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**TENTH DAY'S PROCEEDINGS
SENATE CHAMBER
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION**

Little Rock, Arkansas

January 19, 2011

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

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

BAKER, BLEDSOE, BOOKOUT, BURNETT,
CHESTERFIELD, CRUMBLY, DISMANG, ELLIOTT,
FILES, FLETCHER, FLOWERS, HARRELSON,
HENDREN, HOLLAND, HUTCHINSON, IRVIN, G.
JEFFRESS, J. JEFFRESS, JOHNSON, KEY,
LAMOUREUX, LAVERTY, LUKER, MADISON, MALONE,
PRITCHARD, RAPERT, SALMON, SAMPLE, TAYLOR,
TEAGUE, THOMPSON, WILLIAMS, WYATT.

Senator Irvin requested leave for Senator Whitaker. Leave granted.

The Senate was led in prayer by Reverend Jeff Feil, Cleburne County Baptist Church, Heber Springs, Arkansas.

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

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

STATE OF ARKANSAS

Mike Beebe

Governor

January 19, 2011

TO THE PRESIDENT OF THE SENATE

Dear Mr. President:

This is to inform you that on January 19, 2011, I approved the following measures from the Regular Session of the Eighty-Eighth General Assembly:

Senate Bill No. 001 - ACT 1

Sincerely,

(SIGNED) MIKE BEEBE

ARKANSAS SENATE
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION

January 19, 2011

Mr. President:

We, your Committee on PUBLIC HEALTH, WELFARE & LABOR, to whom was referred:

SENATE BILL NO. 26, BY SENATOR LARRY TEAGUE,

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

Respectfully submitted,

(SIGNED) SENATOR PERCY MALONE
CHAIRMAN

SENATE BILL NO. 70
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE ARKANSAS ETHICS COMMISSION FOR THE FISCAL YEAR ENDING JUNE 30, 2012; AND FOR OTHER PURPOSES.

Senate Bill No. 70 was read the first time, rules suspended, read the second time and referred to the Committee on JOINT BUDGET.

SENATE BILL NO. 71
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE JUDICIAL DISCIPLINE AND DISABILITY COMMISSION FOR THE FISCAL YEAR ENDING JUNE 30, 2012; AND FOR OTHER PURPOSES.

Senate Bill No. 71 was read the first time, rules suspended, read the second time and referred to the Committee on JOINT BUDGET.

SENATE BILL NO. 72
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE DEPARTMENT OF PARKS AND TOURISM - ARKANSAS HISTORY COMMISSION FOR THE FISCAL YEAR ENDING JUNE 30, 2012; AND FOR OTHER PURPOSES.

Senate Bill No. 72 was read the first time, rules suspended, read the second time and referred to the Committee on JOINT BUDGET.

SENATE BILL NO. 73
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR TEAGUE
BY: REPRESENTATIVE WILLIAMS

A Bill for an Act to be Entitled: AN ACT REGARDING EXISTING STAFF EMPLOYED BY THE ATTORNEY GENERAL WHOSE SALARY IS PAID WITH FUNDS BY THE CRIME VICTIMS REPARATIONS REVOLVING FUND; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

Senate Bill No. 73 was read the first time, rules suspended, read the second time and referred to the Committee on STATE AGENCIES & GOVERNMENTAL AFFAIRS.

SENATE BILL NO. 74
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR G. JEFFRESS

A Bill for an Act to be Entitled: AN ACT TO AMEND THE DEFINITIONS REGARDING THE ARKANSAS STATE HIGHWAY EMPLOYEES' RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.

Senate Bill No. 74 was read the first time, rules suspended, read the second time and referred to the Committee on JOINT RETIREMENT AND SOCIAL SECURITY.

SENATE BILL NO. 75
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR G. JEFFRESS

A Bill for an Act to be Entitled: AN ACT TO AMEND ARKANSAS CODE TITLE 24, CHAPTER 5 CONCERNING THE ARKANSAS STATE HIGHWAY EMPLOYEES' RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.

