosing information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the insurance department; or

(C) Limit the powers granted elsewhere by the laws of this state to the commissioner or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action.

(g) Viatical settlement antifraud initiatives.

(1)(A) Viatical settlement providers and viatical settlement brokers shall have in place antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts.

(B) At the discretion of the commissioner, the commissioner may order, or a licensee may request and the commissioner may grant, modifications of the following required initiatives as necessary to ensure an effective antifraud program.

(C) The modifications may be more or less restrictive than the required initiatives under subdivision (g)(1) of this section if the modifications may reasonably be expected to accomplish the purpose of this section.

(2) Antifraud initiatives shall include:

(A) Fraud investigators, who may be viatical settlement provider

or viatical settlement broker employees or independent contractors; and

(B)(i) An antifraud plan, which shall be submitted to the commissioner.

(ii) The antifraud plan shall include, but not be limited to:

(a) A description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;

(b) A description of the procedures for reporting possible fraudulent viatical settlement acts to the commissioner;

(c) A description of the plan for antifraud education and training of underwriters and other personnel; and

(d) A description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

(c) Antifraud plans submitted to the commissioner shall be privileged and confidential, shall not be a public record, and shall not be subject to discovery or subpoena in a civil or criminal action.

23-81-613. Injunctions - Civil remedies - Cease and desist orders.

(a) In addition to the penalties and other enforcement provisions of this subchapter, the Insurance Commissioner may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders to restrain the person from committing the violation.

(b) Any person damaged by the acts of a person violating this subchapter may bring a civil action against the person committing the violation in a court of competent jurisdiction.

(c) The commissioner may issue, in accordance with §§ 23-66-209 through 23-66-213 of the Trade Practices Act, a cease and desist order upon a person that violates any provision of this subchapter, any regulation or order adopted by the commissioner under this subchapter, or any written agreement entered into with the commissioner under this subchapter.

(d)(1) When the commissioner finds that an activity in violation of this subchapter presents an immediate danger to the public that requires an immediate final order, the commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying the findings.

(2) The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent and remains effective for ninety (90) days.

(3) If the commissioner begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective, absent an countermanding order by a court of competent jurisdiction under the Arkansas Administrative Procedure Act.

(e)(1) In addition to the penalties and other enforcement provisions of this subchapter, any person who violates this subchapter is subject to civil penalties under § 23-66-210.

(2) The commissioner shall impose civil penalties by order, under §§ 23-66-209 through 23-66-213 of the Trade Practices Act.

(3) The commissioner's order may require a person found to be in violation of this subchapter to make restitution to persons aggrieved by violations of this subchapter.

(f)(1) A person who is found guilty of, or pleads guilty or nolo contendere to a violation of this subchapter shall be guilty of a Class D felony.

(2) A person who is found guilty of, or pleads guilty or nolo contendere to a fraudulent viatical settlement act shall be ordered to pay restitution to persons aggrieved by the violation of the fraudulent viatical settlement act.

(3) Restitution may be ordered in addition to a fine or imprisonment, but not in lieu of a fine or imprisonment.

23-81-614. Unfair trade practices.

A violation of this subchapter shall be considered an unfair trade practice under §§ 23-66-209 through 23-66-213 of the Trade Practices Act and shall be subject to the penalties contained therein.

23-81-615. Authority to promulgate regulations.

The commissioner may:

(1) Promulgate regulations implementing this subchapter;

(2)(A) Establish standards for evaluating reasonableness of payments under viatical settlement contracts for persons who are terminally or chronically ill.

(B) This authority includes the regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a life insurance policy;

(3) Establish appropriate licensing requirements, fees, and standards for continued licensure for viatical settlement providers, and viatical settlement brokers;

(4) Require a bond or other mechanism for financial accountability for viatical settlement providers and brokers; and

(5) Adopt rules governing the relationship and responsibilities of both insurers and viatical settlement providers, viatical settlement brokers during the viatication of a life insurance policy or certificate.

SECTION 2. Effective January 1, 2004, Arkansas Code Title 23, Chapter 81, Subchapter 5, is repealed.

~~23-81-501. Short title.~~

~~This subchapter may be cited as the "Viatical Settlements Act."~~

~~23-81-502. Definitions.~~

~~A. "Activities of daily living" for purposes of this subchapter include each of the following:~~

~~(1) Eating;~~

~~(2) Toileting;~~

~~(3) Transferring;~~

~~(4) Bathing;~~

~~(5) Dressing; and~~

~~(6) Continence.~~

~~B. "Chronically Ill Individual":~~

~~(1) Means any individual who has been certified by a licensed health care practitioner as:~~

~~(a) Being unable to perform without substantial assistance from another individual at least two (2) activities of daily living for a period of at least ninety (90) days due to a loss of functional capacity;~~

~~(b) Having a level of disability similar to the level of disability described in subdivision (1) above; or~~

~~(c) Requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.~~

~~(2) Shall not include any individual otherwise meeting the requirements of the preceding subdivision unless within the preceding twelve (12) month period a licensed health care practitioner has certified that such individual meets such requirements.~~

~~C. "Commissioner" or "Insurance Commissioner" means the Insurance Commissioner of the State of Arkansas.~~

~~D. "Department" means the Arkansas Insurance Department.~~

~~E. "Person" means any legal entity, natural or artificial, including but not limited to individuals, partnerships, associations, trusts or corporations.~~

~~F. "Regulation" means any rule or regulation promulgated by the Insurance~~

Commissioner unless the context requires otherwise.

~~G. "Terminally Ill Individual" means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in twenty-four (24) months or less after the date of certification.~~

~~H. "Viatical Settlement Broker" means an individual, partnership, corporation or other entity who or which for another and for a fee, commission or other valuable consideration, offers or advertises the availability of viatical settlements, introduces viators to viatical settlement providers, or offers or attempts to negotiate viatical settlements between a viator and one (1) or more viatical settlement providers. "Viatical settlement broker" does not include an attorney, accountant or financial planner retained to represent the viator whose compensation is not paid by the viatical settlement provider.~~

~~I. "Viatical Settlement Contract" means a written agreement entered into between a viatical settlement provider and a person owning a life insurance policy or who owns or is covered under a group policy insuring the life of a person who is terminally or chronically ill. The agreement shall establish the terms under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.~~

~~J. "Viatical Settlement Provider":~~

~~(1) means any person regularly engaged in the trade or business of purchasing or taking assignments of life insurance contracts on the lives of insureds who are terminally or chronically ill as defined in this subchapter if:~~

~~(a) Such person is licensed for such purpose with respect to insureds described as terminally or chronically ill in the state in which the insured resides; or~~

~~(b) Such person meets the requirements of ~~23-81-508 and 23-81-509~~ of this subchapter and of any companion regulation promulgated by the commissioner in compliance with the provisions of this subchapter, in the case of an insured who resides in a state not requiring licensure of such persons as described in subdivision (1) above; and~~

~~(2) Means any person which enters into an agreement, with a person who owns a life insurance policy or who is covered under a group policy insuring the life of a person who has a catastrophic or life threatening illness or condition, under the terms of which the viatical settlement provider pays compensation or anything of~~

~~value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider; and~~

~~(3) Does not include:~~

~~(a) Any bank, savings bank, savings and loan association, credit union or other licensed lending institution which takes an assignment of a life insurance policy as collateral for a loan;~~

~~(b) The issuer of a life insurance policy providing accelerated benefits under Arkansas Rule and Regulation 60, "Accelerated Benefits Provisions in Life Insurance Policies promulgated by the Insurance Commissioner; or~~

~~(c) Any natural person who enters into no more than one (1) agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit.~~

~~K. "Viator" means the owner of a life insurance policy insuring the life of a person with a terminal or chronic illness or condition or the certificate holder who enters into an agreement under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.~~

~~23-81-503. License requirements.~~

~~A. No individual, partnership, corporation or other entity may act as a viatical settlement provider or enter into or solicit a viatical settlement contract without first having obtained a license from the Insurance Commissioner.~~

~~B. Application for a viatical settlement provider license shall be made to the commissioner by the applicant on a form prescribed by the commissioner, and the application shall be accompanied by a fee of one hundred dollars (\$100), which shall be deposited into The State Insurance Department Trust Fund pursuant to § 23-61-701, et seq.~~

~~C. Licenses may be renewed from year to year on or by July 1 of each year upon payment of the annual renewal fee of one hundred dollars (\$100). Failure to pay the fee as this act requires shall result in automatic revocation of the license.~~

~~D.(1) The applicant shall provide such information as the commissioner may require on forms prepared by the commissioner. The commissioner shall have authority at any time to require the applicant to disclose fully the identity of all stockholders, partners, officers, directors and employees.~~

~~(2) The commissioner may in his discretion refuse to issue a license in the name of any firm, partnership or corporation, if he is not satisfied that any officer, director, employee, stockholder or partner thereof, who may materially influence the applicant's conduct or actions, meets the standards of this subchapter.~~

~~E. A license as a viatical settlement provider issued to a partnership, corporation or other entity authorizes all members, officers, directors and designated employees to act as viatical settlement providers under the license, so long as such persons are named in the application and/or any subsequent supplements, amendments or addendums to the application on the commissioner's records.~~

~~F. Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and may issue a license if the commissioner finds that the applicant:~~

~~(1) Has provided a detailed plan of operation; and~~

~~(2) Is competent and trustworthy and intends to act in good faith in the capacity involved in the license applied for; and~~

~~(3) Has a good business reputation and has had experience, training or education so as to be qualified in the business for which the license is applied for;~~

~~(4) If a corporation, is a corporation incorporated under and authorized by the laws of this state or is a foreign corporation authorized to transact business in this state; and is in good standing according to the records of the Arkansas Secretary of State if and as applicable; and~~

~~(5) If a partnership, is a partnership organized under the laws of this state or is a nonresident partnership authorized to transact business in this state.~~

~~G.(1) The commissioner shall not issue any license to any nonresident applicant, unless:~~

~~(a) A written designation as agent for service of process is filed and maintained with the commissioner; and~~

~~(b) The applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the registered agent and that the applicant submits to the jurisdiction of this state.~~

~~(2) On and before January 1, 2003, all registered viatical settlement providers shall replace the commissioner as agent on department records, and shall file with the commissioner a designation of an Arkansas resident as an agent for service of legal process, and the commissioner shall maintain a listing in conformity with § 23-63-301 et seq.~~

~~23-81-504. License revocation.~~

~~A. The commissioner shall have the right to suspend, revoke or refuse to renew the license of any viatical settlement provider if the commissioner finds that:~~

