



**SEN. PRITCHARD'S VOTING
RECORD ON TAX INCREASES
DECADE OF TAXES
2001-2011**

**TOTAL TAXES RAISED
\$559,340,000.00**

**IN 2001 ARKANSAS WAS RANKED 31ST IN THE NATION
IN REGARDS TO STATE AND LOCAL TAXES.**

AS OF 2009 ARKANSAS WAS RANKED 14TH .

STUDY DONE BY THE: "TAX FOUNDATION".

Arkansas

State-Local Tax Burden Compared to U.S. Average

1977-2009

Year	State						U.S. Average	
	Rate	Rank (1 is highest)	Per Capita Taxes Paid to Own State	Per Capita Taxes Paid to Other States	Total State and Local Per Capita Taxes Paid	Per Capita Income	Rate	Per Capita Income
1977	8.3%	46	\$299	\$180	\$479	\$5,786	10.4%	\$7,707
1978	8.2%	45	\$336	\$198	\$535	\$6,488	10.2%	\$8,526
1979	7.8%	46	\$357	\$208	\$566	\$7,270	9.7%	\$9,493
1980	8.2%	39	\$418	\$219	\$637	\$7,741	9.4%	\$10,441
1981	7.8%	41	\$424	\$245	\$670	\$8,616	9.2%	\$11,603
1982	7.8%	41	\$453	\$270	\$723	\$9,262	9.2%	\$12,489
1983	8.1%	39	\$493	\$280	\$773	\$9,504	9.5%	\$12,911
1984	8.4%	40	\$563	\$307	\$870	\$10,409	9.7%	\$14,055
1985	8.5%	40	\$634	\$333	\$967	\$11,338	9.7%	\$15,262
1986	8.6%	38	\$680	\$349	\$1,029	\$11,950	9.7%	\$16,171
1987	8.5%	40	\$708	\$359	\$1,067	\$12,521	9.8%	\$17,128
1988	8.5%	41	\$757	\$375	\$1,132	\$13,253	9.7%	\$18,318
1989	8.6%	40	\$827	\$393	\$1,220	\$14,194	9.7%	\$19,696
1990	8.5%	41	\$859	\$407	\$1,265	\$14,830	9.8%	\$20,572
1991	8.6%	39	\$907	\$424	\$1,331	\$15,407	9.9%	\$21,089
1992	9.1%	36	\$1,041	\$450	\$1,491	\$16,318	10.1%	\$21,645
1993	9.1%	39	\$1,083	\$476	\$1,559	\$17,130	10.2%	\$22,514
1994	9.1%	37	\$1,150	\$492	\$1,642	\$17,951	10.2%	\$23,419
1995	9.1%	37	\$1,219	\$507	\$1,726	\$18,886	10.1%	\$24,640
1996	9.3%	33	\$1,323	\$506	\$1,829	\$19,765	9.9%	\$25,851
1997	9.1%	32	\$1,371	\$517	\$1,889	\$20,705	9.7%	\$27,486
1998	9.1%	32	\$1,442	\$530	\$1,972	\$21,775	9.6%	\$29,332
1999	9.0%	32	\$1,505	\$538	\$2,043	\$22,783	9.4%	\$31,056
2000	9.0%	31	\$1,572	\$550	\$2,123	\$23,693	9.4%	\$33,012
2001	9.0%	31	\$1,634	\$575	\$2,209	\$24,588	9.4%	\$34,012
2002	9.2%	25	\$1,714	\$582	\$2,295	\$24,917	9.5%	\$33,340
2003	9.1%	26	\$1,708	\$625	\$2,332	\$25,614	9.6%	\$33,845
2004	9.1%	27	\$1,855	\$655	\$2,510	\$27,468	9.6%	\$35,957
2005	9.6%	18	\$2,054	\$778	\$2,831	\$29,481	9.6%	\$38,813
2006	10.0%	17	\$2,230	\$865	\$3,095	\$31,012	9.7%	\$41,494
2007	10.0%	14	\$2,374	\$884	\$3,258	\$32,638	9.8%	\$43,786
2008	9.8%	17	\$2,403	\$950	\$3,354	\$34,130	9.9%	\$44,294
2009	9.9%	14	\$2,392	\$889	\$3,281	\$33,238	9.8%	\$42,539

Source: Tax Foundation calculations based on data from the Bureau of Economic Analysis, the Census Bureau, the Council on State Taxation, the Travel Industry Association, Department of Energy, and others.

MILK TAX

REVENUE IMPACT

\$4,900,000.00

Arkansas State Legislature

Bill Detail:(Ex: HB1002) Act:(Ex:2) Search

Assembly > 87th General Assembly > Regular Session

HB1451 - AN ACT TO ENSURE AN ADEQUATE SUPPLY OF ARKANSAS MILK FOR ARKANSAS CONSUMERS; TO STABILIZE AND STIMULATE DAIRY FARMS IN ARKANSAS; AND TO CREATE THE DAIRY STABILIZATION FUND.

Yeas

Yeas : 32

G. Baker	Bledsoe	Bookout	Bryles	Capps	Crumbly
Elliott	Faris	Glover	Hendren	Horn	J. Jeffress
G. Jeffress	D. Johnson	B. Johnson	J. Key	Laverty	Luker
Madison	P. Malone	Miller	B. Pritchard	Salmon	T. Smith
Steele	J. Taylor	Teague	Trusty	Whitaker	H. Wilkins
Wilkinson	D. Wyatt				

Nays

Nays : 1

Altes					
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Non Voting

Not Voting : 1

Broadway					
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Present

Present : 0

Excused

Excused : 1

R. Thompson					
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87th General Assembly



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Department of Finance and Administration

Legislative Impact Statement

Bill: HB1451

Bill Subtitle: AN ACT TO ENSURE AN ADEQUATE SUPPLY OF ARKANSAS MILK FOR ARKANSAS CONSUMERS; TO STABILIZE AND STIMULATE DAIRY FARMS IN ARKANSAS; AND TO CREATE THE DAIRY STABILIZATION FUND.

Basic Change :

Representative Hoyt

The proposal establishes the Dairy Stabilization Fund and creates an incentive program to stabilize and stimulate dairy farms in Arkansas. All fee revenues collected are special revenues for deposit into the State Treasury to the credit of the "Dairy Stabilization Fund".

A dairy stabilization fee is levied on the milk and dairy products wholesaler and shall be calculated at not more than thirty cents (30¢) per hundred weight on packaged milk and an equivalent amount on other dairy products sold in Arkansas. The wholesaler would file and remit the fee to DFA on a monthly basis to be due on or before the fifteenth day of the month following the month of sale.

The Arkansas Agriculture Department would be responsible for calculating and tracking the average monthly blend price of milk received by Arkansas milk producers and seventy percent (70%) of the average monthly cost of producing milk in Missouri and Tennessee as estimated by the United States Department of Agriculture. If the average monthly blend price of milk received by Arkansas milk producers is lower than the 70% of the average cost of producing milk in Missouri and Tennessee, the Arkansas Agriculture Department shall pay the Arkansas milk producer the difference but not more than five dollars (\$5.00) per hundred weight per month nor an average annual amount of more than two dollars (\$2.00) per hundred weight.

If funds are available, milk production and quality incentives will be payable to milk producers of 1) fifty cents (50¢) per hundred weight of milk for each hundred weight of milk produced above the milk producer's annual milk production, and 2) fifty cents (50¢) per hundred weight of milk if the milk contains less than a four hundred thousand somatic cell count. Annual payments to a milk producer would not exceed fifty thousand dollars (\$50,000).

The proposal would be effective ninety days after adjournment of the legislature.

Revenue Impact :

\$ 4.1 Million to \$ 4.9 Million - FY2010 Special Revenue to the Dairy Stabilization Fund

[Revenue Estimate based on Information Provided by Mr. Richard Bell, Secretary

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1451

Bill Subtitle: AN ACT TO ENSURE AN ADEQUATE SUPPLY OF ARKANSAS MILK FOR ARKANSAS CONSUMERS; TO STABILIZE AND STIMULATE DAIRY FARMS IN ARKANSAS; AND TO CREATE THE DAIRY STABILIZATION FUND.

of the Arkansas Agriculture Department]

Taxpayer Impact :

The proposal will levy a new fee to be reported by milk and dairy products wholesalers at a rate on no more than thirty cents (30¢) per hundred weight. The revenues generated would make available dairy stabilization payments to support Arkansas milk producers and quality incentive payments to Arkansas dairies to promote higher production and higher quality.

Resources Required :

\$50,000 estimated costs to develop accounting software for maintenance of tax report and taxpayer information.

Time Required :

Adequate time if provided for implementation.

Procedural Changes :

Rules will be required for administration of proposal.

Additional Comments :

The proposal needs amendment to reference that the dairy stabilization fee would be collected and administered in accordance with Arkansas State Tax Procedures, Ark. Code Ann. § 26-18-101 et seq.

Legal Analysis :

This bill creates the Dairy Stabilization Fund (Fund) and levies a dairy stabilization fee (deposited into the Fund) on wholesalers of milk or other dairy products based on the amount of dairy products sold in Arkansas. A wholesaler is required to file a monthly return and remit the fee to the Department of Finance and Administration (DFA) by the 15th of the month following the month of sale. The bill provides for dairy stabilization and milk production incentive payments to be made to Arkansas milk producers if certain conditions are met. A dairy stabilization payment made to a producer cannot exceed an annual average of \$2.00 per hundred weight of milk. An annual dairy incentive payment to a producer cannot exceed \$50,000. The Director of DFA is required to consult with the Secretary of the Arkansas Agriculture Department to determine if the Fund has sufficient money to make the payments.

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1451

Bill Subtitle: AN ACT TO ENSURE AN ADEQUATE SUPPLY OF ARKANSAS MILK FOR ARKANSAS CONSUMERS; TO STABILIZE AND STIMULATE DAIRY FARMS IN ARKANSAS; AND TO CREATE THE DAIRY STABILIZATION FUND.

COMMENTS:

This bill is very similar to the Massachusetts law that was held to be unconstitutional under the Commerce Clause in *West Lynn Creamery, Inc., v. Healy*, 512 U.S. 186 (1994). In that case a Massachusetts pricing order assessed all fluid milk sold by dealers to Massachusetts retailers. The entire assessment was distributed to in-state dairy farmers. The court held that although the assessment equally burdened in-state and out-of-state milk, the fact that the assessment was distributed to Massachusetts dairy producers largely negated the in-state burden of the assessment. The assessment acted the same as a tariff by making out-of-state milk more expensive.

The dairy stabilization fee would likely be held to be a tax than a fee because the dairy wholesalers against whom the fees are levied do not benefit directly from the service provided. See *Rose v. Arkansas State Plant Board*, 363 Ark. 281, 292 (2005).

If the fee were held to be a tax, there is a question whether the levy is sufficiently precise to be upheld as the levy of a tax. The bill levies a fee of "not more than 30¢ per hundred weight" on packaged milk and an amount as determined by the Secretary of the Agriculture Department on other dairy products. There are also questions regarding whether the criteria on which the Secretary would make the determination is sufficiently clear to withstand an unlawful delegation challenge.

It is unclear whether the Arkansas Tax Procedure Act would apply to the administration of this "fee." If the Act were determined to apply, questions would arise regarding whether the confidentiality provisions would govern the providing of information by DFA to the Arkansas Agriculture Department.

The Agriculture Department, rather than DFA, is given rule making authority in the bill.

This bill will be effective 90 days following adjournment of the General Assembly.

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas As Engrossed: H2/23/09 S3/10/09 S3/12/09 S3/18/09

2 87th General Assembly

A Bill

3 Regular Session, 2009

HOUSE BILL 1451

4
5 By: Representatives Hoyt, Reynolds, T. Baker, Breedlove, J. Brown, Cole, L. Cowling, Dismang, George,
6 Hall, Harrelson, Hawkins, House, Lovell, McCrary, Overbey, Perry, Pierce, Powers, Saunders, Slinkard,
7 Stewart, Summers, Tyler, Wagner, Webb, Wells, B. Wilkins, J. Roebuck, Pyle, M. Burris, M. Martin,
8 Ragland

9 By: Senators Bryles, J. Jeffress, G. Jeffress, J. Taylor, D. Wyatt

For An Act To Be Entitled

10
11
12 AN ACT TO ENSURE AN ADEQUATE SUPPLY OF ARKANSAS
13 MILK FOR ARKANSAS CONSUMERS; TO STABILIZE AND
14 STIMULATE DAIRY FARMS IN ARKANSAS; TO CREATE THE
15 DAIRY STABILIZATION FUND; AND FOR OTHER PURPOSES.
16
17

Subtitle

18
19 AN ACT TO ENSURE AN ADEQUATE SUPPLY OF
20 ARKANSAS MILK FOR ARKANSAS CONSUMERS; TO
21 STABILIZE AND STIMULATE DAIRY FARMS IN
22 ARKANSAS; AND TO CREATE THE DAIRY
23 STABILIZATION FUND.
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25

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

27
28 SECTION 1. Arkansas Code Title 2, Chapter 10, is amended to add an
29 additional subchapter to read as follows:

30 2-10-201. Definitions.