Senate Bill No. 75 was read the first time, rules suspended, read the second time and referred to the Committee on JOINT RETIREMENT AND SOCIAL SECURITY.

SENATE BILL NO. 76
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR G. JEFFRESS

A Bill for an Act to be Entitled: AN ACT TO AMEND PORTIONS OF THE ARKANSAS CODE PERTAINING TO THE ARKANSAS STATE HIGHWAY EMPLOYEES' RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.

Senate Bill No. 76 was read the first time, rules suspended, read the second time and referred to the Committee on JOINT RETIREMENT AND SOCIAL SECURITY.

SENATE BILL NO. 77
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR J. TAYLOR

A Bill for an Act to be Entitled: AN ACT TO AUTHORIZE THE STATE KIDNEY DISEASE COMMISSION TO HONOR PERSONS WHO HAVE PROVIDED LIVING KIDNEY DONATIONS TO ARKANSANS IN NEED OF KIDNEY TRANSPLANTATION; AND FOR OTHER PURPOSES.

Senate Bill No. 77 was read the first time, rules suspended, read the second time and referred to the Committee on PUBLIC HEALTH, WELFARE & LABOR.

SENATE BILL NO. 78
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: JOINT BUDGET COMMITTEE

A Bill for an Act to be Entitled: AN ACT TO MAKE AN APPROPRIATION FOR SALARIES AND EXPENSES OF THE GOVERNOR'S LEGISLATIVE LIAISONS, LEGISLATIVE CLERK, LEGISLATIVE ASSISTANT CLERK, LEGISLATIVE SENIOR ADMINISTRATIVE ASSISTANT, LEGISLATIVE RECEPTIONIST AND LEGISLATIVE ADMINISTRATIVE ASSISTANT DURING THE EIGHTY-EIGHTH SESSION OF THE ARKANSAS GENERAL ASSEMBLY FOR THE OFFICE OF THE GOVERNOR FOR THE FISCAL YEAR ENDING JUNE 30, 2011; AND FOR OTHER PURPOSES.

Senate Bill No. 78 was read the first time, rules suspended, read the second time and referred to the Committee on JOINT BUDGET.

On motion of Senator Files, **Senate Resolution No. 1** was called up for third reading and final disposition.

SENATE RESOLUTION NO. 1

As Engrossed: 1/18/11

EIGHTY-EIGHTH GENERAL ASSEMBLY

REGULAR SESSION

BY: SENATORS FILES, HOLLAND, WHITAKER & D. JOHNSON

SENATE RESOLUTION: TO HONOR THE UNITED STATES MARSHALS AND THEIR ROLE IN ARKANSAS HISTORY AND TO SUPPORT THE UNITED STATES MARSHALS MUSEUM IN FORT SMITH, ARKANSAS.

Senate Resolution No. 1 was read the third time and adopted.

(SIGNED) ANN CORNWELL, SECRETARY

The President declared the morning hour to have expired.

Received from the House

HOUSE BILL NO. 1020

EIGHTY-EIGHTH GENERAL ASSEMBLY

REGULAR SESSION

BY: REPRESENTATIVE LEA

A Bill for an Act to be Entitled: AN ACT CONCERNING THE MEMBERSHIP OF THE DRUG COURT ADVISORY COMMITTEE; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

House Bill No. 1020 was read the first time, rules suspended, read the second time and referred to the Committee on JUDICIARY.

HOUSE BILL NO. 1059
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: REPRESENTATIVES WRIGHT AND STEEL

A Bill for an Act to be Entitled: AN ACT TO ALLOW A COURT TO EXTEND THE DURATION OF A TEMPORARY GUARDIANSHIP IN CERTAIN SITUATIONS; AND FOR OTHER PURPOSES.

House Bill No. 1059 was read the first time, rules suspended, read the second time and referred to the Committee on JUDICIARY.