- ~~(1) There was any misrepresentation in the application for the license;~~
- ~~(2) The holder of the license has been guilty of fraudulent or dishonest practices, is subject to a final administrative action, or is otherwise shown to be untrustworthy or incompetent to act as a viatical settlement provider;~~
- ~~(3) The licensee demonstrates a pattern of unreasonable payments to policyowners;~~
- ~~(4) The licensee has been convicted of a felony or any misdemeanor of which criminal fraud is an element; or~~
- ~~(5) The licensee has violated any of the provisions of this subchapter.~~

~~B. Before the commissioner shall deny a license application or suspend, revoke or refuse to renew the license of a viatical settlement provider, the commissioner shall conduct a hearing in accordance with the Arkansas Administrative Procedure Act, §§ 25-15-201, et seq.~~

~~23-81-505. Approval of viatical settlements contract.~~

~~No viatical settlement provider may use any viatical settlement contract in this state unless it has been filed with and approved by the commissioner. Any viatical settlement contract form filed with the commissioner shall be deemed approved if it has not been disapproved within sixty (60) days of the filing. The commissioner shall disapprove a viatical settlement contract form if, in the commissioner's opinion, the contract or provisions contained therein are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the policyowner.~~

~~23-81-506. Reporting requirements.~~

~~Each licensee shall file with the commissioner on or before March 1 of each year an annual statement containing such information as the commissioner by rule may prescribe.~~

~~23-81-507. Examination.~~

~~A. The commissioner may, when the commissioner deems it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license. The commissioner shall have the authority to order any licensee or applicant to produce any records, books, files or other information reasonably necessary to ascertain whether or not the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interests of the public. The expenses incurred in conducting any examination shall~~

be paid by the licensee or applicant.

~~B. Names and individual identification data for all viators shall be considered private and confidential information and shall not be disclosed by the commissioner, unless required by law.~~

~~C. Records of all transactions of viatical settlement contracts shall be maintained by the licensee and shall be available to the commissioner for inspection during reasonable business hours.~~

~~23-81-508 Disclosure.~~

~~A viatical settlement provider shall disclose the following information to the viator no later than the date the viatical settlement contract is signed by all parties:~~

~~A. Possible alternatives to viatical settlement contracts for persons with terminal or chronic illnesses, including, but not limited to, accelerated benefits offered by the issuer of the life insurance policy;~~

~~B. The fact that some or all of the proceeds of the viatical settlement may be taxable, and that assistance should be sought from a personal tax advisor;~~

~~C. The fact that the viatical settlement could be subject to the claims of creditors;~~

~~D. The fact that receipt of a viatical settlement may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements, and that advice should be obtained from the appropriate agencies;~~

~~E. The policyowner's right to rescind a viatical settlement contract within thirty (30) days of the date it is executed by all parties or fifteen (15) days of the receipt of the viatical settlement proceeds by the viator, whichever is less, as provided in § 23-81-509(c) of this subchapter; and~~

~~F. The date by which the funds will be available to the viator and the source of the funds.~~

~~23-81-509 General rules.~~

~~A. A viatical settlement provider entering into a viatical settlement contract with any person with a terminal or chronic illness or condition shall first obtain:~~

~~(1) A written statement from a licensed attending physician that the person is of sound mind and under no constraint or undue influence; and~~

~~(2) A witnessed document in which the person:~~

~~(a) Consents to the viatical settlement contract;~~

~~(b) Acknowledges the terminal or chronic illness;~~

~~(c) Represents that he or she has a full and complete understanding of the viatical settlement contract;~~

~~(d) Acknowledges that he or she has a full and complete understanding of the benefits of the life insurance policy;~~

~~(e) Authorizes release of his or her medical records; and~~

~~(f) Acknowledges that he or she has entered into the viatical settlement contract freely and voluntarily.~~

~~B. All medical information solicited or obtained by any licensee shall be subject to the applicable provision of state law relating to confidentiality of medical information.~~

~~C. All viatical settlement contracts entered into in this state shall contain an unconditional refund provision of at least thirty (30) days from the date of the contract, or fifteen (15) days of the receipt of the viatical settlement proceeds, whichever is less.~~

~~D. Immediately upon receipt from the viator of documents to effect the transfer of the insurance policy, the viatical settlement provider shall pay the proceeds of the settlement to an escrow or trust account managed by a trustee or escrow agent in a bank approved by the commissioner, pending acknowledgment of the transfer by the issuer of the policy. The trustee or escrow agent shall be required to transfer the proceeds due to the viator immediately upon receipt of acknowledgment of the transfer from the insurer.~~

~~E. Failure to tender the viatical settlement by the date disclosed to the viator renders the contract null and void.~~

~~23-81-510 Authority to promulgate regulations standards.~~

~~The commissioner shall have the authority to:~~

~~A. Promulgate regulations implementing this subchapter; and~~

~~B. Establish standards for evaluating reasonableness of payments under viatical settlement contracts. This authority includes, but is not limited to, regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise or bequest of a benefit under a life insurance policy; and~~

~~C. Establish appropriate licensing requirements and fees for agents and brokers; and~~

~~D. Require a bond.~~

~~23-81-511 Unfair trade practices.~~

~~A violation of this subchapter shall be deemed or considered an unfair trade practice under §23-66-201 et seq., as appropriate, and subject to the penalties contained in that subchapter, including § 23-66-210 and § 23-66-211.~~

~~23-81-512 Effective date.~~

~~This subchapter shall apply to all new viatical settlement contracts solicited, sold, issued, issued for delivery, or to be performed in this state on and after January 1, 1998. Further, no person shall act as or hold himself out to be a viatical settlement provider, broker or agent in this state or solicit or sell viatical settlement contracts issued, issued for delivery or to be performed in this state unless first licensed or registered in this state pursuant to this subchapter and is otherwise acting in conformity with this subchapter."~~

/s/ Steve Napper

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative R. Smith, **HOUSE BILL NO. 1196** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 1196

Amend **HOUSE BILL NO. 1196** as engrossed, 01/30/03:

Add Senators J. Bookout, Faris, J. Jeffress as cosponsors of the bill

AND

Page 1, delete lines 27 through 29 and substitute the following:

"service with the Arkansas Local Police and Fire Retirement System, who has at least twenty-eight (28) years of service, may elect to participate in the Local Police"

AND

Page 2, line 7, delete "employer" and substitute "employer and employee"

AND

Page 2, line 9, delete "Employer" and substitute "Employer and employee"

AND

Page 2, line 11, delete "The monthly retirement benefits" and substitute "Seventy-five percent (75%) of the member's monthly retirement benefit"

AND

Page 2, delete lines 17 through 23, and substitute the following:

"the retirement annuity as defined in § 24-10-602 is increased.

(b)(1) A member who participates in this plan shall be credited interest at a rate of six percent (6%) per annum."

AND

Page 2, delete line 32, and substitute the following:

“(2) A monthly annuity that is the actuarial equivalent of the lump sum amount and paid in the form of one of the options for an annuity under § 24-10-603.”

AND

Page 3, delete lines 6 through 13, and substitute the following:

“the member’s monthly retirement benefit that would have been received if the member had retired at the time the member elected to participate in the Local Police and Fire Deferred Retirement Option Plan.

24-10-707. Death of participant.

(a) If the participant dies during the period of participation in the Local Police and Fire Deferred Retirement Option Plan, a lump sum payment equal to the account balance of the participant shall be paid to the participant's survivors or, if none, to the participant's estate.

(b) A survivor is entitled to the annuity provided under § 24-10-708 based on the service and final average salary at the time the member elected to participate in the plan.

24-10-708. Disability of a participant.

If the participant becomes disabled during the period of participation in the Local Police and Fire Deferred Retirement Option Plan, the participant shall be treated as any other member who has elected to conclude the other member’s participation.”

AND

Page 3, line 15, delete “24-10-708” and substitute “24-10-709”

AND

Page 3, delete line 18, and substitute the following:

“annuity and was not eligible for or has not elected to participate in the Local Police and Fire”

/s/ R. Smith

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative R. Smith, **HOUSE BILL NO. 1123** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 1123

Amend **HOUSE BILL NO. 1123** as originally introduced:

Add Senators J. Bookout, J. Jeffress, Faris as cosponsors of the bill

AND

Page 1, delete lines 10 through 13, and substitute the following:

“AN ACT TO MAKE CERTAIN TECHNICAL CORRECTIONS TO THE REQUIREMENTS TO RECEIVE ANNUITIES UNDER THE LOCAL POLICE AND FIRE RETIREMENT SYSTEM, AND FOR OTHER PURPOSES.”

AND

Page 1, delete lines 16 through 19, and substitute the following:

“TO MAKE CERTAIN TECHNICAL CORRECTIONS TO THE REQUIREMENTS TO RECEIVE ANNUITIES UNDER THE LOCAL POLICE AND FIRE RETIREMENT SYSTEM.”

AND

Delete Section 1. and Section 2. of the bill and substitute the new sections to read as follows:

“SECTION 1. Arkansas Code § 24-10-501(c), concerning paid and volunteer service under the Arkansas Local Police and Fire Retirement System, is amended to read as follows:

(c)(1) ~~Not~~ Except for an employer covering volunteer service for future employment credit under subdivision (c)(3) of this section, not later than one (1) year from and after the date an employer covers its employees and before the retirement of a member included in the employees so covered, the employer shall certify to the board the periods of prior employment of each of its members to be considered for credit as paid service and for credit as volunteer service.

(2) No prior employment shall be so certified by an employer for any member unless he or she was employed by the employer within the one-year period immediately preceding the date an employer covers its employees and unless he or she is continuously employed by the employer:

(A) From and after that date for one (1) year;

(B) Until his or her death; or

(C) Until his or her total and permanent disability, whichever is earliest.

(3)(A) Beginning January 1, 2004, at the option of an employer

covering volunteer service only, the employer may cover its employees under the system with service credit from the effective date of the coverage forward into the future with service credit from and after the effective date of coverage.

(B) An employee of an employer choosing coverage under this subdivision (c)(3) shall receive credited service for employment rendered from and after the effective date of coverage, and shall receive no service credit for periods of prior employment or prior volunteer service.

(C) An employer choosing coverage under this subdivision (c)(3) is not responsible for contributions to pay for periods of a member's prior employment or prior volunteer service.

(D) An employer may choose to include an equal proportion of each employee's prior service in a portion that is twenty-five percent (25%), fifty percent (50%), or seventy-five percent (75%) of the prior service.

(E) If an employer elects to include a portion of prior service, then the employer shall be responsible to pay for that portion.

(F) Each employee shall receive the same percentage of service prior to coverage as credited service.