31 As used in this subchapter:

32 (1) "Butter" means the fatty substance obtained from milk by
33 churning;

34 (2) "Cheese" means solid foods made from pressed curds of milk,
35 including hard, American, processed, shredded, mozzarella, and cream;

36 (3) "Cultured milk products" means yogurt, cottage cheese, and



1 sour cream;

2 (4)(A) "Dairy products" means refrigerated or frozen items sold
3 to consumers in Arkansas that are processed directly from raw milk.

4 (B) "Dairy products" includes without limitation:

5 (i) Butter;

6 (ii) Cheese;

7 (iii) Cultured milk products;

8 (iv) Fluid milk; and

9 (v) Ice cream.

10 (C) "Dairy products" does not include a dairy product that
11 is used as an ingredient for a nondairy finished product;"

12 (5) "Fluid milk" means whole, reduced fat, skim, flavored, and
13 buttermilk, including cream and half and half;

14 (6) "Ice cream" means flavored cream or custard made from milk,
15 sweetened and frozen, including full fat, low fat, ice milk, frozen yogurt,
16 and milk sherbet;

17 (7) "Milk producer" means any person or entity that operates a
18 bovine dairy farm that possesses a valid permit signed by the administrator
19 of the Arkansas Grade "A" Milk Program; and

20 (8) "Wholesaler" means a person or entity that is engaged as a
21 distributor or manufacturer who receives, stores, manufactures, or sells milk
22 or other dairy products to retail sellers in Arkansas.

23
24 2-10-202. Dairy fee.

25 (a) A wholesaler shall pay a dairy fee of thirty cents (30¢) per
26 hundred weight on packaged milk and an equivalent amount as determined by the
27 Secretary of the Arkansas Agriculture Department on other dairy products sold
28 in Arkansas.

29 (b)(1) The dairy stabilization fee shall be assessed and collected by
30 the Director of the Department of Finance and Administration.

31 (2) The director shall deposit the dairy fee into general
32 revenues.

33 (c) A wholesaler that is subject to the dairy fee under this section
34 shall file a monthly return and remit the fee for the month to the Director
35 of the Department of Finance and Administration on or before the 15th day of
36 the month next following the month in which the sale was made.

1 (d) The secretary shall provide quarterly reports to the Arkansas Milk
2 Stabilization Board regarding the assessment, collection, and disbursement of
3 moneys collected under this section.

4 (e) If an Arkansas retailer purchases milk or dairy products from an
5 unlicensed wholesaler, distributor, or manufacturer for sale in Arkansas, the
6 retailer shall pay the fee when the property is transferred to a retail store
7 for sale to the ultimate consumers as reflected in the records of the
8 retailer.

9
10 2-10-206. Rules.

11 The Director of the Department of Finance and Administration shall
12 adopt rules to implement this subchapter.

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15 /s/ Hoyt
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**NATURAL GAS TAX
(SEVERANCE)**

REVENUE IMPACT

\$57,140,000.00

Arkansas State Legislature

Bill Detail:(Ex: HB1002)

Act:(Ex:2)

Search



Assembly > 86th General Assembly > Regular Session

No data is available for the current bill.

Yeas

Yeas : 32

Argue	Baker	Bisbee	Bookout	Broadway	Brown
Bryles	Capps	Critcher	Crumbly	Faris	Glover
Hendren	Hill	Horn	J. Jeffress	G. Jeffress	Laverty
Luker	Madison	Malone	Miller	B. Pritchard	Salmon
T. Smith	Steele	J. Taylor	R. Thompson	Trusty	Whitaker
Wilkins	Womack				

Nays

Nays : 1

Altes					
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Non Voting

Not Voting : 2

B. Johnson	Wilkinson				
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Present

Present : 0

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Excused

Excused : 0

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86th General Assembly



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REVENUE DIVISION – EXCISE TAX ADMINISTRATION

LEGISLATIVE IMPACT STATEMENT

Bill No: HB1004

Sponsor: Representative Sullivan, et al

Tax Affected: Natural Gas Severance Tax

Basic Change: The proposal would amend Arkansas law to increase the severance tax on natural gas severed in Arkansas.

Under current law, the severance tax is levied on natural gas at the rate of three-tenths of one cent (3/10 of 1¢) per one thousand cubic feet (1,000 cu. ft.). The proposal would levy the tax at the rate of 5% of the "Market Value" of the gas with lower rates levied on gas severed from "High-Cost", "Marginal" and "New Discovery" wells. High-Cost gas would be subject to a tax rate of 1.5%; New Discovery Gas 1.5%; and Marginal Gas 1.25%. For purposes of calculating the severance tax due, "Market Value" is defined as the producer's actual cash receipts from the sale of natural gas to the first purchaser less the actual costs to the producer of dehydrating, treating, compressing, and delivering the gas to the purchaser.

The 1.5% rates for "High-Cost" and "New Discovery" gas would be applicable for limited time frames for purposes of cost recovery. "High-cost gas" (produced from shale formations, tight gas formations, geopressured brine, occluded from coal seams, and from gas wells with a depth of more than 12,500 feet) is eligible for the 1.5% rate for a period of 36 months from first production. If "payout" has not occurred at that time, the 1.5% rate will continue until time of payout but not to exceed an additional 12 months. "New Discovery" gas produced from a new conventional gas well would be eligible for the 1.5% rate for a period of 24 months. After the cost recovery periods, the applicable rate would be the full 5% rate.

"Marginal Gas" when used in reference to conventional gas wells means gas from a well incapable of producing more than 250 Mcf per day and when used in reference to high-cost wells means a well incapable of producing more than 100 Mcf per day.

The bill provides that the revenues generated from the severance tax on natural gas will be distributed 5% to state general revenues and 95% being distributed in the same manner as Highway Funds are currently distributed.

The proposal contains an emergency clause and provides for an effective date of January 1, 2009.

Revenue Impact:

Increased Natural Gas Severance Tax Collections

Fiscal Year	(Millions)
2009*	\$57.14
2010	\$73.60
2011	\$85.90
2012	\$93.72
2013	\$100.31
2014	\$101.43
2015	\$101.57
2016	\$100.90
2017	\$96.97

Estimates are based on an \$8.00 gas price assumed in CY 2009

* FY09 estimated collections assume an full year's collection for the new severance tax rates

Taxpayer Impact: Producers would withhold and report the increased severance tax from the royalty interests using the new tax rates.

Resources required: Existing resources will be sufficient for implementation.

Implementation Time: Adequate time is provided for implementation.

Procedural Changes: Preparation of new reporting forms and instructions, preparation of rules and education of staff personnel to administer the tax.

Additional Comments:

Prepared by: Tom Atchley
March 31, 2008

1 State of Arkansas
2 86th General Assembly
3 First Extraordinary Session, 2008
4

A Bill

Call Item 3

HOUSE BILL 1004

5 By: Representatives Sullivan, Petrus, Cooper, Abernathy, L. Cowling, Harrelson, Stewart, Adcock,
6 Blount, T. Bradford, J. Brown, Cash, Chesterfield, Cornwell, Davenport, George, Hardwick, Hardy,
7 House, Hoyt, Jeffrey, D. Johnson, J. Johnson, Kidd, W. Lewellen, Lovell, Maloch, Maxwell, Moore,
8 Overbey, Patterson, Pickett, Powers, Reep, J. Roebuck, Sample, Saunders, Shelby, L. Smith, Wagner,
9 Wills, Wyatt

For An Act To Be Entitled

10
11
12 AN ACT TO INCREASE THE SEVERANCE TAX RATE ON
13 NATURAL GAS; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 AN ACT TO INCREASE THE SEVERANCE TAX
17 RATE ON NATURAL GAS.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

SECTION 1. Legislative findings and intent.

23
24 (a) The General Assembly has determined that the severance tax rate on
25 natural gas should be increased and that there should be different rates of
26 tax for different categories of natural gas.

27 (b) Amendment 19 of the Arkansas Constitution required this act to be
28 passed by at least three-fourths of the members of the Senate and at least
29 three-fourths of the members of the House of Representatives.

30 (c) In order to implement the increase in the severance tax rate, the
31 General Assembly has identified the following four categories of natural gas,
32 each as defined in Arkansas Code § 26-58-101:

33 (1) High-cost gas;

34 (2) Marginal gas;

35 (3) New discovery gas; and

36 (4) All natural gas that is not defined as high-cost gas,



1 marginal gas, or new discovery gas.

2 (d) To increase the severance tax rate, the General Assembly used the
 3 method of levying a specific tax rate on each category so that any future
 4 legislative enactment that would have the effect of increasing the rate of
 5 severance tax on any of those categories of natural gas as defined by § 26-
 6 58-101 will also be subject to the three-fourths vote requirement of
 7 Amendment 19 of the Arkansas Constitution.

8
 9 SECTION 2. Effective January 1, 2009, Arkansas Code § 19-6-201(9),
 10 classifying and enumerating general revenues of this State, is amended to
 11 read as follows:

12 (9) Seventy-five percent (75%) of all severance taxes, with the
 13 exception of the taxes paid to sever timber and timber products, the
 14 severance tax collected on natural gas, and those portions of severance taxes
 15 designated as special revenues in § 19-6-301, as enacted by Acts 1947, No.
 16 136, and all laws amendatory thereto, §§ 26-58-101 – 26-58-103, 26-58-106 –
 17 26-58-111, 26-58-114 – 26-58-116, 26-58-118 – 26-58-120, 26-58-123, and 26-
 18 58-124;

19
 20 SECTION 3. Effective January 1, 2009, Arkansas Code § 19-6-201,
 21 classifying and enumerating general revenues of this State, is amended to add
 22 an additional subdivision to read as follows:

23 (57) Five percent (5%) of the severance tax collected on natural gas
 24 at the rates enacted by § 26-58-111(5).

25
 26 SECTION 4. Effective January 1, 2009, Arkansas Code § 19-6-301(18),
 27 classifying and enumerating special revenues of this State, is amended to
 28 read as follows:

29 (18) Revenue received from saw timber and timber products severance
 30 taxes and twenty-five percent (25%) of all other severance taxes, with the
 31 exception of the severance tax collected on natural gas, as enacted by Acts
 32 1947, No. 136, and all laws amendatory thereto, §§ 26-58-101 – 26-58-103, 26-
 33 58-106 – 26-58-111, 26-58-114 – 26-58-116, 26-58-118 – 26-58-120, 26-58-123,
 34 and 26-58-124;

35
 36 SECTION 5. Effective January 1, 2009, Arkansas Code § 19-6-301,

1 classifying and enumerating special revenues of this State, is amended to add
2 an additional subdivision to read as follows:

3 (238) Ninety-five percent (95%) of the severance tax collected on
4 natural gas at the rates enacted by § 26-58-111(5).

5
6 SECTION 6. Effective January 1, 2009, Arkansas Code § 26-58-101, is
7 amended to add additional subdivisions to read as follows:

8 26-58-101. Definitions.