SENATE JOINT RESOLUTION NO. 2
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR J. HUTCHINSON

SENATE JOINT RESOLUTION: AN AMENDMENT TO THE CONSTITUTION TO PROVIDE THAT THE STATE HIGHWAY COMMISSION, THE GAME AND FISH COMMISSION, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER BOARDS AND COMMISSIONS GOVERNED BY THE ARKANSAS CONSTITUTION SHALL BE GOVERNED IN THE SAME MANNER AS ALL OTHER STATE AGENCIES AND TO PROVIDE THAT THE LOTTERY PROCEEDS SHALL BE APPROPRIATED IN THE SAME MANNER AS OTHER STATE FUNDS.

Subtitle

TO AMEND THE CONSTITUTION TO GOVERN CONSTITUTIONALLY CREATED AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION IN THE SAME MANNER AS ALL OTHER STATE AGENCIES AND TO GOVERN THE APPROPRIATION OF LOTTERY FUNDS.

BE IT RESOLVED BY THE SENATE OF THE EIGHTY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

THAT the following is proposed as an amendment to the Constitution of the State of Arkansas, and upon being submitted to the electors of the state for approval or rejection at the next general election for Representatives and Senators, if a majority of the electors voting thereon at the election adopt the amendment, the amendment shall become a part of the Constitution of the State of Arkansas, to wit:

SECTION 1. Article 19, § 14(c) of the Arkansas Constitution, concerning the lottery, is amended to read as follows:

(c) Lottery proceeds shall ~~not~~ be subject to appropriation by the General Assembly and are ~~specifically declared to be cash funds held in trust separate and apart from the State treasury~~ to be managed and maintained by the General Assembly or an agency or department of the State as determined by the General Assembly.

SECTION 2. Section 1 of Amendment 35 of the Arkansas Constitution is amended to read as follows:

1. Commission created - Members - Powers.

~~The control, management, restoration, conservation and regulation of birds, fish, game and wildlife resources of the State, including hatcheries, sanctuaries, refuges, reservations and all property now owned, or used for said purposes and the acquisition and establishment of same, the administration of the laws now and/or hereafter pertaining thereto, shall be vested in a Commission to be known as the Arkansas State Game and Fish Commission, to consist of eight members. Seven of whom shall be active and one an associate member who shall be the Head of the Department of Zoology at the University of Arkansas, without voting power.~~ (a) There is created the Arkansas State Game and Fish Commission.

(b) The Commission shall have such powers and duties as may be prescribed by law.

(c) The Commission shall consist of eight (8) members and one (1) associate member who is the head of the Department of Zoology at the University of Arkansas.

SECTION 3. Section 8 of Amendment 35 of the Arkansas Constitution is amended to read as follows:

8. Nepotism prohibited - Powers of arrest - Funds - Use - Purposes - ~~Game Protection Fund~~ - Audit of accounts - Resident hunting and fishing licenses - Powers of commission.

No person shall be employed by the Commission who shall be related to any of the Commissioners or any other State officers within the third degree of relationship by blood or marriage. All employed personnel may make arrests for violation of the game and fish laws.

The fees, monies, or funds arising from all sources by the operation and transaction of the said Commission and from the application and administration of the laws and regulations pertaining to birds, game, fish and wildlife resources of the State and the sale of property used for said purposes shall be ~~expended by the Commission for the control, management, restoration, conservation and regulation of the birds, fish and wildlife resources of the State, including the purchases or other acquisitions of property for said purposes and for the administration of the laws pertaining thereto and for no other purposes.~~ All monies shall be deposited in the ~~Game Protection Fund with the State Treasurer and such monies as are necessary, including an emergency fund, shall be appropriated by the Legislature at each legislative session for the use of the Game and Fish Commission as hereto set forth. No monies other than those credited to the Game Protection Fund can be appropriated~~ subject to appropriation by the General Assembly.