SECTION 2. Arkansas Code § 24-10-602(a)(4), concerning the annuity generally under the Arkansas Local Police and Fire Retirement System, is amended to read as follows:

(4)(A) The total benefit amount computed under subdivision (a)(1) of this section shall not exceed at the time of retirement eighty percent (80%) of the final average pay plus the amounts provided in subdivision (a)(5) of this section for volunteer service;

(B) If the member accrued a benefit at any time under Benefit Program #2 described in subdivision (a)(2) of this section, then ~~In no event shall~~ the total of the amounts computed pursuant to subdivision (a)(1) and (2) of this section shall not exceed at the time of retirement ~~eighty percent (80%)~~ eighty-five percent (85%) of the final average pay plus the amounts provided in subdivision (a)(5) of this section for volunteer service;

SECTION 3. Arkansas Code § 24-10-607(a), concerning disability benefits under the Arkansas Local Police and Fire Retirement System, is amended to read as follows:.

(a)(1)(A) Any active member with five (5) years of credited service, including credited service for seventy-five percent (75%) of the two (2) years immediately preceding his or her disability, who becomes totally and permanently physically or mentally incapacitated for any suitable duty as an employee as a result of a personal injury or disease may be retired by the Board of Trustees of the Arkansas Local

Police and Fire Retirement System upon written application filed with the board by or on behalf of the member.

(B) The employee shall be retired only if, after a medical examination of the member made by or under the direction of a physician or physicians designated by the board, the physician reports to the plan in writing that the member is physically or mentally totally incapacitated for the further performance of any suitable duty, that the incapacity will probably be permanent, and that the member should be retired.

(2) A written application to the board by the member or on behalf of the member shall be filed with the board not later than one (1) year after the termination of active membership.

~~(2)~~(3) The disability annuity shall be effective the first day of the calendar month next following the later of:

(A) His or her termination of active membership; or

(B) Six (6) months before the date the written application is filed with the board.

SECTION 4. Arkansas Code § 24-10-607(c), concerning disability benefits under the Arkansas Local Police and Fire Retirement System, is amended to read as follows:

(c)(1)(A) Any active member who becomes totally and permanently physically or mentally incapacitated for any suitable duty as an employee as the result of a personal injury or disease which the board finds to have arisen out of, and in the course of, his or her actual performance of duty as an employee may be retired by the board upon written application filed with the board by or on behalf of the member.

(B) The employee shall be retired only if, after a medical examination of the member made by or under the direction of a physician or physicians designated by the board, the physician reports to the plan in writing that the member is physically or mentally totally incapacitated for the further performance of any suitable duty, that the incapacity will probably be permanent, and that the member should be retired.

(2) A written application to the board by the member or on behalf of the member shall be filed with the board not later than one (1) year after the termination of active membership.

~~(2)~~(3) The disability annuity shall be effective the first day of the calendar month next following the later of:

(A) His or her termination of active membership; or
(B) Six (6) months before the date the written application is filed with the board.”

/s/ R. Smith

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative Jeffrey, **HOUSE BILL NO. 1497** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 3 TO HOUSE BILL NO. 1497

Amend **HOUSE BILL NO. 1497** as engrossed, H3/13/03:

Page 2, delete lines 2 through 14 and substitute the following:

(1)(A) "Claimant agencies" means:

~~(A)~~(i) State-supported colleges, universities, and technical institutes;

~~(B)~~(ii) The Department of Human Services;

~~(C)~~(iii) The Arkansas Student Loan Authority;

~~(D)~~(iv) The Student Loan Guarantee Foundation;

~~(E)~~(v) The Auditor of State;

~~(F)~~(vi) The Department of Higher Education;

~~(G)~~(vii) The Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration; ~~and~~

~~(H)~~(viii) Arkansas circuit, juvenile, and chancery courts; and

(ix) Housing authorities created under Chapter 169 of Title 14.

(B) No other entity may be added as a claimant agency under this subdivision (1) after the effective date of this act unless the entity has an annual outstanding debt of two hundred thousand dollars (\$200,000);

/s/ Robert N. Jeffrey

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative Bradford, **HOUSE BILL NO. 1800** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 1800

Amend **HOUSE BILL NO. 1800** as engrossed, H3/4/03:

Page 4, delete lines 26 through 30 and substitute the following:

~~“applicant grant recipient;~~

(iv) The results produced or the progress made ~~on the project;~~ and

(v) The revenues produced and tonnages of materials collected ~~by the project.”~~

AND

Page 5, delete lines 1 through 11 and substitute the following:

~~“(2)(A) Regional~~ Until all grant funds have been expended on a project, regional solid waste management boards shall provide the department with a an annual report summarizing:

(i) Progress in the project; and

(ii) Expenditures from the grant award; ;

(B) For a period of five (5) years after a grant recipient’s receipt of grant funds, regional solid waste management boards shall provide the department an annual report summarizing:

~~(iii)(i)~~ Tonnages of materials collected by the project grant recipient; and

~~(iv)(ii)~~ Revenues produced by the sale of materials collected.

~~(B)(C)~~ The ~~report~~ reports shall be filed annually on or before September 1.

~~(C)(D)~~ Failure by a board to file the required reports shall”

/s/ Jay Bradford

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Bradford, HOUSE BILL NO. 1800 was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 3 TO HOUSE BILL NO. 1800

Amend HOUSE BILL NO. 1800 as engrossed, H3/4/03:

Add Representative J. Taylor as a cosponsor of the bill.

/s/ Jay Bradford

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Mahony, HOUSE BILL NO. 1237 was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 1237

Amend HOUSE BILL NO. 1237 as originally introduced:

Page 1, delete lines 9 through 12, and substitute the following:

“AN ACT TO REVISE THE DEFINITION OF SALARY USED UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.”

AND

Page 1, delete lines 15 through 18, and substitute the following:

“TO REVISE THE DEFINITION OF SALARY USED UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM.”

AND

Delete Section 1. of the bill and substitute a new Section 1. to read as follows:

“SECTION 1. Arkansas Code § 24-7-202(24)(A)(i), concerning the definitions used under the Arkansas Teacher Retirement System, is amended to read as follows:

(24)(A)(i) "Salary" means the remuneration paid an employee in a position covered by the system and on which the employer withholds federal income tax with the exception of a lump sum payment for unused sick leave.

/s/ Jodie Mahony

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Dangeau, **HOUSE BILL NO. 1543** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 3 TO HOUSE BILL NO. 1543

Amend **HOUSE BILL NO. 1543** as engrossed, H3/13/03:

Page 14, line 33, after "state" and before "and" insert "agencies"

AND

Page 15, line 2 after "of" insert "legal"

AND

Page 15, delete lines 24 through 30 and insert the following:

"SECTION 9. Arkansas Code § 19-11-802 is amended to read as follows:

19-11-802. Annual statements of qualifications and performance data -
Restrictions on competitive bidding.

(a) In the procurement of professional services, a state agency or political subdivision which utilizes such services may encourage firms engaged in the lawful practice of these professions to submit annual statements of qualifications and performance data to the political subdivision or may request such information as needed for a particular public project.

(b) The state agency or political subdivision shall evaluate current statements of qualifications and performance data of firms on file or may request such information as needed for a particular public project whenever a project requiring professional services is proposed.

(c) The political subdivision shall not use competitive bidding for the procurement of ~~professional services~~ legal architectural, engineering, construction management, and land surveying professional consulting services.

(d)(1) A public school district that utilizes construction management services shall encourage construction management firms to submit to the school district annual statements of qualifications and performance data or may request such information as needed for a particular public project.

(2) The public school district shall evaluate current statements of qualifications and performance data on file with the school district or when submitted as requested whenever a project requiring professional services of a construction manager is proposed.

(3) The public school district shall not use competitive bidding for the procurement of professional services of a construction manager.

SECTION 10. Arkansas Code § 19-11-803 is amended to read as follows:

19-11-803. Evaluation of qualifications.

In evaluating the qualifications of each firm, the state agency or political

subdivision shall consider:

(1) The specialized experience and technical competence of the firm with respect to the type of professional services required;

(2) The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

(3) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines; and

(4) The firm's proximity to and familiarity with the area in which the project is located.

SECTION 11. Arkansas Code § 19-11-804 is amended to read as follows:

19-11-804. Selection.

The state agency or political subdivision shall select three (3) qualified firms. The state agency or political subdivision shall then select the firm considered the best-qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.

SECTION 12. Arkansas Code § 19-11-805 is amended to read as follows:

19-11-805. Negotiation of contracts.

(a) For the basis of negotiations, the state agency or political subdivisions and the selected firm shall jointly prepare a detailed, written description of the scope of the proposed services.

(b) If the state agency or political subdivision is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The state agency or political subdivision shall then undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. The state agency or political subdivision shall undertake negotiations with the third qualified firm.

(c) If the state agency or political subdivision is unable to negotiate a contract with any of the selected firms, the agency shall reevaluate the necessary professional services, including the scope and reasonable fee requirements, again compile a list of qualified firms, and proceed in accordance with the provisions of this subchapter.

(d) When unable to negotiate a contract for construction management, a public school district shall also perform a reevaluation of services in accordance with subsection (c) of this section.”

AND

Page 15, line 32 after "SECTION" delete "10" substitute "13"

AND

Page 21, line 25 delete "advice" and substitute "review"

AND

Page 23, line 27 after "SECTION" delete "11" and substitute "14"

/s/ LeRoy Dangeau

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Judy, **HOUSE BILL NO. 1236** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 3 TO HOUSE BILL NO. 1236

Amend **HOUSE BILL NO. 1236** as engrossed, 02/25/03:

Page 1, line 26, delete "27-10-607(c)(1)" and substitute "24-10-607(c)"

AND

Page 2, delete lines 29 through 33, and substitute the following:

"(c) The presumption under subdivision (c)(1)(A)(ii)(b) of this section is conditioned on the police officer or fire fighter:

(1) Having successfully passed a physical examination before entering into employment and the examination failing to reveal any evidence of the hepatitis, meningococcal meningitis, HIV, or tuberculosis; and

(2) Having a documented occupational exposure to blood or bodily fluids potentially transmitting hepatitis, meningococcal meningitis, HIV, or tuberculosis."

AND

Page 3, delete line 3, and substitute the following:

"probably be permanent, and that the member should be retired.

(2)(A) The written application that is to be filed with the board by the member or on behalf of the member shall be made to the board not later than one (1) year after the termination of active membership.

(B) If the application is based on a presumed duty disability under subdivision (c)(1)(A)(ii) of this section, then a written application shall be made

to the board not later than five (5) years after the termination of active membership.