9 As used in this subchapter:

10 (1) "Acquired", when used in reference to the severance tax on
11 timber, means the time when timber is first weighed or measured by a primary
12 processor after severance;

13 (2) "Completion" or "completed" means the act of making a well
14 capable of producing gas;

15 (3) "Conventional gas well" means any gas well that is not
16 classified as a high-cost gas well;

17 (4) "Date of first production", when used in reference to a
18 particular gas well, means the first day in the month that the gas well
19 produces natural gas for sale;

20 ~~(2)~~(5) "Director" means the Director of the Department of
21 Finance and Administration or any of his or her duly appointed deputies or
22 agents;

23 (6) "High-cost gas" means natural gas that is:

24 (A) Produced from any gas well completed within a shale
25 formation, including, but not limited to, the Fayetteville Shale, the
26 Woodford Shale, the Moorefield Shale and the Chattanooga Shale Formations, or
27 their stratigraphic equivalents, as described in published stratigraphic
28 nomenclature recognized by the Arkansas Geological Survey;

29 (B) Produced from any gas well in which the production is
30 from a completion that is located at a depth of more than 12,500 feet below
31 the surface of the earth, where the term "depth" means the length of the
32 maximum continuous drilling string of drill pipe used between the drill bit
33 face and the drilling rig's kelly bushing;

34 (C) Produced from a tight gas formation;

35 (D) Produced from geopressured brine; or

36 (E) Occluded natural gas produced from coal seams;

1 (7) "High-cost gas well" means any gas well that is completed as
 2 a well capable of producing high-cost gas;

3 (8)(A) "Marginal gas", when used in reference to a conventional
 4 gas well, means all natural gas produced from the conventional gas well
 5 beginning on the date the conventional gas well is incapable of producing
 6 more than 250 Mcf per day, as determined by the Director of the Arkansas Oil
 7 and Gas Commission using the current wellhead deliverability rate methodology
 8 utilized by the Oil and Gas Commission, during the calendar month for which
 9 the severance tax report is filed.

10 (B) "Marginal gas", when used in reference to a high-cost
 11 gas well, means all natural gas produced from the high-cost gas well
 12 beginning on the date the high-cost gas well is incapable of producing more
 13 than 100 Mcf per day, as determined by the Director of the Oil and Gas
 14 Commission using the current wellhead deliverability rate methodology
 15 utilized by the Oil and Gas Commission, during the calendar month for which
 16 the severance tax report is filed.

17 (C) "Marginal gas" shall include production from all zones
 18 and multilateral branches at a single well without regard to whether the
 19 production is separately metered.

20 (D) "Marginal gas" shall not include gas produced from:

21 (i) A high-cost gas well during the thirty-six (36)
 22 month period provided in § 26-58-127(b)(1);

23 (ii) A high-cost gas well during any allowed
 24 extension provided in § 26-58-127(b)(2); or

25 (iii) A new discovery gas well during the twenty-
 26 four (24) month period provided in § 26-58-127(a);

27 (9) "Marginal gas well" means any gas well that produces or is
 28 capable of producing marginal gas, as determined by the Director of the Oil
 29 and Gas Commission using the current wellhead deliverability rate methodology
 30 utilized by the Oil and Gas Commission;

31 (10) "Market value", when used in reference to the rate of
 32 severance tax on natural gas, means the producer's actual cash receipts from
 33 the sale of natural gas to the first purchaser less the actual costs to the
 34 producer of dehydrating, treating, compressing, and delivering the gas to the
 35 purchaser;

36 ~~(3)~~(11) "Natural resources" means all natural products of the

1 soil or water of Arkansas including, but not limited to, asphalt, barite,
 2 bauxite, chalk, chert, clay, cinnabar, coal, diamonds, fuller's earth,
 3 natural gas, granite, gravel, gypsum, iron, lead ore, lignite, limestone,
 4 manganese and manganiferous ores, marble, marl, mussel shells, novaculite,
 5 oil, ochre, pearls and other precious stones, phosphate, salt, sand, shale,
 6 slate, shells, stone and stone products, sulphur, titanium ore, and zinc ore;

7 (12) "New discovery gas" means natural gas that is produced from
 8 a new discovery gas well;

9 (13) "New discovery gas well" means any conventional gas well
 10 that is completed as a well capable of producing gas;

11 (14) "Payout" means the date the cumulative working interest
 12 revenues from a high-cost gas well equal the sum of:

13 (A) All drilling and completion costs incurred in
 14 connection with the high-cost gas well; and

15 (B) All operating costs incurred or accrued in connection
 16 with the operation of the high-cost gas well during the period of cost
 17 recovery;

18 ~~(4)~~(15) "Point of severance" means the place at which
 19 transportation of timber or natural resources, excluding natural gas, or
 20 ~~timber~~ has been or is about to be commenced for use or processing after being
 21 severed;

22 ~~(5)~~(16) "Primary processor" means any person, firm, corporation,
 23 or other entity engaged in business as a sawmill, chipper mill, stud mill,
 24 square mill, plywood or veneer mill, whole tree chipping mill, post, pole, or
 25 piling plant, charcoal plant, processed board mill, bolt working mill, pulp
 26 mill, planing or surfacing mill, or other mill or facility where timber first
 27 undergoes any processing after harvesting;

28 ~~(6)~~(17) "Producer" means any person, firm, receiver, or other
 29 fiduciary, corporation, or association, who or which engages in the business
 30 of severing natural resources or timber;

31 ~~(7)~~(18) "Purchaser" means any person, firm, receiver, or other
 32 fiduciary, corporation, or association, consignor, agent, or other dealer, by
 33 whatever name called, who or which acquires title outright or conditionally
 34 to any interest in severed natural resources or timber;

35 ~~(8)~~(A)(19)(A) "Sever", "severed", or "severing" mean natural
 36 resources cut, mined, dredged, or otherwise taken or removed for commercial

1 purposes from the soil or water.

2 (B) However, "sever", "severed", or "severing" as defined
3 in this subdivision ~~(8)~~(19) do not apply to any natural gas returned to any
4 formation, in recycling, repressuring, pressure maintenance operation, or
5 other operation, for the production of oil or any other liquid hydrocarbon.

6 (C) Further, "sever", "severed", or "severing" as defined
7 in this subdivision ~~(8)~~(19) do not apply to any hydrocarbons in gaseous or
8 liquid form which are burned, used, consumed, or otherwise employed in oil
9 and gas operations including but not limited to, secondary recovery
10 operations and fuel for engines in the same leasehold, drilling, or
11 production unit, or unit area of a unitized reservoir from which such
12 hydrocarbons are produced;

13 (20) "Tight gas formation" means any natural gas bearing
14 formation that:

15 (A) Has previously been determined by Oil and Gas
16 Commission orders or field rules to be a low permeability formation,
17 including:

18 (i) Booneville and Chismville-OR# 84-2003-07;

19 (ii) Gragg-OR# 89-2004-07;

20 (iii) Waveland-OR# 86-2007-07;

21 (iv) Rich Mountain-OR# 304-2006-09;

22 (v) Mansfield-OR# 28-2003-03; and

23 (vi) Witcherville and Excelsior-OR# 103-2005-07; or

24 (B) Is determined by the Director of the Oil and Gas
25 Commission to have an estimated in situ permeability of one-tenth milliDarcy
26 (0.1 mD) or less; or

27 (C) Is determined to be a tight gas formation by field
28 rules, general rules, or orders issued by the Director of the Oil and Gas
29 Commission;

30 ~~(9)~~(21) "Timber" means either softwood or hardwood species of
31 trees suitable for use as sawlogs, pulpwood, veneer bolts or billets, stave
32 bolts or billets, and splits, handle and other bolts or billets including
33 chemical wood, cross ties, posts, poles, piling, chips, charcoal, or any now
34 known or hereafter discovered use of wood or wood pulp;

35 ~~(10)~~(22) "Time of severance" means the date on which
36 transportation of timber or natural resources, excluding natural gas, or

1 ~~timber~~ has been or is about to be commenced for their use or processing after
2 being severed; and

3 ~~(11)~~(23) "Transporter" means any person, firm, receiver, or
4 other fiduciary, corporation, or association, who or which transports severed
5 natural resources or timber ~~from the point of severance, or other to any~~
6 point within, across, or out of the State of Arkansas.

7
8 SECTION 7. Effective January 1, 2009, Arkansas Code § 26-58-111(5),
9 which established the rate of severance tax levied on natural gas extraction,
10 is amended to read as follows:

11 (5) On natural gas, ~~three tenths of one cent (0.3¢) per one~~
12 ~~thousand cubic feet (1,000 cu.ft.)~~ the following percent of the market value
13 of the natural gas severed within the State of Arkansas:

14 (A) On new discovery gas, as defined in § 26-58-101(12),
15 the severance tax rate shall be one and one-half percent (1.5%) for the time
16 period provided in § 26-58-127(a);

17 (B) On high-cost gas, as defined in § 26-58-101(6), the
18 severance tax rate shall be one and one-half percent (1.5%) for the time
19 periods provided in § 26-58-127(b);

20 (C) On marginal gas, as defined in § 26-58-101(8), the
21 severance tax rate shall be one and one-quarter percent (1.25%); and

22 (D) On all natural gas which is not defined as new
23 discovery gas, high-cost gas, or marginal gas, the severance tax rate shall
24 be five percent (5%);

25
26 SECTION 8. Effective January 1, 2009, Arkansas Code § 26-58-124(a),
27 which allocates distribution of the severance tax, is amended to read as
28 follows:

29 (a) All taxes, penalties, and costs collected by the Director of the
30 Department of Finance and Administration under the provisions of this
31 subchapter, except for the taxes, penalties, and costs collected on natural
32 gas, shall be deposited into the State Treasury to the credit of the State
33 Apportionment Fund.

34
35 SECTION 9. Effective January 1, 2009, Arkansas Code § 26-58-124, which
36 allocates distribution of the severance tax, is amended to add an additional

1 subsection to read as follows:

2 (c) All taxes, penalties, and costs collected by the Director of the
3 Department of Finance and Administration on natural gas shall be deposited in
4 the State Treasury as follows:

5 (1) Five percent (5%) of the funds shall be deposited as general
6 revenues; and

7 (2) Ninety-five percent (95%) of the funds shall be classified
8 as special revenues and shall be distributed as set forth in the Arkansas
9 Highway Revenue Distribution Law, § 27-70-201 et seq.

10
11 SECTION 10. Effective January 1, 2009, Arkansas Code Title 26, Chapter
12 58, Subchapter 1 is amended to add the following new sections to read as
13 follows:

14 26-58-127. Cost recovery periods for new discovery gas and high-cost
15 gas.

16 (a)(1) The one and one-half percent (1.5%) severance tax rate on new
17 discovery gas shall apply to the first twenty-four (24) consecutive calendar
18 months beginning on the date of first production from the new discovery gas
19 well, regardless of whether production commenced prior to January 1, 2009;
20 provided, however, that all production attributable to the period prior to
21 January 1, 2009 shall be taxed at the rate in effect prior to January 1,
22 2009.

23 (2) At the end of the twenty-four (24) month period, the
24 severance tax rate under § 26-58-111(5)(C) or § 26-58-111(5)(D), as
25 applicable, shall apply.

26 (b)(1) The one and one-half percent (1.5%) severance tax rate on high-
27 cost gas shall apply to the first thirty-six (36) consecutive calendar months
28 beginning on the date of first production from the high-cost gas well,
29 regardless of whether production commenced prior to January 1, 2009;
30 provided, however, that all production attributable to the period prior to
31 January 1, 2009 shall be taxed at the rate in effect prior to January 1,
32 2009.

33 (2) If a high-cost gas well has not achieved payout by the end
34 of the thirty-six (36) month period, the one and one-half percent (1.5%)
35 severance tax rate shall be extended until the earlier to occur of:

36 (A) Payout of the high-cost gas well; or

1 (B) Twelve (12) months following the expiration of the
2 original thirty-six (36) month period.

3 (3) The severance tax rate under § 26-58-111(5)(C) or § 26-58-
4 111(5)(D), as applicable, shall apply to high-cost gas at the later of the
5 expiration of the thirty-six (36) month period or any allowed extension.

6
7 26-58-128. Determination of New Discovery Gas, High-Cost Gas or
8 Marginal Gas.

9 (a) The producer of a proposed or existing gas well may apply, at any
10 time, to the Director of the Oil and Gas Commission for determination that
11 the well qualifies as a new discovery gas well, a high-cost gas well, or a
12 marginal gas well.

13 (b) The Director of the Oil and Gas Commission may require an
14 applicant to provide any information required to administer this section.

15 (c) The Director of the Oil and Gas Commission shall make the
16 determination within fifteen (15) calendar days of the application by the
17 producer and the producer shall attach the determination to its severance tax
18 form next due.

19
20 26-58-129. Natural gas severance tax payment, apportionment of
21 severance tax between royalty owner and producer, and authority for
22 rulemaking.

23 (a) The severance tax on natural gas shall be paid in the manner
24 provided in Title 26, Chapter 58.