~~All money to the credit of or that should be credited to the present Game Protection Fund shall be credited to the new Game Protection Fund and any appropriation made by the Legislature out of the Game Protection Fund shall be construed to be for the use of the new Commission and out of the new Game Protection Fund.~~

The books, accounts, and financial affairs of the Commission shall be audited by the ~~State Comptroller~~ Director of the Department of Finance and Administration as that department as he or she deems necessary, but at least once a year.

Resident hunting and fishing license, each, shall be One and 50/100 Dollars annually, and shall not exceed this amount unless a higher license fee is authorized by an Act of ~~Legislature~~ the General Assembly.

~~The As authorized by law, the Commission shall have the exclusive power and authority to~~ may issue licenses and permits, to regulate bag limits and the manner of taking game and fish and furbearing animals, and ~~shall have the authority to~~ may divide the State into zones, and regulate seasons and manner of taking game, and fish and furbearing animals therein, and fix penalties for violations. No rule or regulations shall apply to less than a complete zone, except temporarily in case of extreme emergency.

~~Said As authorized by law, the Commission shall have the power to~~ may acquire by purchase, gifts, eminent domain, or otherwise, all property necessary, useful, or convenient for the use of the Commission in the exercise of any of its duties, and in the event the right of eminent domain is exercised, it shall be exercised in the same manner as now or hereafter provided for the exercise of eminent domain by the State Highway Commission. All laws now in effect shall continue in force until changed by the ~~Commission~~ General Assembly. All contracts and agreements now in effect shall remain in force until the date of their expiration.

~~This amendment shall not repeal, alter or modify the provisions of any existing special laws under the terms of which a County Game Commission has been created:~~

~~The Commission shall be empowered to~~ may spend such monies as are necessary appropriated by the General Assembly to match Federal grants under the Pittman-Robertson Wildlife Restoration Act or similar acts for the propagation, conservation, and restoration of game and fish.

~~This amendment shall become effective July 1, 1945.~~

SECTION 4. Sections 2 and 3 of Amendment 33 of the Arkansas Constitution are amended to read as follows:

§ 2. Abolition or transfer of powers of board or commission — Restrictions.

~~The board or commission of any institution, governed by this amendment, shall not be abolished nor shall the powers vested in any such board or commission~~ governed by this amendment shall be as prescribed by law and may be transferred by law, unless the institution is abolished or consolidated with some other State institution. In the event of abolition or consolidation, the new board or commission shall consist of a membership of five, seven, or ten.

§ 3. Increase or decrease of members of board or commission prohibited.

~~The membership of any such board or commission now in existence shall not be increased or decreased in number after the effective date of this amendment nor shall the number of members of any such board or commission created after this amendment is in operation be increased or decreased subsequent to its creation.~~

SECTION 5. Sections 1 and 2 of Amendment 42 of the Arkansas Constitution are amended to read as follows:

§ 1. Commission created — Members — Powers.

~~There is hereby created a State Highway Commission which shall be vested with all the powers and duties now or hereafter imposed by law for the administration of the State Highway Department, together with all powers necessary or proper to enable the Commission or any of its officers or employees to carry out fully and effectively the regulations and laws relating to the State Highway Department~~ as may be prescribed by law.

§ 2. Qualifications and appointment of members — Terms of office of first commission.

~~Within ten days after the convening of the General Assembly of the State of Arkansas in the year 1953, the Governor, by and with the advice and consent of the Senate, shall appoint five persons who are qualified electors of the State to constitute the State Highway Commission for terms of two, four, six, eight and ten years respectively. The terms of the persons so appointed shall be determined by lot. The Commissioners to be appointed from the State at large; provided, however, that no two Commissioners shall be appointed from any single Congressional District~~ at least one member shall be appointed from each Congressional District.

In the event of rejection by the Senate of a person whose name has been so submitted, the Governor shall within five days after receipt of written notice from the Secretary of the Senate of such rejection submit the name of another appointee to fill such vacancy. In the event the Governor should within five days thereafter fail to appoint or fail to submit to the Senate for confirmation the name of any person to be appointed, the Senate shall proceed to make the appointment of its own choice.