(2)(3) The disability annuity shall be effective the first day of the calendar month next following the later of:

- (A) His or her termination of active membership; or
- (B) Six (6) months before the date the written application is filed

with the board.”

/s/ Jan Judy

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative Ormond, **HOUSE JOINT RESOLUTION NO. 1010** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 3 TO HOUSE JOINT RESOLUTION NO. 1010

Amend **HOUSE JOINT RESOLUTION NO. 1010** as engrossed, H3/17/03:

Page 6, delete line 17 and substitute the following:

"payment of any additional fee.

(iv) No measure initiated by the people shall be placed on the ballot unless the ballot title and popular name have been approved by the Attorney General."

/s/ Charlie L. Ormond

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

The House gave Representative Lendall unanimous leave to withdraw **HOUSE BILL NO. 1555.**

ENGROSSED BILL REPORTS

HERSCHEL W. CLEVELAND, CHAIRMAN

March 21, 2003

The following bill(s) reported correctly engrossed:

HOUSE BILL NO. 1123 - TITLE - BY REPRESENTATIVE R. SMITH
 HOUSE BILL NO. 1196 - TITLE - BY REPRESENTATIVE R. SMITH
 HOUSE BILL NO. 1236 BY REPRESENTATIVE JUDY
 HOUSE BILL NO. 1237 - TITLE - BY REPRESENTATIVE MAHONY
 HOUSE BILL NO. 1297 BY JOINT BUDGET COMMITTEE
 HOUSE BILL NO. 1303 BY JOINT BUDGET COMMITTEE
 HOUSE BILL NO. 1444 BY JOINT BUDGET COMMITTEE
 HOUSE BILL NO. 1497 BY REPRESENTATIVE JEFFREY
 HOUSE BILL NO. 1543 BY REPRESENTATIVE DANGEAU
 HOUSE BILL NO. 1589 BY REPRESENTATIVE MARTIN
 HOUSE BILL NO. 1800 - TITLE - BY REPRESENTATIVE BRADFORD, ET AL
 HOUSE BILL NO. 1981 BY REPRESENTATIVE PENIX
 HOUSE BILL NO. 2188 BY REPRESENTATIVE NAPPER, ET AL
 HOUSE BILL NO. 2358 BY REPRESENTATIVE NAPPER, ET AL
 HOUSE BILL NO. 2389 BY REPRESENTATIVE AGEE
 HOUSE BILL NO. 2399 BY REPRESENTATIVE ROEBUCK
 HOUSE BILL NO. 2511 - TITLE - BY REPRESENTATIVE CLEVELAND, ET AL
 HOUSE BILL NO. 2525 - TITLE - BY REPRESENTATIVE HAAK
 HOUSE BILL NO. 2536 - TITLE - BY REPRESENTATIVE CLEVELAND
 HOUSE BILL NO. 2615 - TITLE - BY REPRESENTATIVE NORTON, ET AL
 HOUSE BILL NO. 2727 BY REPRESENTATIVE SULLIVAN, ET AL
 HOUSE BILL NO. 2730 BY REPRESENTATIVE AGEE
 HOUSE BILL NO. 2750 BY REPRESENTATIVE NAPPER
 HOUSE BILL NO. 2820 - TITLE - BY REPRESENTATIVE MEDLEY, ET AL
 HOUSE JOINT RESOLUTION 1010 BY REPRESENTATIVE ORMOND
 SENATE BILL NO. 698 - TITLE - BY SENATOR HORN

HOUSE BILL ENGROSSED AS TITLE AMENDED
HOUSE BILL NO. 1123

BY: REPRESENTATIVE R. SMITH
BY: SENATORS *J. BOOKOUT, J. JEFFRESS, FARIS*

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO MAKE CERTAIN TECHNICAL CORRECTIONS TO THE REQUIREMENTS TO RECEIVE ANNUITIES UNDER THE LOCAL POLICE AND FIRE RETIREMENT SYSTEM, AND FOR OTHER PURPOSES.

HOUSE BILL ENGROSSED AS TITLE AMENDED
HOUSE BILL NO. 1196

BY: REPRESENTATIVE R. SMITH
BY: SENATORS *J. BOOKOUT, FARIS, J. JEFFRESS*

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO ESTABLISH A DEFERRED RETIREMENT OPTION PLAN FOR THE ARKANSAS LOCAL POLICE AND FIRE RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.

HOUSE BILL ENGROSSED AS TITLE AMENDED
HOUSE BILL NO. 1237

BY: REPRESENTATIVE MAHONY
A BILL FOR AN ACT TO BE ENTITLED AN ACT TO REVISE THE DEFINITION OF SALARY USED UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.

HOUSE BILL ENGROSSED AS TITLE AMENDED
HOUSE BILL NO. 1800

BY: REPRESENTATIVES BRADFORD, *J. TAYLOR*

BY: SENATOR CRITCHER

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO AMEND THE SOLID WASTE MANAGEMENT AND RECYCLING FUND ACT TO AFFECT THE DISPOSITION OF FUNDS COLLECTED UNDER THE ACT; AND FOR OTHER PURPOSES.

HOUSE BILL ENGROSSED AS TITLE AMENDED
HOUSE BILL NO. 2511

BY: REPRESENTATIVES CLEVELAND, FITE, JACOBS, MAHONY

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO INCREASE THE AMOUNT OF *REDUCTION* ALLOWED IN THE STATE EQUALIZATION FUNDING; AND FOR OTHER PURPOSES.

HOUSE BILL ENGROSSED AS TITLE AMENDED
HOUSE BILL NO. 2525

BY: REPRESENTATIVE HAAK

BY: SENATOR HORN

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO AMEND ARKANSAS CODE TITLE 27 CHAPTER 101 PERTAINING TO WATERCRAFT; TO ADOPT MARINE SANITATION LAWS IN CONFORMANCE WITH FEDERAL LAW; TO AUTHORIZE THE DEPARTMENT OF HEALTH TO ADMINISTER AND ENFORCE MARINE SANITATION LAWS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

HOUSE BILL ENGROSSED AS TITLE AMENDED
HOUSE BILL NO. 2536

BY: REPRESENTATIVE CLEVELAND

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO CREATE THE ARKANSAS *TEACHERS' AND OTHER EDUCATORS'* SALARY AND COMPENSATION STUDY COMMISSION; AND FOR OTHER PURPOSES.

HOUSE BILL ENGROSSED AS TITLE AMENDED
HOUSE BILL NO. 2615

BY: REPRESENTATIVES NORTON, *S. PRATER, LAMOUREUX, DICKINSON, ROSENBAUM, HUTCHINSON, PARKS*

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO CREATE A BIOLOGICAL AGENTS REGISTRY WITHIN THE ARKANSAS DEPARTMENT OF HEALTH AND TO IMPOSE CIVIL PENALTIES FOR VIOLATION OF REGISTRY REQUIREMENTS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

HOUSE BILL ENGROSSED AS TITLE AMENDED
HOUSE BILL NO. 2820

BY: REPRESENTATIVES MEDLEY, BERRY, BIGGS, BRADFORD, CREEKMORE, DEES, D. EVANS, HARRIS, J. JOHNSON, KEY, LENDALL, MARTIN, PACE, S. PRATER, ROEBUCK, SCRIMSHIRE, SUMPTER, EASON, WOOD
BY: SENATORS CRITCHER, FARIS, WOMACK

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO IMPROVE *ACCESS TO ELDERCHOICES, A COMMUNITY-BASED CARE PROGRAM*; TO SEEK A MEDICAID WAIVER FOR ELIGIBILITY FOR COMMUNITY-BASED CARE; TO PROVIDE OVERSIGHT; AND FOR OTHER PURPOSES.

SENATE BILL ENGROSSED AS TITLE AMENDED
SENATE BILL NO. 698

BY: SENATOR HORN

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO INCREASE THE MEMBERSHIP OF THE JOINT *BUDGET COMMITTEE*; *CONCERNING THE MEMBERSHIP OF THE LEGISLATIVE COUNCIL*; AND FOR OTHER PURPOSES.

State of Arkansas
Office of the Governor

Mike Huckabee
Governor

March 20, 2003

TO THE SPEAKER OF THE HOUSE

Dear Mr. Speaker:

This is to inform your Honorable Body that on March 19, 2003, I approved the following measures from the Regular Session of the Eighty-Fourth General Assembly:

HB 1460, which is now Act 471 of 2003, and
HB 1453, which is now Act 472 of 2003, and
HB 1121, which is now Act 473 of 2003, and
HB 1125, which is now Act 474 of 2003, and
HB 1126, which is now Act 475 of 2003, and
HB 1131, which is now Act 476 of 2003, and
HB 1132, which is now Act 477 of 2003, and
HB 1133, which is now Act 478 of 2003, and
HB 1145, which is now Act 479 of 2003, and
HB 1197, which is now Act 480 of 2003, and
HB 1198, which is now Act 481 of 2003, and
HB 1427, which is now Act 482 of 2003, and
HB 1455, which is now Act 483 of 2003, and
HB 1474, which is now Act 484 of 2003, and

GOVERNOR'S LETTER APPROVING MEASURES, (continued)

HB 1475, which is now Act 485 of 2003, and
HB 1513, which is now Act 486 of 2003, and
HB 1544, which is now Act 487 of 2003, and
HB 1556, which is now Act 488 of 2003, and
HB 1557, which is now Act 489 of 2003, and
HB 1577, which is now Act 490 of 2003, and
HB 1587, which is now Act 491 of 2003, and
HB 1602, which is now Act 492 of 2003, and
HB 1603, which is now Act 493 of 2003, and
HB 1613, which is now Act 494 of 2003, and
HB 1617, which is now Act 495 of 2003, and
HB 1618, which is now Act 496 of 2003, and
HB 1626, which is now Act 497 of 2003, and
HB 1637, which is now Act 498 of 2003, and
HB 1669, which is now Act 499 of 2003, and
HB 1670, which is now Act 500 of 2003, and
HB 1671, which is now Act 501 of 2003, and
HB 1672, which is now Act 502 of 2003, and
HB 1673, which is now Act 503 of 2003, and
HB 1674, which is now Act 504 of 2003, and
HB 1675, which is now Act 505 of 2003, and
HB 1677, which is now Act 506 of 2003, and
HB 1124, which is now Act 507 of 2003, and
HB 1678, which is now Act 508 of 2003, and
HB 1679, which is now Act 509 of 2003, and
HB 1682, which is now Act 510 of 2003, and
HB 1683, which is now Act 511 of 2003, and
HB 1693, which is now Act 512 of 2003, and
HB 1709, which is now Act 513 of 2003, and
HB 1713, which is now Act 514 of 2003, and
HB 1735, which is now Act 515 of 2003, and
HB 1753, which is now Act 516 of 2003, and
HB 1762, which is now Act 517 of 2003, and
HB 1763, which is now Act 518 of 2003, and
HB 1764, which is now Act 519 of 2003, and
HB 1765, which is now Act 520 of 2003, and
HB 1766, which is now Act 521 of 2003, and