25 (b) The portion of the severance tax that is required to be deducted
26 from the royalty owner or other interest shall be calculated in the same
27 manner as the portion of the severance tax borne by the producer.

28 (c) The Department of Finance and Administration may promulgate the
29 rules necessary to enforce the provisions of this act.

30
31 SECTION 11. Effective January 1, 2009, Arkansas Code § 27-70-202(a),
32 classifying and enumerating highway revenues of this State, is amended to add
33 an additional subdivision to read as follows:

34 (3) Ninety-five percent (95%) of the severance tax levied and
35 collected on natural gas under § 26-58-111(5).

36

1 SECTION 12. EMERGENCY CLAUSE. It is found and determined by the
2 General Assembly that state and local roads and highways are in need of
3 substantial expansion, maintenance and repair, and that additional funding is
4 necessary to address this need. It is also found and determined that
5 increasing development and exploitation of natural gas resources in the
6 Fayetteville Shale Play and in other areas of this state has significantly
7 increased the burden and wear and tear on state and local roads and highway,
8 further exacerbating the need for maintenance and repair. It is also found
9 and determined that previous surpluses in state revenue have been largely
10 spent to improve public education and educational facilities in this state,
11 as was required by the Constitution as interpreted by the Arkansas Supreme
12 Court in the Lake View case and additional revenues must be generated from
13 other sources to address the needs of our roads and highways. It is further
14 found and determined that due to recent and dramatic increases in the price
15 of gasoline, and the fact that funds for highways are generated from a flat
16 per-gallon tax, the increasing use of more fuel-efficient vehicles has caused
17 a condition in which revenue for roads and highways has not kept pace with
18 the wear and tear caused by vehicular use. It is further found and
19 determined that immediate enactment of this bill is necessary to provide
20 adequate time for various administrative agencies of state government to
21 prepare the necessary reporting forms and instructions, to educate taxpayers
22 responsible for paying the additional taxes levied herein, and take other
23 steps necessary for the proper implementation and administration of this act.
24 Therefore, the General Assembly hereby finds and declares that an emergency
25 exists, pursuant to Article V, § 38 of the Arkansas Constitution, and this
26 Act, being necessary for the immediate preservation of the public peace,
27 health and safety, shall be in full force and effect from and after January
28 1, 2009.

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**WHOLESALE VENDING
& SALES TAX**

REVENUE IMPACT

\$375,600,000.00

Arkansas State Legislature

Bill Detail:(Ex: HB1002)

Act:(Ex:2)

Search



Assembly > 84th General Assembly > Second Extraordinary Session, 2003

HB1030 - TO PROVIDE ADDITIONAL REVENUE TO FUND THE EDUCATIONAL SYSTEM, TO INCREASE SALES AND WHOLESALE VENDING TAX, AND TO IMPOSE SALES TAX ON CERTAIN SERVICES.

Yeas

Yeas : 85

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

Nays

Nays : 11

Bledsoe	Eason	Gillespie	Haak	Key	Napper
Nichols	Ormond	Pace	Parks	Rosenbaum	

Non Voting

Not Voting : 3

Creekmore	Penix	Seawel			
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Present

Present : 1

Matayo					
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84th General Assembly



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Legislative Impact Statement

Bill: HB 1030 as amended

Sponsor: Representative Hickinbotham

Bill Subtitle: To Provide Additional Revenue to Fund the Educational System, To Increase Sales and Wholesale Vending Tax, and to Impose Sales Tax on Certain Services

Basic Change:

House Amendment 3 – Amends the bill and replaces all existing text with the following:

The bill increases the State Gross Receipts (Sales) and Compensating Use tax rate by seven-eighths of one percent (7/8%) with the additional revenue generated from the 7/8% tax to be deposited into the Educational Adequacy Trust Fund. The sales and use tax increase will be effective on March 1, 2004.

The bill also levies the sales tax on additional services as listed in the bill effective July 1, 2004. Services and products that would become subject to the tax include:

- Wrecker and towing services;
- Collection and disposal of solid waste;
- Cleaning parking lots and gutters;
- Dry cleaning and laundry services;
- Industrial laundry services;
- ~~Mini-warehouse and self-storage rental services;~~ Repealed 2009
- Body piercing, tattooing, and electrolysis services;
- Initial installation labor services;
- Pest control services;
- Service of replacement of flooring;
- Security and alarm monitoring services;
- Boat storage and docking fees.
- Furnishing Camping Spaces
- Locksmith Services
- Pet Grooming

The bill maintains the current method for remittance of tax by vending machine operators and increases the wholesale vending tax rate from the current state rate of 4.5% to a new state rate of 6%. The 1% rate for distribution to cities and counties remains the same. The bill also increases the decal fees paid in lieu of remitting the wholesale vending tax for items with a sales price of twenty-five cents (\$.25) or more from \$70.00 per year to \$93.00 per year. This wholesales vending tax and the decal fee increases would become effective July 1, 2004.

Revenue Impact:

FY04 – 3 months of tax deposits

Educational Adequacy Trust Fund –
7/8% Sales & Use Tax \$ 82 Million Gain

FY05

Educational Adequacy Trust Fund –
7/8% Sales and Use Tax, Services, and
Wholesale Vending \$360.3 Million Gain

Property Tax Relief Fund - .5% 2.4 Million Gain
Conservation Tax Fund - .125% .6 Million Gain

FY06

Educational Adequacy Trust Fund –
7/8% Sales and Use Tax, Services, and
Wholesale Vending \$372.3 Million Gain

Property Tax Relief Fund - .5% 2.6 Million Gain
Conservation Tax Fund - .125% .7 Million Gain

Taxpayer Impact:

Taxpayers would be required to re-program cash registers for the new tax rates. There will also be approximately 7000 new accounts to register for the services not currently taxable.

Time Required:

Adequate time is allowed.

Procedural Change:

Education of staff in change in the law. Requires changes to forms and instructions.

Resources Required

\$ 780,000 Annual Additional Costs for Administration, Compliance and Enforcement Activities.

Costs estimates based on continuing the current level of administration for the registered taxpayer base which will increase from approximately 70,000 registered taxpayers to approximately 77,000 registered taxpayer accounts. This 10% increase in the number of registered taxpayer accounts will require an increase in funding in order to maintain existing levels of administrative activities for the additional taxpayers which will be added to the taxpayer base.

- \$ 50,000 printing and postage costs to new registrants for sales tax permits and tax regulations and instructions.
- \$ 50,000 annual printing and postage costs for monthly reporting forms
- \$175,000 annual personnel costs for 7 Taxpayer Service Representatives (TSR's). The taxpayer services representatives register accounts, perform account maintenance including address changes and account closures, correct processing errors, explain tax law and regulations, and process refund requests. Additionally, all filed reports must be examined before processing to insure the tax report data on the report meets minimum requirements for processing to the mainframe system.
- \$ 15,000 office and computer equipment for TSR's
- \$ 60,000 annual personnel costs for 2 Field Tax Investigators. The field tax investigators contact taxpayers at the business location to assist the taxpayer in bringing a past due account current. This activity includes collection of past due monies, assist the taxpayer in requesting a payment plan, and determining if a business has closed.
- \$ 40,000 automobiles, equipment and travel costs for Field Tax Investigators
- \$ 60,000 annual personnel costs for 2 Delinquent Tax Collectors. Delinquent tax collectors in the Revenue Division's Collections Section make phone contact with taxpayers to collect past due amounts. The collectors also create the tax liens which must be filed at each county courthouse and may issue writs of execution to be served by the sheriff.
- \$ 5,000 office and computer equipment for Tax Collectors
- \$225,000 annual personnel costs for 5 Tax Auditor II's. The Field Auditors conduct field audits of the books and records of taxpayers and verify compliance within reporting requirements.
- \$100,000 automobiles, equipment and travel costs for Tax Auditors.

1 State of Arkansas
2 84th General Assembly
3 Second Extraordinary Session, 2003
4

As Engrossed: H12/26/03 H2/2/04

Call Item 6

A Bill

HOUSE BILL 1030

5 By: Representative Hickinbotham
6
7

For An Act To Be Entitled

9 AN ACT TO PROVIDE ADDITIONAL REVENUE TO FUND THE
10 STATE EDUCATION SYSTEM; TO LEVY AN ADDITIONAL
11 SALES AND USE TAX OF SEVEN-EIGHTHS OF ONE PERCENT
12 (0.875%); TO IMPOSE A GROSS RECEIPTS TAX ON
13 CERTAIN SERVICES; TO INCREASE THE WHOLESALE
14 VENDING TAX; TO CREATE THE EDUCATIONAL ADEQUACY
15 TRUST FUND; AND FOR OTHER PURPOSES.

Subtitle

16 TO PROVIDE ADDITIONAL REVENUE TO FUND
17 THE EDUCATIONAL SYSTEM, TO INCREASE
18 SALES AND WHOLESALE VENDING TAX, AND TO
19 IMPOSE SALES TAX ON CERTAIN SERVICES.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 26-52-302, concerning levying additional
26 sales taxes, is amended to add an additional subsection to read as follows:

27 (d)(1) Beginning March 1, 2004, there is levied an additional excise
28 tax of seven-eighths of one percent (0.875%) upon all taxable sales of
29 property and services subject to the tax levied by the Arkansas Gross
30 Receipts Act of 1941, § 26-52-101 et seq.

31 (2) The tax shall be collected, reported, and paid in the same
32 manner and at the same time as prescribed by the Arkansas Gross Receipts Act
33 of 1941, § 26-52-101 et seq., for the collection, reporting, and payment of
34 Arkansas gross receipts taxes.
35

36 SECTION 2. Effective March 1, 2004, Arkansas Code § 26-52-311(b)(1),



1 pertaining to the rental vehicle tax, is amended to read as follows:

2 (b)(1) In addition to the rate in subsection (c) of this section, the
3 rental vehicle tax shall be levied at the ~~same rate as the combined gross~~
4 ~~receipts taxes levied by §§ 26-52-301 and 26-52-302 and any act supplemental~~
5 ~~thereto~~ rate of five percent (5%) and the rate of any applicable municipal or
6 county taxes.

7

8 SECTION 3. Arkansas Code § 26-53-107, effective until contingency in
9 Acts 2003, No. 1273, § 88 is met, is amended to add an additional subsection
10 to read as follows:

11 (d)(1) Beginning March 1, 2004, there is levied an additional excise
12 tax of seven-eighths of one percent (0.875%) upon all tangible personal
13 property subject to the tax levied by the Arkansas Compensating Tax Act of
14 1949, § 26-53-101 et seq.

15 (2) The tax shall be collected, reported, and paid in the same
16 manner and at the same time as is prescribed by the Arkansas Compensating Tax
17 Act of 1949, § 26-53-101 et seq., for the collection, reporting, and payment
18 of Arkansas compensating taxes.

19

20 SECTION 4. Arkansas Code § 26-53-107, effective when contingency in
21 Acts 2003, No. 1273, § 88 is met, is amended to read as follows:

22 (d)(1) Beginning March 1, 2004, there is levied an additional excise
23 tax of seven-eighths of one percent (0.875%) upon all tangible personal
24 property and taxable services subject to the tax levied by the Arkansas
25 Compensating Tax Act of 1949, § 26-53-101 et seq.

26 (2) The tax shall be collected, reported, and paid in the same
27 manner and at the same time as is prescribed by the Arkansas Compensating Tax
28 Act of 1949, § 26-53-101 et seq., for the collection, reporting, and payment
29 of Arkansas compensating taxes.

30

31 SECTION 5. Effective July 1, 2004, Arkansas Code § 26-52-
32 301(3)(C), effective until contingency in Acts 2003, No. 1273, § 88 is met,
33 is amended to read as follows:

34 (C)(i) Service of initial installation, alteration,
35 addition, cleaning, refinishing, replacement, and repair of motor vehicles,
36 aircraft, farm machinery and implements, motors of all kinds, tires and

1 batteries, boats, electrical appliances and devices, furniture, rugs,
2 flooring, upholstery, household appliances, televisions and radios, jewelry,
3 watches and clocks, engineering instruments, medical and surgical
4 instruments, machinery of all kinds, bicycles, office machines and equipment,
5 shoes, tin and sheetmetal, mechanical tools, and shop equipment.

6 (ii) However, the provisions of this section shall
7 not apply to coin-operated car washes. For the purposes of this section, a
8 coin-operated car wash shall be defined as one wherein the car washing
9 equipment is activated by the insertion of coins into a slot or receptacle
10 and where the labor of washing the exterior of the car or motor vehicle is
11 performed solely by the customer or by mechanical equipment.