SECTION 6. Section 6 of Amendment 42 of the Arkansas Constitution are amended to read as follows:

§ 6. Director of Highways.

The Commission shall appoint a Director of Highways who shall have such duties as may be prescribed by ~~the Commission or by statute~~ law.

SECTION 7. This amendment shall become effective July 1, 2013.

Senate Joint Resolution No. 2 was read the first time, rules suspended, read the second time and referred to the Committee on STATE AGENCIES & GOVERNMENTAL AFFAIRS.

SENATE BILL NO. 79
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR J. KEY

A Bill for an Act to be Entitled: AN ACT TO AMEND STATUTES CONCERNING THE ARKANSAS FIRE AND POLICE PENSION REVIEW BOARD; AND FOR OTHER PURPOSES.

Senate Bill No. 79 was read the first time, rules suspended, read the second time and referred to the Committee on JOINT RETIREMENT AND SOCIAL SECURITY.

SENATE BILL NO. 80
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR J. JEFFRESS

A Bill for an Act to be Entitled: AN ACT TO ENSURE THAT PEDESTRIANS ARE NOT UNDULY DISTRACTED WHILE OCCUPYING THE RIGHT-OF-WAY OF STREETS AND ROADS; AND FOR OTHER PURPOSES.

Senate Bill No. 80 was read the first time, rules suspended, read the second time and referred to the Committee on TRANSPORTATION, TECHNOLOGY AND LEGISLATIVE AFFAIRS.

SENATE BILL NO. 81
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: J. JEFFRESS

A Bill for an Act to be Entitled: AN ACT TO IMPROVE THE EFFECTIVENESS OF PUBLIC SCHOOL ALTERNATIVE LEARNING ENVIRONMENTS; AND FOR OTHER PURPOSES.

Senate Bill No. 81 was read the first time, rules suspended, read the second time and referred to the Committee on EDUCATION.

SENATE BILL NO. 82
EIGHTY-EIGHTH GENERAL ASSEMBLY
REGULAR SESSION
BY: SENATOR J. JEFFRESS

A Bill for an Act to be Entitled: AN ACT TO SEPARATE THE OFFICES OF SHERIFF AND TAX COLLECTOR IN DREW COUNTY; AND FOR OTHER PURPOSES.

Senate Bill No. 82 was read the first time, rules suspended, read the second time and referred to the Committee on CITY, COUNTY & LOCAL AFFAIRS.

THE SENATE
STATE OF ARKANSAS

January 19, 2011

Ms. Ann Cornwell, Director
Arkansas Senate/Secretary of the Senate
State Capitol, Room 320
Little Rock, AR 72201

Dear Ms. Cornwell:

Pursuant to Rule 24 of the Senate Rules, I am disclosing that my husband, John Dawson Irvin, is a physician under contract to provide medical services for the North Central Unit of the Arkansas Department of Correction.

Please see that this disclosure is entered upon the Senate Journal.

Sincerely

(SIGNED) Missy Irvin
State Senator
District 10

MI/mj

THE SENATE
STATE OF ARKANSAS

January 19, 2011

Ms. Ann Cornwell, Director
Arkansas Senate/Secretary of the Senate
State Capitol, Room 320
Little Rock, AR 72201

Dear Ms. Cornwell:

I am disclosing that I am employed by a non-profit association whose members serve developmentally disabled children and adults, many of whom receive medi-care.

Please see that this disclosure is entered in the Senate Journal.

Sincerely

(SIGNED) Senator Randy Laverty
District 2

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HOUSE BILLS TRANSMITTED TO THE SENATE

AS PASSED

HOUSE BILL NO. 1020

HOUSE BILL NO. 1059

On motion of Senator Bookout, the Senate adjourned until 9:00 a.m., Thursday, January 20, 2011.

PRESIDENT OF THE SENATE

SECRETARY OF THE SENATE