GOVERNOR'S LETTER APPROVING MEASURES, (continued)

HB 1771, which is now Act 522 of 2003, and
HB 1784, which is now Act 523 of 2003, and
HB 1785, which is now Act 524 of 2003, and
HB 1789, which is now Act 525 of 2003, and
HB 1803, which is now Act 526 of 2003, and
HB 1815, which is now Act 527 of 2003, and
HB 1821, which is now Act 528 of 2003, and
HB 1822, which is now Act 529 of 2003, and
HB 1823, which is now Act 530 of 2003, and
HB 1825, which is now Act 531 of 2003, and
HB 1826, which is now Act 532 of 2003, and
HB 1827, which is now Act 533 of 2003, and
HB 1833, which is now Act 534 of 2003, and
HB 1844, which is now Act 535 of 2003, and
HB 1845, which is now Act 536 of 2003, and
HB 1846, which is now Act 537 of 2003, and
HB 1930, which is now Act 538 of 2003, and
HB 1942, which is now Act 539 of 2003, and
HB 1748, which is now Act 540 of 2003, and
HB 1956, which is now Act 541 of 2003, and
HB 1985, which is now Act 542 of 2003, and
HB 2153, which is now Act 543 of 2003, and
House Concurrent Memorial Resolution 1001.

Sincerely,

/s/ Mike Huckabee

MH:sm

cc: President of the Senate

Upon motion of Representative Napper, **HOUSE BILL NO. 1297** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 1297

Amend **HOUSE BILL NO. 1297** as originally introduced:

Page 2, lines 21 through 29, delete in their entirety and substitute the following:

"(01) REGULAR SALARIES	\$ 1,376,883	\$ 1,414,059
(02) PERSONAL SERV MATCH	416,860	424,840
(03) MAINT. & GEN. OPERATION		
(A) OPER. EXPENSE	158,166	158,166
(B) CONF. & TRAVEL	11,000	11,000
(C) PROF. FEES	3,930	3,930
(D) CAP. OUTLAY	0	0
(E) DATA PROC.	<u>0</u>	<u>0</u>
TOTAL AMOUNT APPROPRIATED	<u>\$ 1,966,839</u>	<u>\$ 2,011,995"</u>

AND

Page 3, lines 5 through 7, delete in their entirety and substitute the following:

"(01) REGULAR SALARIES	\$ 44,922	\$ 46,134
(02) PERSONAL SERV MATCH	<u>13,005</u>	<u>13,265</u>
TOTAL AMOUNT APPROPRIATED	<u>\$ 57,926</u>	<u>\$ 59,399"</u>

/s/ Paul Weaver

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Napper, **HOUSE BILL NO. 1303** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO HOUSE BILL NO. 1303

Amend **HOUSE BILL NO. 1303** as originally introduced:

Page 3, lines 7 through 16, delete in their entirety and substitute the following:

"(01) REGULAR SALARIES	\$ 2,031,409	\$ 2,073,734
(02) EXTRA HELP	361,093	361,093
(03) PERSONAL SERV MATCH	630,901	639,485
(04) MAINT. & GEN. OPERATION		
(A) OPER. EXPENSE	594,377	594,377
(B) CONF. & TRAVEL	11,500	11,500
(C) PROF. FEES	0	0
(D) CAP. OUTLAY	0	0
(E) DATA PROC.	<u>0</u>	<u>0</u>
TOTAL AMOUNT APPROPRIATED	<u>\$ 3,629,280</u>	<u>\$ 3,680,189</u>

/s/ Paul Weaver

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative Napper, **HOUSE BILL NO. 1444** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 1444

Amend **HOUSE BILL NO. 1444** as engrossed, 03/19/03:

Page 3, line 1, appropriately renumber the remaining item numbers.

/s/ Paul Weaver

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative Creekmore, **SENATE BILL NO. 698** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO SENATE BILL NO. 698

Amend **SENATE BILL NO. 698** as engrossed, S3/10/03:

Page 1, delete line 10 and substitute the following: "BUDGET COMMITTEE; TO CLARIFY THE MEMBERSHIP OF THE LEGISLATIVE COUNCIL AND THE LEGISLATIVE JOINT AUDITING COMMITTEE; AND FOR OTHER PURPOSES."

AND

Page 1, delete line 14 and substitute the following: "JOINT BUDGET COMMITTEE; TO CLARIFY THE MEMBERSHIP OF THE LEGISLATIVE COUNCIL AND THE LEGISLATIVE JOINT AUDITING COMMITTEE."

AND

Page 1, delete section 1 in its entirety and substitute the following:

"SECTION 1. Arkansas Code § 10-3-301(1)(3), pertaining to the membership of the Legislative Council, is amended to read as follows:

(3)(A) ~~The President Pro Tempore of the Senate, the President Pro Tempore Designate, the immediate past President Pro Tempore of the Senate, the next preceding past President Pro Tempore if the immediate past President Pro Tempore is not a member of the Senate,~~ the Speaker Designate of the House of Representatives, the Speaker of the House of Representatives, the immediate past Speaker of the House of Representatives, ~~the next preceding past Speaker of the House if the immediate past Speaker of the House is not a member of the House,~~ the immediate past cochairs of the Legislative Council, the immediate past chair or cochairs of the Legislative Joint Auditing Committee, and the chair and vice chair or cochairs and co-vice chairs of the Legislative Joint Auditing Committee shall be ex officio members of the Legislative Council and shall enjoy the same rights and privileges as other Legislative Council members;

(B)(i) If the immediate past Speaker of the House is not a member of the House, the current Speaker may appoint a member of the House to serve in the stead of the immediate past Speaker.

(ii) If the immediate past President Pro Tempore of the Senate is not a member of the Senate, the current President Pro Tempore may appoint a member of the Senate to serve in the stead of the immediate past President Pro Tempore.

(iii) If the immediate past House cochair of the Legislative Council is not a member of the House, the Speaker of the House may appoint a member of the House to serve in the stead of the immediate past House

cochair.

(iv) If the immediate past Senate cochair of the Legislative Council is not a member of the Senate, the President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past Senate cochair.

(v) If the immediate past House cochair of the Legislative Joint Auditing Committee is not a member of the House, the Speaker of the House may appoint a member of the House to serve in the stead of the immediate past House cochair.

(vi) If the immediate past Senate cochair of the Legislative Joint Auditing Committee is not a member of the Senate, the President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past Senate cochair;

SECTION 2. Arkansas Code § 10-3-403(a)(3), pertaining to the membership of the Legislative Joint Auditing Committee, is amended to read as follows:

(3)(A) The Speaker of the House of Representatives, the President Pro Tempore of the Senate, the immediate past chair or past cochairs of the Committee, and the cochair and co-vice chairs of the Legislative Council shall be ex officio members of the Committee and shall enjoy all the rights and privileges of other members of the Committee.

(B) If the immediate past House cochair of the Legislative Joint Auditing Committee is not a member of the House, the Speaker of the House may appoint a member of the House to serve in the stead of the immediate past House cochair.

(C) If the immediate past Senate cochair of the Legislative Joint Auditing Committee is not a member of the Senate, the President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past Senate cochair;

SECTION 3. Arkansas Code § 10-3-502(a) is amended to read as follows:

(a)(1) The Joint Budget Committee shall consist of the current cochairs of the Legislative Council, the immediate past cochairs of the Legislative Council, the current cochairs of the Legislative Joint Auditing Committee, the immediate past cochairs of the Legislative Auditing Committee, twenty (20) twenty-four (24) members and eight (8) alternate members of the House of Representatives and twenty (20) twenty-four (24) members of the Senate.

(2) If the immediate past House cochair of the Legislative Council is not a member of the House, the Speaker of the House may appoint a member of the House to serve in the stead of the immediate past House cochair.

(3) If the immediate past Senate cochair of the Legislative Council is not a member of the Senate, the President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past Senate cochair.

(4) If the immediate past House cochair of the Legislative Joint Auditing Committee is not a member of the House, the Speaker of the House may appoint a member of the House to serve in the stead of the immediate past House cochair.

(5) If the immediate past Senate cochair of the Legislative Joint Auditing Committee is not a member of the Senate, the President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past Senate cochair;”

AND

Appropriately renumber the subsequent section of the bill.

/s/ Mike Creekmore

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

Upon motion of Representative Creekmore, **SENATE BILL NO. 698** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO SENATE BILL NO. 698

Amend **SENATE BILL NO. 698** as engrossed, S3/10/03:

Page 1, delete line 10 and substitute the following:

“BUDGET COMMITTEE; CONCERNING THE MEMBERSHIP OF THE LEGISLATIVE COUNCIL; AND FOR OTHER PURPOSES.”

AND

Page 1, delete line 14 and substitute the following:

“JOINT BUDGET COMMITTEE; AND CONCERNING THE MEMBERSHIP OF THE LEGISLATIVE COUNCIL.”

AND

Add an additional Section after Section 2 of the bill to read as follows:

“SECTION 3. Arkansas Code § 10-3-301(a), concerning the membership of the Legislative Council, is amended to add an additional subdivision to read as follows:

(5) The majority party whip and minority party whip in the Senate or their designees, and the majority party whip and the minority party whip in the House or their designees shall be members of the Legislative Council and shall enjoy the same rights and privileges as other Legislative Council members.”

/s/ Mike Creekmore

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

HOUSE RESOLUTION NO.1023

BY: REPRESENTATIVE R. SMITH

HONORING THE ARKANSAS SCHOOL FOR MATH AND SCIENCE FOR THEIR COMMENDABLE PERFORMANCE IN THE HIGH SCHOOL MATHEMATICAL CONSORTIUM FOR MATHEMATICS AND ITS APPLICATION MODELING.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES. THE RESOLUTION RECEIVED UNANIMOUS SUPPORT.

HOUSE RESOLUTION NO.1025

BY: REPRESENTATIVE EDWARDS

COMMENDING AND EXPRESSING APPRECIATION TO THE UNIVERSITY OF ARKANSAS PRESS.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES. THE RESOLUTION RECEIVED UNANIMOUS SUPPORT.