12 (iii) Additionally, the gross receipts tax levied in
13 this section shall not apply to the repair or maintenance of railroad parts,
14 railroad cars, and equipment brought into the State of Arkansas solely and
15 exclusively for the purpose of being repaired, refurbished, modified, or
16 converted within this state.

17 (iv) The General Assembly determines and affirms
18 that the original intent of subdivision (3) of this section which provides
19 that gross receipts derived from certain services would be subject to the
20 gross receipts tax was not intended to be applicable, nor shall Arkansas
21 gross receipts taxes be collected, with respect to services performed on
22 watches and clocks which are received by mail or common carrier from outside
23 this state and which, after the service is performed, are returned by mail or
24 common carrier or in the repairman's own conveyance to points outside this
25 state.

26 (v) Additionally, the gross receipts tax levied in
27 this section shall not apply to the repair or remanufacture of industrial
28 metal rollers or platens that have a remanufactured, nonmetallic material
29 covering on all or part of the roller or platen surface which are brought
30 into the State of Arkansas solely and exclusively for the purpose of being
31 repaired or remanufactured in this state and are then shipped back to the
32 state of origin.

33 (vi) The gross receipts tax levied in this section
34 shall not apply to the service of alteration, addition, cleaning,
35 refinishing, replacement, or repair of commercial jet aircraft, commercial
36 jet aircraft components, or commercial jet aircraft subcomponents. The term

1 "commercial jet aircraft" shall mean any commercial, military, private, or
2 other turbine or turbo jet aircraft having a certified maximum take-off
3 weight of more than twelve thousand five hundred (12,500) pounds;

4 (vii) The provisions of subdivision (3)(C)(i) of
5 this section shall not apply to the services performed by a temporary or
6 leased employee or other contract laborer on items owned or leased by the
7 employer. The following criteria must be met for a person to be a temporary
8 or leased employee:

9 (a) There must be a written contract with the
10 temporary employment agency, employee leasing company, or other contractor
11 providing the services;

12 (b) The employee, temporary employment agency,
13 employee leasing company, or other contractor must not bear the risk of loss
14 for damages caused during the performance of the contract. The person for
15 whom the services are performed must bear the risk of loss; and

16 (c) The temporary or leased employee or
17 contract laborer is controlled by the employer as if he were a full-time
18 permanent employee. "Control" includes, but is not limited to, scheduling
19 work hours, designating work duties, and directing work performance.

20 (viii)(a) Additionally, the gross receipts tax
21 levied in this section shall not apply to the initial installation,
22 alteration, addition, cleaning, refinishing, replacement, or repair of
23 nonmechanical, passive, or manually operated components of buildings or other
24 improvements or structures affixed to real estate, including, but not limited
25 to, the following:

- 26 (1) Walls;
- 27 ~~(2) Floors;~~
- 28 ~~(3)(2) Ceilings;~~
- 29 ~~(4)(3) Doors;~~
- 30 ~~(5)(4) Locks;~~
- 31 ~~(6)(5) Windows;~~
- 32 ~~(7)(6) Glass;~~
- 33 ~~(8)(7) Heat and air ducts;~~
- 34 ~~(9)(8) Roofs;~~
- 35 ~~(10)(9) Wiring;~~
- 36 ~~(11)(10) Breakers;~~

1 ~~(12)~~(11) Breaker boxes;
 2 ~~(13)~~(12) Electrical switches and
 3 receptacles;
 4 ~~(14)~~(13) Light fixtures;
 5 ~~(15)~~(14) Pipes;
 6 ~~(16)~~(15) Plumbing fixtures;
 7 ~~(17)~~(16) Fire and security alarms;
 8 ~~(18)~~(17) Intercoms;
 9 ~~(19)~~(18) Sprinkler systems;
 10 ~~(20)~~(19) Parking lots;
 11 ~~(21)~~(20) Fences;
 12 ~~(22)~~(21) Gates;
 13 ~~(23)~~(22) Fireplaces; and
 14 ~~(24)~~(23) Similar components which become
 15 a part of real estate after, installation, except flooring.

16 (b) Contractors are deemed to be consumers or users
 17 of all tangible personal property used or consumed by them in providing such
 18 nontaxable services, in the same manner as when performing any other
 19 contract.

20 (c) Subdivision (3)(C)(viii) of this section shall
 21 not apply to any services subject to tax pursuant to terms of subdivision
 22 3(E) of this section.

23 (ix) The gross receipts tax levied in subdivision (3)(C)(1) of
 24 this section shall not apply to the service of initial installation of any
 25 property that is specifically exempted from the tax imposed by the Arkansas
 26 Gross Receipts Act of 1941, § 26-52-101 et seq.

27
 28 SECTION 6. Effective July 1, 2004, Arkansas Code § 26-52-301(3)(C),
 29 effective when contingency in Acts 2003, No. 1273, § 88 is met, is amended to
 30 read as follows:

31 (C)(i) Service of initial installation, alteration,
 32 addition, cleaning, refinishing, replacement, and repair of motor vehicles,
 33 aircraft, farm machinery and implements, motors of all kinds, tires and
 34 batteries, boats, electrical appliances and devices, furniture, rugs,
 35 flooring, upholstery, household appliances, televisions and radios, jewelry,
 36 watches and clocks, engineering instruments, medical and surgical

1 instruments, machinery of all kinds, bicycles, office machines and equipment,
2 shoes, tin and sheetmetal, mechanical tools, and shop equipment.

3 (ii) However, the provisions of this section shall
4 not apply to coin-operated car washes. For the purposes of this section, a
5 coin-operated car wash shall be defined as one wherein the car washing
6 equipment is activated by the insertion of coins into a slot or receptacle
7 and where the labor of washing the exterior of the car or motor vehicle is
8 performed solely by the customer or by mechanical equipment.

9 (iii) Additionally, the gross receipts tax levied in
10 this section shall not apply to the repair or maintenance of railroad parts,
11 railroad cars, and equipment brought into the State of Arkansas solely and
12 exclusively for the purpose of being repaired, refurbished, modified, or
13 converted within this state.

14 (iv) The General Assembly determines and affirms
15 that the original intent of subdivision (3) of this section which provides
16 that gross receipts derived from certain services would be subject to the
17 gross receipts tax was not intended to be applicable, nor shall Arkansas
18 gross receipts taxes be collected, with respect to services performed on
19 watches and clocks which are received by mail or common carrier from outside
20 this state and which, after the service is performed, are returned by mail or
21 common carrier or in the repairman's own conveyance to points outside this
22 state.

23 (v) Additionally, the gross receipts tax levied in
24 this section shall not apply to the repair or remanufacture of industrial
25 metal rollers or platens that have a remanufactured, nonmetallic material
26 covering on all or part of the roller or platen surface which are brought
27 into the State of Arkansas solely and exclusively for the purpose of being
28 repaired or remanufactured in this state and are then shipped back to the
29 state of origin.

30 (vi) The gross receipts tax levied in this section
31 shall not apply to the service of alteration, addition, cleaning,
32 refinishing, replacement, or repair of commercial jet aircraft, commercial
33 jet aircraft components, or commercial jet aircraft subcomponents. The term
34 "commercial jet aircraft" shall mean any commercial, military, private, or
35 other turbine or turbo jet aircraft having a certified maximum take-off
36 weight of more than twelve thousand five hundred (12,500) pounds;

1 (vii) The provisions of subdivision (3)(C)(1) of
 2 this section shall not apply to the services performed by a temporary or
 3 leased employee or other contract laborer on items owned or leased by the
 4 employer. The following criteria must be met for a person to be a temporary
 5 or leased employee:

6 (a) There must be a written contract with the
 7 temporary employment agency, employee leasing company, or other contractor
 8 providing the services;

9 (b) The employee, temporary employment agency,
 10 employee leasing company, or other contractor must not bear the risk of loss
 11 for damages caused during the performance of the contract. The person for
 12 whom the services are performed must bear the risk of loss; and

13 (c) The temporary or leased employee or
 14 contract laborer is controlled by the employer as if he were a full-time
 15 permanent employee. "Control" includes, but is not limited to, scheduling
 16 work hours, designating work duties, and directing work performance.

17 (viii)(a) Additionally, the gross receipts tax
 18 levied in this section shall not apply to the initial installation,
 19 alteration, addition, cleaning, refinishing, replacement, or repair of
 20 nonmechanical, passive, or manually operated components of buildings or other
 21 improvements or structures affixed to real estate, including, but not limited
 22 to, the following:

23 (1) Walls;
 24 ~~(2) Floors;~~
 25 ~~(3)(2) Ceilings;~~
 26 ~~(4)(3) Doors;~~
 27 ~~(5)(4) Locks;~~
 28 ~~(6)(5) Windows;~~
 29 ~~(7)(6) Glass;~~
 30 ~~(8)(7) Heat and air ducts;~~
 31 ~~(9)(8) Roofs;~~
 32 ~~(10)(9) Wiring;~~
 33 ~~(11)(10) Breakers;~~
 34 ~~(12)(11) Breaker boxes;~~
 35 ~~(13)(12) Electrical switches and~~
 36 receptacles;

1 ~~(14)~~(13) Light fixtures;
 2 ~~(15)~~(14) Pipes;
 3 ~~(16)~~(15) Plumbing fixtures;
 4 ~~(17)~~(16) Fire and security alarms;
 5 ~~(18)~~(17) Intercoms;
 6 ~~(19)~~(18) Sprinkler systems;
 7 ~~(20)~~(19) Parking lots;
 8 ~~(21)~~(20) Fences;
 9 ~~(22)~~(21) Gates;
 10 ~~(23)~~(22) Fireplaces; and
 11 ~~(24)~~(23) Similar components which become
 12 a part of real estate after installation, except flooring.

13 (b) Contractors are deemed to be consumers or
 14 users of all tangible personal property used or consumed by them in providing
 15 such nontaxable services, in the same manner as when performing any other
 16 contract.

17 (c) Subdivision (3)(C)(viii) of this section
 18 shall not apply to any services subject to tax pursuant to the terms of
 19 subdivision (3)(E) of this section.

20 (ix) The gross receipts tax levied in subdivision (3)(C)(i) of
 21 this section shall not apply to the service of initial installation of any
 22 property that is specifically exempted from the tax imposed by the Arkansas
 23 Gross Receipts Act of 1941, § 26-52-101 et seq.

24
 25 SECTION 7. Effective July 1, 2004, Arkansas Code Title 26, Chapter 52,
 26 Subchapter 3 is amended to add an additional section to read as follows:

27 26-52-316. Services subject to tax.

28 (a) The gross proceeds or gross receipts derived from the following
 29 services are subject to the gross receipts tax:

30 (1) Wrecker and towing services;

31 (2) Collection and disposal of solid wastes;

32 (3) Cleaning parking lots and gutters;

33 (4) Dry cleaning and laundry services;

34 (5) Industrial laundry services;

35 (6) Mini warehouse and self storage rental services;

36 (7) Body piercing, tattooing, and electrolysis services;

1 (8) Pest control services;

2 (9) Security and alarm monitoring services;

3 (10) Boat storage and docking fees;

4 (11) Furnishing camping spaces or trailer spaces at public or
 5 privately-owned campgrounds, except for federal campgrounds, on less than a
 6 month-to-month basis;

7 (12) Locksmith services; and

8 (13) Pet grooming and kennel services.

9 (b)(1) For purposes of this section "locksmith services" means
 10 repairing, servicing, or installing locks and locking devices, whether the
 11 locks and locking devices are:

12 (A) Incorporated into real property;

13 (B) Incorporated into tangible personal property; or

14 (C) Locks separate and apart from other property.

15 (2) "Locksmith services" also includes unlocking locks or
 16 locking devices for another person; and

17 (3) "Locksmith services" shall not include the initial
 18 installation of locks by a contractor in new construction.

19
 20
 21 SECTION 8. Effective July 1, 2004, Arkansas Code § 26-57-1002(d)(1),
 22 concerning the rate of wholesale vending tax, is amended to read as follows:

23 (d)(1)(A)(i) A tax of four and one-half percent (4.5%) is hereby
 24 levied on the purchase price of all tangible personal property purchased or
 25 withdrawn from inventory during each calendar month by a vending device
 26 operator for resale through a vending device.

27 (ii)(a) An additional tax of one and one-half
 28 percent (1.5%) is levied on the purchase price of all tangible personal
 29 property purchased or withdrawn from inventory during each calendar month by
 30 a vending device operator for resale through a vending device.

31 (b) The additional tax levied under
 32 subdivision (d)(1)(A)(ii)(a) of this section shall be special revenue and
 33 credited to the Educational Adequacy Trust Fund.

34 (B) ~~This tax~~ The taxes levied in subdivision (d)(1)(A) of
 35 this section shall be in lieu of any state gross receipts tax on the gross
 36 receipts or gross proceeds derived from the sale of the property by the

1 vending device operator through a vending device.

2

3 SECTION 9. Effective July 1, 2004, Arkansas Code § 26-57-1206(a)(1),
4 concerning vending device decals, is amended to read as follows:

5 (a)(1) Every person who is the operator of a vending device, who
6 elects to have the operation of such vending device covered by the provisions
7 of this subchapter, and who makes available to the general public for use and
8 operation vending devices described in this subchapter, shall pay to the
9 Director of the Department of Finance and Administration (for the benefit of
10 the state and its municipalities and counties) the following annual vending
11 device decal fee for each vending device before such vending device may be
12 placed in service within the state for use by members of the public:

13 (A) For each coin-operated vending device requiring a coin
14 or thing of value of twenty-five cents (25¢) or more for a sale, ~~seventy~~
15 ~~dollars (\$70.00)~~ ninety-three dollars (\$93);

16 (B) For each coin-operated vending device requiring a coin
17 or thing of value of less than twenty-five cents (25¢) for a sale, fifteen
18 dollars (\$15.00);

19 (C) For each coin-operated bulk vending device requiring a
20 coin or thing of value of more than twenty-five cents (25¢) for a sale, seven
21 dollars and fifty cents (\$7.50);

22 (D) For each coin-operated bulk vending device requiring a
23 coin or thing of value of twenty-five cents (25¢) or less for a sale, two
24 dollars and fifty cents (\$2.50); and

25 (E) For each coin-operated manually powered vending
26 devices, coin-operated tabletop snack vending device, or other manually
27 powered coin-operated vending device requiring a coin or thing of value of
28 twenty-five cents (25¢) or more for a sale, thirty dollars (\$30.00).

29

30 SECTION 10. Effective July 1, 2004, Arkansas Code § 26-57-1208(b) is
31 amended to read as follows:

32 (b) The vending device decal fees imposed by § 26-57-1206, or any
33 proportionate amount thereof, shall be divided as follows:

34 (1) ~~With eighty~~ Eighty percent (80%) of ~~such amount being the~~
35 fees collected under § 26-57-1206(a)(1)(B) through (E) and sixty percent
36 (60%) of the fees collected under §26-57-1206(a)(1)(A) shall be deposited to

1 the credit of the General Revenue Fund Account of the State Apportionment
2 Fund provided by § 19-5-202; and

3 (2) With ~~twenty~~ Twenty percent (20%) of ~~such amount being the~~
4 fees collected under § 26-57-1206(a)(1)(B) through (E) and fifteen percent
5 (15%) of the fees collected under § 26-57-1206(a)(1)(A) shall be deposited by
6 the Treasurer of the State in the Identification Pending Trust Fund for Local
7 Sales and Use Taxes in accordance with the provisions of §§ 26-74-221 and 26-
8 75-223, and all revenues deposited into that fund shall be distributed to the
9 cities and counties of this state in accordance with the provisions of §§ 26-
10 74-221(a)(2)(C)(ii) and 26-75-223(a)(2)(C)(ii); and

11 (3) Twenty-five percent (25%) of the fees collected under § 26-
12 57-1206(a)(1)(A) shall be special revenues deposited by the Treasurer of the
13 State to the credit of the Educational Adequacy Trust Fund."

14
15
16 SECTION 11. Educational Adequacy Trust Fund.

17 (a) There is created on the books of the Treasurer of State, the
18 Auditor of State, and Chief Fiscal Officer of the State a special revenue
19 fund to be known as the Educational Adequacy Trust Fund.

20 (b) The Educational Adequacy Trust Fund shall consist of the revenues
21 generated by Arkansas Code §§ 26-52-302(d), 26-53-107(d), 26-52-316, 26-57-
22 1002(d)(1)(A)(ii), and other revenues as provided by law.

23 (c) On the last day of the month, the Treasurer of State shall
24 transfer amounts available in the Educational Adequacy Trust Fund to the
25 Department of Education Public School Fund Account established in Arkansas
26 Code § 19-5-305, to be used for the purposes provided by law. The Treasurer
27 of State shall make the transfer after making the deductions required from
28 the net special revenues as set out in Arkansas Code § 19-5-203(b)(2)(A).

29 (d)(1) Additionally, for each of the state's fiscal years beginning
30 July 1, 2004, the Chief Fiscal Officer of the State shall determine as an
31 annual allocation amount for the Educational Adequacy Trust Fund an amount
32 equivalent to the revenues generated by Arkansas Code § 26-52-316 which shall
33 be equal to total net general revenues as enumerated in § 19-6-201(1) and
34 (2), which were collected in the immediate past year, times a factor of
35 0.0125.

36 (2) On the last day of each month of the fiscal year, the

1 Chief Fiscal Officer of the State shall certify to the Treasurer of State an
2 amount equal to one-twelfth (1/12) of the annual allocation amount determined
3 in subdivision (d)(1) of this section for transfer to the Educational
4 Adequacy Trust Fund.

5 (3) The Treasurer of State shall make the transfer of the
6 amount certified in subdivision (d)(2) of this section from general revenues
7 after making the deductions required from the net general revenues under
8 Arkansas Code § 19-5-202(b)(2)(B)(i).

9
10
11 SECTION 12. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly, that the provision of an equal opportunity for an adequate
13 education to all the citizens of the state is imperative; that additional
14 funds are immediately needed to provide an equal opportunity for an adequate
15 education; that this act is designed to provide the additional revenues
16 needed to provide this equal opportunity to all citizens; and that a delay in
17 the effective date of this act will cause irreparable harm upon the provision
18 of essential education opportunities and the proper administration of
19 educational programs. Therefore, an emergency is hereby declared to exist
20 and this act being necessary for the immediate preservation of the public
21 peace, health, and safety shall be in full force and effect from and after
22 the date of March 1, 2004.

23
24 /s/ Hickinbotham
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**CORPORATE
FRANCHISE TAX**

REVENUE IMPACT

\$8,800,000.00

Arkansas State Legislature

Bill Detail:(Ex: HB1002)

Act:(Ex:2)

Search



Assembly > 84th General Assembly > Second Extraordinary Session, 2003

SB80 - INCREASES THE CORPORATE FRANCHISE TAX.

Yeas

Yeas : 77

Adams	Agee	Anderson	Berry	Biggs	Blair
Bolin	Bond	P. Bookout	Borhauer	Boyd	Bradford
Chesterfield	Clemons	Cowling	Creekmore	Dangeau	Dees
Dickinson	Dobbins	Eason	Edwards	Elliott	D. Evans
L. Evans	Ferguson	Fite	Gipson	Goss	Hardwick
Hathorn	Hickinbotham	House	Jackson	Jacobs	Jeffrey
C. Johnson	J. Johnson	Jones	Judy	Kenney	King
Lamoureux	Ledbetter	Lendall	Lewellen	Mack	Mahony
Martin	Mathis	Medley	Moore	Nichols	Oglesby
Pace	Pate	Petrus	Pickett	L. Prater	S. Prater
Pritchard	Rankin	Roebuck	Scrimshire	Scroggin	Seawel
R. Smith	Stovall	Sullivan	Sumpter	Thomas	Thomason
Thyer	Verkamp	Walters	White	Mr.Speaker	

Nays

Nays : 19

Bennett	Bledsoe	Bright	Childers	Gillespie	Haak
Harris	Hutchinson	Key	Matayo	Napper	Norton
Ormond	Parks	Penix	Rosenbaum	C. Taylor	Weaver
Wood					

Non Voting

Not Voting : 3

Green	Schulte	J. Taylor			
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Present

Present : 1

Milligan					
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84th General Assembly



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Department of Finance and Administration

Legislative Impact Statement

Bill: SB 80

Sponsor: Senator Salmon & Higginbothom

Bill Subtitle: Increases the Corporate Franchise Tax.

Basic Change:

This bill also increases the minimum corporate franchise tax from \$50 to \$250 or \$100 to \$300 for those corporations and Limited Liability Corporations paying the minimum tax rate. For those corporations paying more than the minimum tax, the tax rate is increased from .27% to .30% of value of outstanding capital stock. The maximum tax of \$1,075,000 is removed. The first \$8 million dollars collected each fiscal year will be transferred as General Revenue and any remainder will be transferred as Special Revenues for the Educational Adequacy Trust Fund. The \$3 fee for the Voter Registration Signature Imaging System Fund has been removed.

Amendment 1 amends the effective date from July 1, 2005 to July 1, 2004 and changes the due date for Franchise Tax Reports from June 1 to May 1.

Revenue Impact:

FY05-

\$ 8.8M Gain from Increase in Franchise Tax

FY06-

\$14.7M Gain from Increase in Franchise Tax

FY07-

\$14.7M Gain from Increase in Franchise Tax

Taxpayer Impact:

Time Required:

Adequate time is provided for notice to taxpayers

Procedural Change:

Education of staff personnel of the changes in the law and In-house accounting procedures changes. Revise tax form and instructions and processing procedures.

1 State of Arkansas
2 84th General Assembly
3 Second Extraordinary Session, 2003
4

As Engrossed: S1/30/04 H2/4/04

A Bill

Call Item 6

SENATE BILL 80

5 By: Senators Salmon, Higginbotham

6 By: Representative Jones
7
8

For An Act To Be Entitled

9 AN ACT TO INCREASE THE CORPORATE FRANCHISE TAX;
10 AND FOR OTHER PURPOSES.
11
12

Subtitle

13 INCREASES THE CORPORATE FRANCHISE TAX.
14
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 SECTION 1. Arkansas Code § 26-54-104 is amended to read as follows:
19 26-54-104. Annual franchise tax.

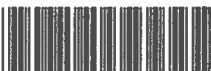
20 ~~(a)~~ Every corporation shall file an annual franchise tax report and
21 pay an annual franchise tax, unless exempted under § 26-54-105, as follows:

22 (1) Each life, fire, accident, surety, liability, steam boiler,
23 tornado, health, or other kind of insurance company of whatever nature,
24 having an outstanding capital stock of less than five hundred thousand
25 dollars (\$500,000) shall pay ~~one hundred dollars (\$100)~~ three hundred dollars
26 (\$300). Each such company having an outstanding capital stock of five
27 hundred thousand dollars (\$500,000) or more shall pay ~~two hundred dollars~~
28 ~~(\$200)~~ four hundred dollars (\$400);

29 (2) Each legal reserve mutual insurance corporation having
30 assets of less than one hundred million dollars (\$100,000,000) shall pay ~~one~~
31 ~~hundred dollars (\$100)~~ three hundred dollars (\$300). Each such corporation
32 having assets of one hundred million dollars (\$100,000,000) or more shall pay
33 ~~two hundred dollars (\$200)~~ four hundred dollars (\$400);

34 (3) Each mutual assessment insurance corporation shall pay ~~one~~
35 ~~hundred dollars (\$100)~~ three hundred dollars (\$300);

36 (4) Each mortgage loan corporation shall pay an amount



1 equivalent to ~~twenty seven one hundredths of one percent (0.27%)~~ three-tenths
2 of one percent (0.3%) of that proportion of the par value of its outstanding
3 capital stock that its aggregate outstanding loans made in the State of
4 Arkansas bears to the total aggregate outstanding loans made in all states.
5 No corporation shall pay an annual tax of less than ~~one hundred dollars~~
6 ~~(\$100)~~ three hundred dollars (\$300) ~~nor more than one million seventy five~~
7 ~~thousand dollars (\$1,075,000);~~

8 (5) Each corporation, other than those in subdivisions (2)-(4)
9 of this section, without authorized capital stock shall pay ~~one hundred~~
10 ~~dollars (\$100)~~ three hundred dollars (\$300);

11 (6) Each corporation, other than those in subdivisions (1)-(5)
12 of this section, shall pay an amount equivalent to ~~twenty seven one~~
13 ~~hundredths of one percent (0.27%)~~ three-tenths of one percent (0.3%) of that
14 proportion of the par value of its outstanding capital stock that the value
15 of its real and personal property in the State of Arkansas bears to the total
16 value of the real and personal property of the corporation. No corporation
17 shall pay an annual tax of less than ~~fifty dollars (\$50.00)~~ one hundred fifty
18 dollars (\$150) ~~nor more than one million seventy five thousand dollars~~
19 ~~(\$1,075,000);~~

20 (7) Each corporation, actually and actively in the process of
21 liquidation and which does not rent or lease its property but which retains
22 its corporate charter or authority for the sole purpose of winding up its
23 affairs, shall pay an annual tax as provided in subdivision (6) of this
24 section or an amount equivalent to ~~twenty seven one hundredths of one percent~~
25 ~~(0.27%)~~ three-tenths of one percent (0.3%) of the value of its real and
26 tangible personal property in Arkansas, whichever is smaller, but in no
27 instance shall the tax be less than ~~fifty dollars (\$50.00)~~ one hundred fifty
28 dollars (\$150) ~~nor more than one million seventy five thousand dollars~~
29 ~~(\$1,075,000);~~

30 (8) Organizations formed pursuant to the Small Business Entity
31 Tax Pass Through Act, § 4-32-101 et seq., shall pay the minimum franchise
32 tax.