HOUSE CONCURRENT RESOLUTION NO. 1023

BY: REPRESENTATIVE LEWELLEN

COMMENDING THE THREE ARKANSAS JOB CORPS CENTERS FOR THE OUTSTANDING SERVICE PROVIDED THE STATE AND RESIDENTS OF THE STATE, AND DESIGNATING MARCH 26, 2003, AS JOB CORPS RECOGNITION DAY IN ARKANSAS.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES. THE RESOLUTION RECEIVED UNANIMOUS SUPPORT.

HOUSE RESOLUTION NO.1021

BY: REPRESENTATIVE PARKS

HONORING PRESIDENT BUSH'S LEADERSHIP IN HIS EFFORT TO PROTECT THE UNITED STATES FROM SADDAM HUSSEIN.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES. THE RESOLUTION RECEIVED UNANIMOUS SUPPORT.

HOUSE BILL NO. 2790

BY: REPRESENTATIVE BOLIN

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bolin, Bond, P. Bookout, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Green, Haak, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Norton, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, Stovall, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, White.

Total91

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Borhauer, Dangeau, Goss, Hardwick, J. Johnson, L. Prater, R. Smith, Wood, Mr. Speaker.

Total9

VOTING PRESENT:

Total0

Total number of votes cast.....91

Total number voting in the affirmative91

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

HOUSE BILL NO. 2823

BY: REPRESENTATIVE MEDLEY

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bond, P. Bookout, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Green, Haak, Harris, Hathorn, Hickinbotham, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Norton, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Stovall, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver.

Total92

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Bolin, Borhauer, Goss, Hardwick, House, White, Wood, Mr. Speaker.

Total8

VOTING PRESENT:

Total0

Total number of votes cast.....92

Total number voting in the affirmative92

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

There being an Emergency Clause attached to **HOUSE BILL NO. 2823**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bond, P. Bookout, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Green, Haak, Harris, Hathorn, Hickinbotham, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Norton, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Stovall, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver.

Total92

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Bolin, Borhauer, Goss, Hardwick, House, White, Wood, Mr. Speaker.

Total8

VOTING PRESENT:

Total0

Total number of votes cast.....92

Total number voting in the affirmative92

Necessary to the adoption of the emergency clause.....67

So the Emergency Clause was adopted.

SENATE BILL NO. 159

BY: SENATOR HILL

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bond, P. Bookout, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Green, Haak, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Napper, Nichols, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Stovall, Sullivan, Sumpter, C. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, White.

Total92

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Bolin, Borhauer, Hardwick, Moore, Norton, J. Taylor, Wood, Mr. Speaker.

Total8

VOTING PRESENT:

Total0

Total number of votes cast.....92

Total number voting in the affirmative92

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

Morning Hour Expired.

SENATE BILL NO. 690

BY: SENATOR MADISON

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bond, P. Bookout, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Green, Haak, Hardwick, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Norton, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Stovall, Sullivan, Sumpter, C. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, White.

Total95

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Bolin, Borhauer, J. Taylor, Wood, Mr. Speaker.

Total5

VOTING PRESENT:

Total0

Total number of votes cast.....95

Total number voting in the affirmative95

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

HOUSE BILL NO. 2720

BY: REPRESENTATIVE NAPPER

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bond, P. Bookout, Boyd, Bright, Chesterfield, Childers, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Green, Haak, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Norton, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Stovall, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, White.

Total93

NEGATIVE: Hardwick.

Total1

ABSENT OR NOT VOTING: Bolin, Borhauer, Bradford, Clemons, Wood, Mr. Speaker.

Total6

VOTING PRESENT:

Total0

Total number of votes cast.....94

Total number voting in the affirmative93

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

There being an Emergency Clause attached to HOUSE BILL NO. 2720, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bond, P. Bookout, Boyd, Bright, Chesterfield, Childers, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Green, Haak, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Norton, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Stovall, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, White.

Total93

NEGATIVE: Hardwick.

Total1

ABSENT OR NOT VOTING: Bolin, Borhauer, Bradford, Clemons, Wood, Mr. Speaker.

Total6

VOTING PRESENT:

Total0

Total number of votes cast.....94

Total number voting in the affirmative93

Necessary to the adoption of the emergency clause.....67

So the Emergency Clause was adopted.

HOUSE BILL NO. 2262

BY: REPRESENTATIVE DEES

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Anderson, Berry, Biggs, Blair, Bledsoe, Bond, P. Bookout, Boyd, Bradford, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gipson, Green, Haak, Hardwick, Harris, Hathorn, Hickinbotham, House, Jackson, Jacobs, C. Johnson, J. Johnson, Jones, Judy, Key, King, Lamoureux, Ledbetter, Lewellen, Mack, Mahony, Martin, Mathis, Medley, Milligan, Moore, Napper, Nichols, Norton, Oglesby, Ormond, Pace, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, Stovall, Sullivan, Sumpter, J. Taylor, Thomas, Thomason, Thyer, Walters, White.

Total79

NEGATIVE: Agee, Bennett, Dobbins, Hutchinson, Kenney, Parks, C. Taylor, Verkamp.

Total8

ABSENT OR NOT VOTING: Bolin, Borhauer, Bright, Gillespie, Goss, Lendall, Rankin, R. Smith, Wood, Mr. Speaker.

Total10

VOTING PRESENT: Jeffrey, Matayo, Weaver.

Total3

Total number of votes cast.....90

Total number voting in the affirmative79

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

HOUSE BILL NO. 1658

BY: REPRESENTATIVE DEES

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Berry, Biggs, Blair, Bledsoe, Bond, P. Bookout, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gipson, Green, Haak, Hardwick, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, Stovall, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomas, Thyer, Verkamp, Walters, Weaver, White, Wood.

Total89

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Bennett, Bolin, Borhauer, Gillespie, Goss, Jones, Norton, Roebuck, R. Smith, Thomason, Mr. Speaker.

Total11

VOTING PRESENT:

Total0

Total number of votes cast.....89

Total number voting in the affirmative89

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

***** EXPUNGED***** 03/25/03*****

HOUSE BILL NO. 1694

BY: REPRESENTATIVE JUDY

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Biggs, Blair, Bond, P. Bookout, Bradford, Chesterfield, Clemons, Dees, Dobbins, Eason, Edwards, Elliott, Ferguson, Fite, Gillespie, Goss, Haak, Hickinbotham, House, J. Johnson, Judy, King, Ledbetter, Lendall, Lewellen, Mahony, Martin, Milligan, Napper, Oglesby, Pickett, L. Prater, S. Prater, Seawel, Thomas, Verkamp, Walters, Wood.

Total38

NEGATIVE: Agee, Anderson, Bennett, Berry, Bledsoe, Bolin, Childers, Dangeau, Dickinson, Gipson, Green, Harris, Hutchinson, Jackson, Jeffrey, Kenney, Key, Lamoureux, Mack, Matayo, Mathis, Medley, Moore, Nichols, Norton, Pace, Pate, Penix, Petrus, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, R. Smith, Thomason, Thyer.

Total38

ABSENT OR NOT VOTING: Adams, Borhauer, Boyd, Bright, Cowling, L. Evans, Hardwick, Jacobs, C. Johnson, Jones, Ormond, Parks, Scroggin, Stovall, Sullivan, Sumpter, C. Taylor, J. Taylor, Weaver, White, Mr. Speaker.

Total21

VOTING PRESENT: Creekmore, D. Evans, Hathorn.

Total3

Total number of votes cast79

Total number voting in the affirmative38

Necessary to the passage of the bill51

So the Bill failed.

***** EXPUNGED***** 03/25/03*****

HOUSE BILL NO. 1647

BY: REPRESENTATIVE ORMOND

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bolin, Bond, P. Bookout, Boyd, Bradford, Chesterfield, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Eason, Edwards, Elliott, D. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Green, Haak, Hardwick, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Norton, Oglesby, Ormond, Pace, Parks, Penix, Petrus, Pickett, L. Prater, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, White, Wood.

Total87

NEGATIVE: Dobbins.

Total1

ABSENT OR NOT VOTING: Borhauer, Bright, Childers, L. Evans, Moore, Napper, Nichols, Pritchard, Stovall, Mr. Speaker.

Total10

VOTING PRESENT: Pate, S. Prater.

Total2

Total number of votes cast.....90

Total number voting in the affirmative87

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

Motion was made by Representative Parks for reconsideration of **HOUSE BILL NO. 2774**.

On this motion the ayes and nays were called for and the call was sustained. The Clerk called the roll. The vote was as follows:

AFFIRMATIVE: Agee, Anderson, Berry, Biggs, Bledsoe, Bolin, Bond, Bright, Chesterfield, Childers, Clemons, Creekmore, Dees, Dobbins, Eason, Elliott, Ferguson, Goss, Green, Haak, Hardwick, Harris, House, Hutchinson, Jackson, Jacobs, Jones, Judy, Kenney, Key, King, Lamoureux, Lendall, Mack, Matayo, Mathis, Medley, Moore, Ormond, Pace, Parks, Penix, Petrus, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scroggin, R. Smith, C. Taylor, Thomas, Thyer, Walters, Wood.

Total56

NEGATIVE: Adams, Blair, P. Bookout, Boyd, Bradford, Cowling, Dangeau, Dickinson, Edwards, Fite, Gillespie, Gipson, Hathorn, Hickinbotham, Jeffrey, J. Johnson, Ledbetter, Mahony, Martin, Napper, Nichols, Norton, Oglesby, Pate, Pickett, L. Prater, Scrimshire, Seawel, Stovall, Verkamp.

Total30

ABSENT OR NOT VOTING: Bennett, Borhauer, D. Evans, L. Evans, C. Johnson, Lewellen, Milligan, Sullivan, Sumpter, J. Taylor, Thomason, Weaver, White, Mr. Speaker.

Total14

VOTING PRESENT:

Total0

Total number of votes cast86

Total number voting in the affirmative56

Necessary to the adoption of the motion51

So the motion was adopted.

HOUSE BILL NO. 2774

BY: REPRESENTATIVE ORMOND

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Agee, Anderson, Berry, Biggs, Bledsoe, Bolin, Bright, Chesterfield, Childers, Clemons, Dees, Dobbins, Eason, Elliott, Green, Haak, Hardwick, Harris, Hutchinson, Jackson, Jacobs, C. Johnson, Jones, Kenney, King, Lamoureux, Lendall, Matayo, Mathis, Medley, Moore, Ormond, Pace, Parks, Penix, Petrus, Pickett, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scroggin, R. Smith, Stovall, C. Taylor, Thyer, Walters, White.