33 ~~(b)(1) In addition to the annual franchise taxes levied in subsection~~
34 ~~(a) of this section, there is hereby levied a franchise tax of three dollars~~
35 ~~(\$3.00) per year on each corporation required to report and remit franchise~~
36 ~~taxes under that subsection. All revenues derived from the additional~~

1 ~~franchise tax levied in subsection (a) of this section shall be deposited in~~
2 ~~the State Treasury as special revenues and shall be credited to the Voter~~
3 ~~Registration Signature Imaging System Fund and shall be used exclusively for~~
4 ~~acquiring and operating a voter registration signature imaging system in the~~
5 ~~office of the Secretary of State.~~

6 ~~(2) There is hereby created on the books of the Treasurer of~~
7 ~~State, the Auditor of State, and the Chief Fiscal Officer of the State a fund~~
8 ~~to be known as the "Voter Registration Signature Imaging System Fund".~~

9
10 SECTION 2. The increased rate of franchise tax provided in Section 1
11 of this act shall be effective for calendar years beginning January 1, 2004.
12 Taxes due for calendar years prior to 2004 shall remain due and payable at
13 the rates in existence prior to the effective date of this act.

14
15 SECTION 3. *Arkansas Code § 26-54-105(c), concerning the filing of*
16 *franchise tax reports, is amended to read as follows:*

17 *(c)(1) Each corporation subject to the requirements of this chapter*
18 *shall file a franchise tax report with the Secretary of State which shows its*
19 *condition and status as of the close of business on December 31, ~~last~~*
20 *preceding, of the preceding calendar year, and other information required by*
21 *the Secretary of State.*

22 *(2)(A) The franchise tax as computed on the report shall be*
23 *remitted with the franchise tax report on or before June 1 of the reporting*
24 *year for franchise tax due for calendar year 2003 and years prior to 2003.*

25 *(B) The franchise tax as computed on the report shall be*
26 *remitted with the franchise tax report on or before May 1 of the reporting*
27 *year for franchise tax due for calendar year 2004 and subsequent years.*

28
29 SECTION 4. *Effective July 1, 2004, Arkansas Code § 26-54-113 is*
30 *amended to read as follows:*

31 *26-54-113. Disposition of funds.*

32 *(a) All taxes and penalties collected under the provisions of this*
33 *chapter each month shall be ~~general revenues and shall be~~ deposited in the*
34 *State Treasury to the credit of the Revenue Holding Fund Account of the State*
35 *Apportionment Fund.*

36 *(b)(1) The State Treasurer, on or before the fifth day of the*

1 following month, shall allocate and transfer the taxes and penalties
2 collected ~~to the various State Treasury funds participating in general~~
3 ~~revenues in the respective proportions to each as provided by, and to be used~~
4 ~~for the respective purposes set forth in the Revenue Stabilization Law of~~
5 ~~Arkansas, § 19-5-101 et seq~~ to the General Revenue Fund Account of the State
6 Apportionment Fund until a total of eight million dollars (\$8,000,000) has
7 been transferred during a fiscal year.

8 (2) After the transfers required by subdivision (b)(1) of this
9 section have been made, the taxes and penalties collected under this
10 subchapter during the remainder of the fiscal year shall be special revenues
11 and the Treasurer of State shall transfer the taxes and penalties collected
12 to the Educational Adequacy Trust Fund after making the deductions required
13 by § 19-5-203(b)(2).

14
15 SECTION 5. (a) There is created on the books of the Treasurer of
16 State, the Auditor of State, and Chief Fiscal Officer of the State a special
17 revenue fund to be known as the "Educational Adequacy Trust Fund".

18 (b) The Educational Adequacy Trust Fund shall consist of the revenues
19 credited to the fund under Arkansas Code § 26-54-113(b)(2), and other
20 revenues provided by law.

21 (c) On the last day of the month, the Treasurer of State shall
22 transfer amounts available in the Educational Adequacy Trust Fund to the
23 Department of Education Public School Fund Account established in Arkansas
24 Code § 19-5-305, to be used for the purposes as provided by law. The
25 Treasurer of State shall make the transfer after making the deductions
26 required from the net special revenues as set out in Arkansas Code § 19-5-
27 203(b)(2)(A).

28
29 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
30 General Assembly, that the provision of an equal opportunity for an adequate
31 education to all the citizens of the state is imperative; that additional
32 funds are immediately needed to provide an equal opportunity for an adequate
33 education; that this act is designed to provide the additional revenues
34 needed to provide this equal opportunity to all citizens; and that a delay in
35 the effective date of this act will cause irreparable harm upon the provision
36 of essential education opportunities and the proper administration of

1 educational programs. Therefore, an emergency is declared to exist and this
2 act being immediately necessary for the preservation of the public peace,
3 health and safety shall be in full force and effect from and after the date
4 of March 1, 2004.

5
6 /s/ Salmon, et al
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**TOBACCO,
CORPORATE &
INDIVIDUAL INCOME
TAX**

REVENUE IMPACT

\$106,900,000.00

Arkansas State Legislature

Bill Detail:(Ex: HB1002)

Act:(Ex:2)

Search

Assembly > 84th General Assembly > First Extraordinary Session, 2003

HB1039 - AN ACT TO RAISE GENERAL REVENUE BY LEVYING ADDITIONAL TOBACCO EXCISE TAXES ON CIGARETTES AND TOBACCO PRODUCTS OTHER THAN CIGARETTES AND LEVYING AN INCOME TAX SURCHARGE.

Yeas

Yeas : 80

Agee	Berry	Biggs	Blair	Bolin	Bond
P. Bookout	Borhauer	Boyd	Bradford	Bright	Chesterfield
Childers	Clemons	Cowling	Dangeau	Dees	Dickinson
Dobblns	Eason	Edwards	Elliott	D. Evans	Ferguson
Fite	Gillespie	Gipson	Goss	Haak	Hathorn
Hickinbotham	House	Jackson	Jacobs	Jeffrey	C. Johnson
J. Johnson	Jones	Judy	King	Lamoureux	Ledbetter
Lendall	Lewellen	Mack	Mahony	Martin	Mathis
Medley	Milligan	Moore	Napper	Nichols	Norton
Oglesby	Ormond	Pate	Petrus	Pickett	L. Prater
S. Prater	Pritchard	Rankin	Roebuck	Scrimshlre	Scroggin
Seawel	R. Smith	Stovall	Sullivan	Sumpter	C. Taylor
Thomas	Thomason	Thyer	Walters	Weaver	White
Wood	Mr.Speaker				

Nays

Nays : 18

Adams	Anderson	Bennett	Bledsoe	Creekmore	Green
Hardwick	Harris	Hutchinson	Kenney	Key	Matayo
Pace	Parks	Rosenbaum	Schulte	J. Taylor	Verkamp

Non Voting

Not Voting : 2

L. Evans	Penix				
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Present

Present : 0

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84th General Assembly



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Department of Finance and Administration

Legislative Impact Statement

Bill: HB1039

Bill Subtitle: AN ACT TO LEVY ADDITIONAL TOBACCO EXCISE TAXES ON CIGARETTES AND TOBACCO PRODUCTS OTHER THAN CIGARETTES AND TO LEVY AN INCOME TAX SURCHARGE.

2003 First Extraordinary Session

Representative Ferguson

Basic Change:

1) The proposal adds an additional twenty-five cents (25¢) per package cigarette tax which will result in an increase in the tax rate to a total of fifty-nine cents (59¢) per package. The cigarette tax border zone provisions will apply to the additional tax. The bill provides for limiting cigarette stamp purchases during May 2003 to 110% of the purchaser's average stamp purchases for the period of January through April 2003. The additional cigarette tax would be effective June 1, 2003.

2) The bill levies an additional seven percent (7%) tobacco products tax resulting in the total tax rate increasing to thirty-two percent (32%) calculated on the manufacturer's selling price. The additional tobacco products tax would be effective June 1, 2003.

3) The income tax section (Section 3) of this Bill assesses a 3% surcharge on the income tax levied pursuant to A.C.A. §§ 26-51-201 through 26-51-206, 26-51-301 and 26-51-302 effective for tax years beginning in calendar years 2003 and 2004. The surcharge is for resident and nonresident individuals and domestic and foreign corporations. The Bill imposes the surcharge on residents of qualifying border cities. These residents are currently able to exempt a portion or all of their income from state taxation.

Revenue Impact:

FY04

\$ 94.7 Million Total General Revenue Gain

FY05

\$ 106.9 Million Total General Revenue Gain

Tax Distribution:

Cigarette, Tobacco Products and Sales Taxes - \$ 54.8 Million Annual Gain

3% SURCHARGE					
CALENDAR BASE					
	2003		2004		
INDIVIDUAL	\$	47,400,000	\$	49,350,000	
CORPORATE	\$	5,520,000	\$	5,730,000	
TOTAL	\$	52,920,000	\$	55,080,000	
FISCAL YEAR					
		2004		2005	2006
INDIVIDUAL	\$	37,920,000	\$	48,180,000	\$ 9,870,000
CORPORATE	\$	3,312,000	\$	5,583,000	\$ 2,292,000
TOTAL	\$	41,232,000	\$	53,763,000	\$ 12,162,000
3% CENTRAL SERVICES		1,236,960.00		1,612,890.00	364,860.00
NET SURCHARGE AT 3%		39,995,040.00		52,150,110.00	11,797,140.00

Taxpayer Impact:

Tobacco wholesalers will be required to remit the additional 25¢ per package cigarette tax and the additional 7% excise tax on tobacco products.

Taxpayers will be required to add a 3% surcharge to their Arkansas income tax liability.

Resources Required:

Computer program modification \$7,500. Income tax booklets and instructions will have to be updated. New forms and instructions will be required for taxpayers claiming the Texarkana income tax exemption.

Time Required:

Adequate time is provided for implementation. Income tax surcharge effective for tax years beginning calendar years 2003 and 2004.

Procedural Changes:

Section 3 of the Bill assesses a 3% surcharge on the tax liability computed by all income tax filers. This includes individual taxpayers who are currently eligible to exempt income earned from a qualifying border city. For taxpayers residing in a qualifying border city described in §§ 26-52-601 through 26-52-607, the taxpayers will be required to compute the tax liability that would have been due had the exemption imposed by §§26-52-601 through 26-52-607 not been available, and pay a surcharge on the tax that would be due without the exemption. The surcharge is for tax years beginning in calendar years 2003 and 2004. NOTE: The addition of a 3% surcharge gives you an effective tax rate, in the lowest tax bracket of 1.03% instead of 1%. The top tax rate will, for the period the surcharge is assessed have an effective rate of 7.21%.

1 State of Arkansas

As Engrossed: H5/6/03 S5/8/03

Call Item 17

2 84th General Assembly

A Bill

3 First Extraordinary Session, 2003

HOUSE BILL 1039

4

5 By: Representatives Ferguson, R. Smith, Bolin, Jackson

6

7

8

For An Act To Be Entitled

9

AN ACT TO RAISE GENERAL REVENUE BY LEVYING

10

ADDITIONAL TOBACCO EXCISE TAXES ON CIGARETTES AND

11

TOBACCO PRODUCTS OTHER THAN CIGARETTES AND

12

LEVYING AN INCOME TAX SURCHARGE; AND FOR OTHER

13

PURPOSES.