Total50

NEGATIVE: Adams, Blair, Bond, P. Bookout, Boyd, Bradford, Cowling, Dangeau, Dickinson, Edwards, Fite, Gillespie, Hickinbotham, Jeffrey, J. Johnson, Key, Ledbetter, Mack, Mahony, Martin, Napper, Norton, Oglesby, Pate, L. Prater, Scrimshire, Seawel, Thomas, Verkamp, Wood.

Total30

ABSENT OR NOT VOTING: Bennett, Borhauer, Creekmore, D. Evans, L. Evans, Ferguson, Gipson, Goss, Hathorn, House, Judy, Lewellen, Milligan, Nichols, Sullivan, Sumpter, J. Taylor, Thomason, Weaver, Mr. Speaker.

Total20

VOTING PRESENT:

Total0

Total number of votes cast.....80

Total number voting in the affirmative50

Necessary to the passage of the bill51

So the Bill failed.

HOUSE BILL NO. 2388

BY: REPRESENTATIVE MEDLEY

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Bledsoe, Bolin, Bond, P. Bookout, Boyd, Bradford, Bright, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Green, Haak, Hardwick, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, J. Johnson, Jones, Judy, Kenney, Key, King, Mack, Martin, Matayo, Medley, Milligan, Moore, Nichols, Norton, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, Wood.

Total84

NEGATIVE: C. Johnson, Lamoureux, Ledbetter, Lendall, Lewellen, Mahony, Napper.

Total7

ABSENT OR NOT VOTING: Blair, Borhauer, Chesterfield, Elliott, Mathis, Rankin, Stovall, White, Mr. Speaker.

Total9

VOTING PRESENT:

Total0

Total number of votes cast.....91

Total number voting in the affirmative84

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

HOUSE BILL NO. 2757

BY: REPRESENTATIVE WALTERS

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Bennett, Berry, Bolin, Chesterfield, Dangeau, Dees, Dickinson, Eason, Elliott, D. Evans, L. Evans, Fite, Gillespie, Gipson, Goss, Hickinbotham, House, Jacobs, Jeffrey, J. Johnson, Jones, Judy, Key, Lamoureux, Lendall, Mahony, Martin, Mathis, Moore, Nichols, Norton, Oglesby, Ormond, Petrus, Pickett, L. Prater, Roebuck, Scrimshire, Sullivan, Sumpter, C. Taylor, Thyer, Verkamp, Walters, Wood.

Total46

NEGATIVE: Agee, Anderson, Blair, Bledsoe, Bond, Boyd, Bright, Cowling, Creekmore, Dobbins, Edwards, Green, Haak, Hardwick, Harris, Hathorn, Hutchinson, Jackson, Kenney, King, Ledbetter, Mack, Matayo, Pace, Parks, Penix, Pritchard, Rankin, Rosenbaum, Scroggin, Seawel, R. Smith, Stovall, Weaver.

Total34

ABSENT OR NOT VOTING: P. Bookout, Borhauer, Bradford, Ferguson, Lewellen, Medley, Napper, Schulte, J. Taylor, Thomas, Thomason, Mr. Speaker.

Total12

VOTING PRESENT: Biggs, Childers, Clemons, C. Johnson, Milligan, Pate, S. Prater, White.

Total8

Total number of votes cast.....88

Total number voting in the affirmative46

Necessary to the passage of the bill51

So the Bill failed.

HOUSE BILL NO. 2514

BY: REPRESENTATIVE J. JOHNSON

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bolin, Bond, P. Bookout, Bradford, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Green, Hardwick, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Mack, Mahony, Martin, Mathis, Medley, Milligan, Moore, Napper, Nichols, Norton, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, R. Smith, Stovall, Sullivan, Sumpter, C. Taylor, Thomas, Thyer, Verkamp, Walters, Weaver, White, Wood.

Total89

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Borhauer, Boyd, Bright, Haak, Lewellen, Matayo, Oglesby, Seawel, J. Taylor, Thomason, Mr. Speaker.

Total11

VOTING PRESENT:

Total0

Total number of votes cast.....89

Total number voting in the affirmative89

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

Upon motion of Representative J. Johnson the Clincher motion prevailed.

HOUSE BILL NO. 2470

BY: REPRESENTATIVE MOORE

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bolin, P. Bookout, Boyd, Bradford, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Haak, Harris, Hathorn, Hickinbotham, House, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Mack, Mahony, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Oglesby, Ormond, Pace, Parks, Penix, Petrus, Pickett, L. Prater, Pritchard, Rankin, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, Stovall, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomason, Thyer, Verkamp, Weaver, White.

Total81

NEGATIVE: Bond, Green, Martin, Norton, Pate, S. Prater, Walters, Wood.

Total8

ABSENT OR NOT VOTING: Adams, Borhauer, Bright, Dangeau, Hardwick, Hutchinson, Lewellen, Roebuck, R. Smith, Thomas, Mr. Speaker.

Total11

VOTING PRESENT:

Total0

Total number of votes cast.....89

Total number voting in the affirmative81

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

Upon motion of Representative Moore the Clincher motion prevailed.

Motion was made by Representative Lamoureux for immediate consideration of HOUSE BILL NO. 1834. Motion carried.

HOUSE BILL NO. 1834

BY: REPRESENTATIVE PENIX

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Anderson, Bennett, Berry, Blair, Bledsoe, Bolin, Bond, P. Bookout, Boyd, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, L. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Green, Haak, Hardwick, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Lewellen, Mack, Martin, Matayo, Mathis, Medley, Moore, Norton, Oglesby, Pace, Parks, Pate, Penix, Petrus, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Stovall, Sullivan, Sumpter, C. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, White, Wood.

Total81

NEGATIVE: Agee, Biggs, D. Evans, Ledbetter, Lendall, Mahony, Napper, Ormond.

Total8

ABSENT OR NOT VOTING: Borhauer, Bradford, Elliott, C. Johnson, Milligan, Nichols, L. Prater, J. Taylor, Weaver, Mr. Speaker.

Total10

VOTING PRESENT: Pickett.

Total1

Total number of votes cast90

Total number voting in the affirmative81

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

Upon motion of Representative Penix the Clincher motion prevailed.

HOUSE BILL NO. 2849

BY: REPRESENTATIVE BIGGS

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Agee, Bennett, Berry, Biggs, Blair, Bolin, P. Bookout, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dees, Dobbins, Eason, Edwards, L. Evans, Ferguson, Gillespie, Gipson, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jones, Judy, King, Lewellen, Mack, Matayo, Mathis, Medley, Moore, Napper, Norton, Ormond, Pace, Parks, Petrus, Pritchard, Rankin, Roebuck, Schulte, Scrimshire, Seawel, R. Smith, Stovall, Sullivan, C. Taylor, J. Taylor, Thomas, Verkamp, White.

Total56

NEGATIVE: Anderson, Bledsoe, Bond, Bradford, Dickinson, Elliott, D. Evans, Fite, Green, Harris, Jeffrey, J. Johnson, Kenney, Key, Lamoureux, Ledbetter, Lendall, Martin, Nichols, Pate, Penix, Pickett, L. Prater, S. Prater, Rosenbaum, Sumpter, Thyer, Walters, Wood.

Total29

ABSENT OR NOT VOTING: Adams, Borhauer, Boyd, Dangeau, Goss, Haak, C. Johnson, Mahony, Milligan, Scroggin, Thomason, Weaver, Mr. Speaker.

Total13

VOTING PRESENT: Hardwick, Oglesby.

Total2

Total number of votes cast.....87

Total number voting in the affirmative56

Necessary to the passage of the bill67

So the Bill failed.

Let the record reflect that HOUSE BILL NO. 2849 required 67 votes for passage and by a vote of 56 yeas, 29 nays, 2 present, and 13 not voting, HOUSE BILL NO. 2849 failed.

HOUSE BILL NO. 2440

BY: REPRESENTATIVE STOVALL

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bolin, Bond, P. Bookout, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Dobbins, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Fite, Gillespie, Gipson, Goss, Green, Haak, Hardwick, Harris, Hathorn, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Lewellen, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Norton, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Stovall, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, White, Wood.

Total97

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Borhauer, Oglesby, Mr. Speaker.

Total3

VOTING PRESENT:

Total0

Total number of votes cast.....97

Total number voting in the affirmative97

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

The Chair requested the transfer of **HOUSE BILL NO. 2825** from the Committee on STATE AGENCIES AND GOVERNMENTAL AFFAIRS to the Committee on JUDICIARY.

HOUSE BILL NO. 1381 was referred back to the Committee on JOINT BUDGET.

HOUSE BILL NO. 1540 was referred back to the Committee on JUDICIARY.

HOUSE BILL NO. 1619 was referred back to the Committee on EDUCATION.

HOUSE BILLS ORDERED TRANSMITTED TO THE SENATE AS PASSED

HOUSE BILL NO. 1647	BY REPRESENTATIVE ORMOND
HOUSE BILL NO. 1658	BY REPRESENTATIVE DEES
HOUSE BILL NO. 1834	BY REPRESENTATIVE PENIX
HOUSE BILL NO. 2440	BY REPRESENTATIVE STOVALL
HOUSE BILL NO. 2262	BY REPRESENTATIVE DEES
HOUSE BILL NO. 2388	BY REPRESENTATIVE MEDLEY
HOUSE BILL NO. 2470	BY REPRESENTATIVE MOORE
HOUSE BILL NO. 2514	BY REPRESENTATIVE J. JOHNSON
HOUSE BILL NO. 2720	BY REPRESENTATIVE NAPPER
HOUSE BILL NO. 2790	BY REPRESENTATIVE BOLIN
HOUSE BILL NO. 2823	BY REPRESENTATIVE MEDLEY

HOUSE CONCURRENT RESOLUTIONS ADOPTED AND ORDERED TRANSMITTED TO THE SENATE

HOUSE CONCURRENT RESOLUTION NO. 1023
BY REPRESENTATIVE LEWELLEN

SENATE BILLS ORDERED RETURNED TO THE SENATE AS PASSED

SENATE BILL NO. 159 BY SENATOR HILL
 SENATE BILL NO. 690 BY SENATOR MADISON

ARKANSAS SENATE
 HOUSE BILLS RETURNED FROM THE SENATE AS PASSED

HOUSE BILL NO. 1381 BY JOINT BUDGET COMMITTEE
 AS AMENDED #1
 HOUSE BILL NO. 1996 BY REPRESENTATIVE L. PRATER
 HOUSE BILL NO. 2002 BY REPRESENTATIVE HICKINBOTHAM
 HOUSE BILL NO. 2003 BY REPRESENTATIVE HICKINBOTHAM
 HOUSE BILL NO. 2004 BY REPRESENTATIVE HICKINBOTHAM
 HOUSE BILL NO. 2005 BY REPRESENTATIVE HICKINBOTHAM
 HOUSE BILL NO. 2006 BY REPRESENTATIVE HICKINBOTHAM
 HOUSE BILL NO. 2007 BY REPRESENTATIVE HICKINBOTHAM
 HOUSE BILL NO. 2009 BY REPRESENTATIVE DICKINSON
 HOUSE BILL NO. 2029 BY REPRESENTATIVE PETRUS
 HOUSE BILL NO. 2038 BY REPRESENTATIVE BOND
 HOUSE BILL NO. 2039 BY REPRESENTATIVE BOND
 HOUSE BILL NO. 2068 BY REPRESENTATIVE GOSS
 HOUSE BILL NO. 2069 BY REPRESENTATIVE GOSS
 HOUSE BILL NO. 2070 BY REPRESENTATIVE GOSS
 HOUSE BILL NO. 2071 BY REPRESENTATIVE GOSS
 HOUSE BILL NO. 2073 BY REPRESENTATIVE ROSENBAUM
 HOUSE BILL NO. 2078 BY REPRESENTATIVE SCRIMSHIRE
 HOUSE BILL NO. 2080 BY REPRESENTATIVE SCRIMSHIRE
 HOUSE BILL NO. 2082 BY REPRESENTATIVE WALTERS
 HOUSE BILL NO. 2083 BY REPRESENTATIVE WALTERS
 HOUSE BILL NO. 2087 BY REPRESENTATIVE SCROGGIN
 HOUSE BILL NO. 2088 BY REPRESENTATIVE VERKAMP
 HOUSE BILL NO. 2089 BY REPRESENTATIVE SUMPTER
 HOUSE BILL NO. 2091 BY REPRESENTATIVE MACK
 HOUSE BILL NO. 2093 BY REPRESENTATIVE MACK
 HOUSE BILL NO. 2094 BY REPRESENTATIVE MACK
 HOUSE BILL NO. 2096 BY REPRESENTATIVE SUMPTER
 HOUSE BILL NO. 2097 BY REPRESENTATIVE MACK

HOUSE BILLS RETURNED FROM THE SENATE AS PASSED, (continued)

HOUSE BILL NO. 2098 BY REPRESENTATIVE SUMPTER
HOUSE BILL NO. 2099 BY REPRESENTATIVE VERKAMP
HOUSE BILL NO. 2100 BY REPRESENTATIVE ROSENBAUM
HOUSE BILL NO. 2101 BY REPRESENTATIVE MACK
HOUSE BILL NO. 2112 BY REPRESENTATIVE SCROGGIN
HOUSE BILL NO. 2125 BY REPRESENTATIVE KING
HOUSE BILL NO. 2126 BY REPRESENTATIVE KING
HOUSE BILL NO. 2127 BY REPRESENTATIVE KING
HOUSE BILL NO. 2135 BY REPRESENTATIVE KING
HOUSE BILL NO. 2136 BY REPRESENTATIVE KING
HOUSE BILL NO. 2137 BY REPRESENTATIVE KING
HOUSE BILL NO. 2138 BY REPRESENTATIVE KING
HOUSE BILL NO. 2139 BY REPRESENTATIVE KING
HOUSE BILL NO. 2145 BY REPRESENTATIVE KING
HOUSE BILL NO. 2146 BY REPRESENTATIVE KING
HOUSE BILL NO. 2147 BY REPRESENTATIVE KING
HOUSE BILL NO. 2150 BY REPRESENTATIVE KING
HOUSE BILL NO. 2154 BY REPRESENTATIVE PATE
HOUSE BILL NO. 2159 BY REPRESENTATIVE PATE
HOUSE BILL NO. 2160 BY REPRESENTATIVE HATHORN
HOUSE BILL NO. 2162 BY REPRESENTATIVE HATHORN
HOUSE BILL NO. 2165 BY REPRESENTATIVE PATE
HOUSE BILL NO. 2166 BY REPRESENTATIVE PATE
HOUSE BILL NO. 2168 BY REPRESENTATIVE HATHORN
HOUSE BILL NO. 2170 BY REPRESENTATIVE GOSS
HOUSE BILL NO. 2175 BY REPRESENTATIVE PICKETT
HOUSE BILL NO. 2176 BY REPRESENTATIVE HATHORN
HOUSE BILL NO. 2177 BY REPRESENTATIVE HATHORN
HOUSE BILL NO. 2212 BY REPRESENTATIVE MAHONY

ARKANSAS SENATE

NOTICE OF RETURN OF HOUSE BILLS

HOUSE BILL NO. 2849 BY REPRESENTATIVE BIGGS

ARKANSAS SENATE
HOUSE CONCURRENT RESOLUTIONS CONCURRED IN
AND RETURNED TO THE HOUSE

HOUSE CONCURRENT RESOLUTION NO. 1012
BY REPRESENTATIVE PICKETT

ARKANSAS SENATE
SENATE BILLS RECEIVED FROM SENATE

SENATE BILL NO. 154 BY SENATOR WILKINSON
SENATE BILL NO. 655 BY SENATOR HENDREN
SENATE BILL NO. 659 BY SENATOR WOOLDRIDGE
SENATE BILL NO. 751 BY SENATOR WILKINS
SENATE BILL NO. 757 BY SENATOR STEELE
SENATE BILL NO. 814 BY SENATOR HORN
SENATE BILL NO. 890 BY SENATOR ARGUE
SENATE BILL NO. 915 BY SENATOR WHITAKER

ENROLLED AND DELIVERY TO GOVERNOR REPORTS

Little Rock, Arkansas

March 21, 2003

MR. SPEAKER:

We, your committee on Enrolled Bills, to whom was referred the following:

HOUSE BILL NO. 1061 BY REPRESENTATIVE MATHIS
 HOUSE BILL NO. 1387 BY REPRESENTATIVE C. JOHNSON, ET AL
 HOUSE BILL NO. 1389 BY REPRESENTATIVE ORMOND
 HOUSE BILL NO. 1457 BY REPRESENTATIVE C. JOHNSON
 HOUSE BILL NO. 1549 BY REPRESENTATIVE JEFFREY, ET AL
 HOUSE BILL NO. 1552 BY REPRESENTATIVE JEFFREY, ET AL

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 9:42 a.m. delivered them to the Governor for his approval.

Respectfully submitted,

/s/ Herschel W. Cleveland
 Chairman

RECEIPT FROM THE GOVERNOR

RECEIVED FROM THE HOUSE:

HOUSE BILL NO. 1061 BY REPRESENTATIVE MATHIS
 HOUSE BILL NO. 1387 BY REPRESENTATIVE C. JOHNSON, ET AL
 HOUSE BILL NO. 1389 BY REPRESENTATIVE ORMOND
 HOUSE BILL NO. 1457 BY REPRESENTATIVE C. JOHNSON
 HOUSE BILL NO. 1549 BY REPRESENTATIVE JEFFREY, ET AL
 HOUSE BILL NO. 1552 BY REPRESENTATIVE JEFFREY, ET AL

/s/ Mike Huckabee - Governor

TIME: 9:42 a.m.

By: Cory Cox

STATE OF ARKANSAS
HOUSE OF REPRESENTATIVES

MEMORANDUM

TO: Whom It May Concern
FROM: House Committee on the Journal; Engrossed and Enrolled Bills
DATE: March 21, 2003
SUBJECT: Amendment #2 to House Bill 1981

The House Committee on the Journal; Engrossed and Enrolled Bills, by this letter, approves the correction of an error in Amendment #2 to HB 1981. In the Amendment, the last paragraph on the second page should read, "Page 3 delete line 2" instead of "Page 4 delete line 2".

The Committee authorizes the Chief Clerk to carry out the intent of the amendment by correctly engrossing HB1981.

/s/ Herschel W. Cleveland
Speaker of the House

/s/ Jodie Mahony

/s/ Mike Creekmore, Chairman
House Rules

/s/ Lenville Evans

/s/ Robert J. White, Chairman
House Management Committee

/s/ Tim Massanelli, Parliamentarian

cc: Jo Renshaw, Chief Clerk

HOUSE RESOLUTION NO. 1030

BY: REPRESENTATIVE EDWARDS

COMMENDING MR. STAN HEATH, HEAD BASKETBALL COACH AT THE UNIVERSITY OF ARKANSAS-FAYETTEVILLE FOR THE PROFESSIONAL MANNER IN WHICH HE CARRIES OUT HIS COACHING RESPONSIBILITIES AND FOR HIS MANY COACHING ACCOMPLISHMENTS DURING HIS FIRST YEAR AS HEAD COACH.

Was read the first time, rules suspended, read the second time and referred to the Committee on EDUCATION.

HOUSE RESOLUTION NO. 1031

BY: REPRESENTATIVE EDWARDS

COMMENDING AND EXPRESSING SINCERE APPRECIATION TO THE FAMILY OF THE LATE SAM WALTON FOR THEIR EXCEPTIONALLY GENEROUS GIFT TO THE UNIVERSITY OF ARKANSAS.

Was read the first time, rules suspended, read the second time and referred to the Committee on EDUCATION.

HOUSE RESOLUTION NO. 1032

BY: REPRESENTATIVE EDWARDS

A BILL FOR AN ACT TO BE ENTITLED RECOGNIZING AND HONORING THE 2002-2003 FARMINGTON LADY CARDINALS BASKETBALL TEAM.

Was read the first time, rules suspended, read the second time and referred to the Committee on EDUCATION.

SENATE BILL NO. 156

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, 2005; AND FOR OTHER PURPOSES.

Was read the first time, rules suspended, read the second time and referred to the Committee on JOINT BUDGET.

SENATE BILL NO. 272

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 LABOR FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2005; AND FOR OTHER PURPOSES.

Was read the first time, rules suspended, read the second time and referred to the Committee on JOINT BUDGET.

SENATE BILL NO. 714

BY: SENATOR SALMON

BY: *REPRESENTATIVE S. PRATER*

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO AUTHORIZE ALL CITY AND COUNTY GOVERNMENTS TO LEVY AN ADDITIONAL FINE UP TO FIVE DOLLARS (\$5.00) TO HELP DEFRAID THE EXPENSE OF INCARCERATION OF PRISONERS IN CITY AND COUNTY JAILS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Was read the first time, rules suspended, read the second time and referred to the Committee on CITY, COUNTY AND LOCAL AFFAIRS.

Upon motion of Representative Gillespie, the House adjourned at 12:23 p.m. until 1:00 p.m. Monday, March 24, 2003.

ATTEST:

Herschel W. Cleveland
Speaker of the House of Representatives

Jo Renshaw
Chief Clerk