14

15

Subtitle

16

AN ACT TO RAISE GENERAL REVENUE BY

17

LEVYING ADDITIONAL TOBACCO EXCISE TAXES

18

ON CIGARETTES AND TOBACCO PRODUCTS OTHER

19

THAN CIGARETTES AND LEVYING AN INCOME

20

TAX SURCHARGE.

21

22

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

24

25 SECTION 1. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended
26 to add an additional section to read as follows:

27

26-57-804. Additional tax.

28

(a) Beginning June 1, 2003, in addition to the excise or privilege
29 taxes levied under §§ 26-57-208, 26-57-802, 26-57-803, and 26-57-1101, there
30 is levied an additional tax of twelve dollars and fifty cents (\$12.50) per
31 one thousand (1,000) cigarettes sold in the state.

32

(b)(1) Whenever there are two (2) adjoining cities each with a
33 population of five thousand (5,000) or more separated by a state line, the
34 tax on cigarettes sold in the adjoining Arkansas city shall be at the rate
35 imposed by law on cigarettes sold in the adjoining city outside of Arkansas.
36 The tax shall not exceed the tax upon cigarettes imposed by Arkansas law.



1 (2) The tax on cigarettes sold in Arkansas within three hundred
2 feet (300') of a state line, in any Arkansas city that adjoins a state line,
3 or in any city which is separated only by a navigable river from a city which
4 adjoins a state line shall be at the rate imposed by law on cigarettes sold
5 in the adjoining state. The tax shall not exceed the tax upon cigarettes
6 imposed by Arkansas law.

7 (3)(A) A wholesaler or retailer shall not sell cigarettes to a
8 retailer located outside of a border zone described in subdivisions (b)(1)
9 and (2) of this section unless the full amount of tax levied by this section
10 and §§ 26-57-208, 26-57-802, 26-57-803, and 26-57-1101, without regard to any
11 reduced border zone rate, has been paid as evidenced by cigarette stamps
12 affixed to each container of cigarettes.

13 (B) A retailer located outside of a border zone described
14 in subdivisions (b)(1) and (2) of this section shall not possess or offer for
15 sale cigarettes unless the full amount of tax levied by this section and §§
16 26-57-208, 26-57-802, 26-57-803, and 26-57-1101, without regard to any
17 reduced border zone rate, has been paid as evidenced by cigarette stamps
18 affixed to each container of cigarettes.

19 (C) A violation of subdivisions (b)(3)(A) or (B) of this
20 section shall be grounds for the suspension or revocation of a permit or
21 license issued by the Director of the Arkansas Tobacco Control Board.

22 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-
23 210 shall apply to this section.

24 (d) Purchases of stamps pursuant to § 26-57-236, by wholesalers and
25 stamp deputies during May 2003, shall be limited to one hundred and ten
26 percent (110%) of the amount of each purchaser's average stamp purchase for
27 the period January 2003 through April 2003.

28 (e) The additional tax levied under this section shall be imposed,
29 reported, remitted, and administered in the same manner and at the same time
30 as other taxes levied on cigarettes in the Arkansas Tobacco Products Tax Act
31 of 1977, § 26-57-201, et seq.

32 (f) The director shall not pay the commission authorized by § 26-57-
33 236(g) with respect to the tax levied by this section.

34 (g) The revenue derived from the additional tax imposed by this
35 section shall be credited to the General Revenue Fund Account of the State
36 Apportionment Fund, there to be distributed with the other gross general

1 revenue collections.

2
3 SECTION 2. Arkansas Code Title 26, Chapter 57, Subchapter 8 is amended
4 to add an additional section to read as follows:

5 26-57-805. Additional tax.

6 (a) Beginning June 1, 2003, in addition to the excise or privilege
7 taxes levied under §§ 26-57-208, 26-57-803, and 26-57-1102, there is levied
8 an additional tax on tobacco products other than cigarettes on the first sale
9 to wholesalers or retailers within the state at seven percent (7%) of the
10 manufacturer's selling price. The tax shall be computed on the actual
11 manufacturer's invoice price before discounts and deals.

12 (b)(1) The tax levied by this section shall be reported and paid by
13 wholesalers licensed pursuant to § 26-57-214.

14 (2) Retailers, however, shall be liable for reporting and paying
15 this tax when a retailer purchases tobacco products directly from a
16 manufacturer or from a wholesaler or distributor not licensed pursuant to §
17 26-57-214.

18 (c) The exemptions and waivers allowed under §§ 26-57-209 and 26-57-
19 210 shall apply to this section.

20 (d) The revenue derived from the additional tax imposed by this
21 section shall be credited to the General Revenue Fund Account of the State
22 Apportionment Fund, there to be distributed with the other gross general
23 revenue collections for that month.

24
25 SECTION 3. Title 26, Chapter 51, Subchapter 2, is amended to add a new
26 section to read as follows:

27 26-51-207. Income tax surcharge.

28 (a) In addition to the tax levied by §§ 26-51-201 through 26-51-206,
29 26-51-301, and 26-51-302, there is hereby levied an income tax surcharge of
30 three percent (3%) of the tax liability of every person required to file an
31 Arkansas income tax return.

32 (b)(1) If an individual is a resident of an Arkansas border city
33 described in §§ 26-52-601 through 26-52-607, then the individual shall be
34 liable for the income tax surcharge levied in subsection (a) of this section.

35 (2) The surcharge shall be computed on the tax liability that
36 would have been due had the income tax exemption of §§ 26-52-601 through 26-

1 52-607 not been available.

2 (3) The income tax exemption of §§ 26-52-601 through 26-52-607
3 shall not apply to the income tax levied in subsection (a) of this section.

4 (c) The revenues derived from the additional tax imposed by this
5 section shall be credited to the General Revenue Fund Account of the State
6 Apportionment Fund, there to be distributed with the other gross general
7 revenue collections.

8 (d) For purposes of this section, "tax liability" means the tax
9 imposed pursuant to §§ 26-51-201 through 26-51-206, 26-51-301, and 26-52-302,
10 before the application of any tax credits.

11 (e) This section shall apply to tax years beginning in calendar
12 years 2003 and 2004.

13 (f)(1) This section shall also continue to apply to tax years
14 beginning on and after January 1, 2005, except as provided in this subsection
15 (f).

16 (2) When the budget estimates required by § 19-4-202(b) for the
17 fiscal year ending June 30, 2006, reflect projected growth in general
18 revenues available for distribution equal to or in excess of one hundred
19 twenty-one million dollars (\$121,000,000), then the tax rate levied in § 26-
20 51-207 shall be reduced or expire in accordance with this subsection (f).

21 (3)(A) When the budget estimates required by § 19-4-202(b) for
22 the fiscal year ending June 30, 2006, reflect projected growth in general
23 revenues available for distribution equal to or in excess of one hundred
24 fifty-six million dollars (\$156,000,000), then the tax levied in § 26-51-207
25 shall expire for tax years beginning on and after January 1, 2005.

26 (B) When the budget estimates required by § 19-4-202(b)
27 for the fiscal year ending June 30, 2006, reflect projected growth in general
28 revenues available for distribution equal to or in excess of one hundred
29 thirty-nine million dollars (\$139,000,000) but less than one hundred fifty-
30 six million dollars (\$156,000,000), then the tax rate levied in § 26-51-207
31 shall be reduced to one percent (1%) for tax years beginning in calendar year
32 2005 and for subsequent years.

33 (C) When the budget estimates required by § 19-4-202(b)
34 for the fiscal year ending June 30, 2006, reflect projected growth in general
35 revenues available for distribution equal to or in excess of one hundred
36 twenty-one million dollars (\$121,000,000) but less than one hundred thirty-

1 nine million dollars (\$139,000,000), then the tax rate levied in § 26-51-207
2 shall be reduced to two percent (2%) for tax years beginning in calendar year
3 2005 and for subsequent years.

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SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
General Assembly of the State of Arkansas that revenue available for the
support of necessary state services has declined significantly as a result of
the nationwide economic slowdown; that without additional revenue some state
services will be reduced or eliminated; that some Arkansas residents will
suffer as a result of service reductions or cuts; and that this bill will
provide the necessary revenue to avoid state service reductions or cuts.
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/ Ferguson

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CIGARETTE TAX

REVENUE IMPACT

\$6,000,000.00

Arkansas State Legislature

Bill Detail:(Ex: HB1002) Act:(Ex:2) Search

Assembly > 84th General Assembly > Regular Session, 2003

SB532 - TO AMEND VARIOUS PROVISIONS OF THE UNFAIR CIGARETTE SALES ACT TO SIMPLIFY THE APPLICATION AND ADMINISTRATION OF THE ACT, AND TO AVOID THE LOSS OF GROSS RECEIPTS TAX REVENUES FROM CIGARETTE SALES.

Yeas

Yeas : 75

Adams	Agee	Berry	Biggs	Blair	Bledsoe
Bond	P. Bookout	Boyd	Bradford	Bright	Chlders
Clemons	Cowling	Creekmore	Dangeau	Dees	Dickinson
Eason	Edwards	Elliott	L. Evans	Ferguson	Fite
Gillespie	Gipson	Goss	Haak	Hardwick	Hathom
Hickinbotham	House	Jackson	Jacobs	Jeffrey	J. Johnson
Jones	Judy	Key	King	Lamoureux	Ledbetter
Lendall	Lewellen	Mack	Mahony	Martin	Mathis
Medley	Milligan	Moore	Napper	Oglesby	Ormond
Pate	Petrus	L. Prater	Pritchard	Rankin	Roebuck
Scrimshire	Scroggin	Seawel	R. Smith	Stovall	Sumpter
J. Taylor	C. Taylor	Thomas	Thomason	Thyer	Verkamp
Walters	Weaver	White			

Nays

Nays : 12

Anderson	Dobbins	D. Evans	Harris	Hutchinson	Kenney
Nichols	Pace	Rosenbaum	Schulte	Sullivan	Wood

Non Voting

Not Voting : 12

Bennett	Bolin	Borhauer	Chesterfield	Green	C. Johnson
Matayo	Parks	Penix	Pickett	S. Prater	Mr. Speaker

Present

Present : 1

Norton					
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Department of Finance and Administration

Legislative Impact Statement

Bill: SB532

Bill Subtitle: TO AMEND VARIOUS PROVISIONS OF THE UNFAIR CIGARETTE SALES ACT TO SIMPLIFY THE APPLICATION AND ADMINISTRATION OF THE ACT, AND TO AVOID THE LOSS OF GROSS RECEIPTS TAX REVENUES FROM CIGARETTE SALES.

Basic Change : .

Sen. Smith

Amends provisions of the Arkansas Unfair Cigarette Sales Act. Changes the definition of "basic cost of cigarettes" to mean the lower of either (1) the gross invoice cost to the wholesaler or retailer; or (2) the lowest replacement cost of cigarettes to the wholesaler or the retailer within thirty days (30) days prior to the date of the sale in the quantity last purchased whether within or before the thirty (30) day period. Trade discounts customarily given wholesalers will not be considered in establishing "Basic Cost of Cigarettes".

This bill also increases the required retail markup on all cigarettes sold from six percent (6%) to seven and one-half percent (7.50%) and provides new definitions for "Gross Invoice Cost" and "Manufacturer Promotional Allowance".

Revenue Impact : .

\$ 6 Million Annual State Sales Tax General Revenue Gain

[Estimate based on current cigarette consumption levels and estimated retailer's cigarette buy-downs received from manufacturers and lowering current retail prices].

Taxpayer Impact : .

This bill will require the retailer to adjust the minimum retail selling price by an additional one and one-half percent over cost. The Arkansas Tobacco Control Board will adjust their minimum pricing schedule to allow for the increased mark-up at retail. Retailers will report sales tax on total receipts including any manufacturer's buydowns they receive.

Resources Required : .

Time Required : .

None

Department of Finance and Administration

Legislative Impact Statement

Bill: SB532

Bill Subtitle: TO AMEND VARIOUS PROVISIONS OF THE UNFAIR CIGARETTE SALES ACT TO SIMPLIFY THE APPLICATION AND ADMINISTRATION OF THE ACT, AND TO AVOID THE LOSS OF GROSS RECEIPTS TAX REVENUES FROM CIGARETTE SALES.

Legal Analysis :

EXISTING LAW: In order to establish a level playing field and fair competition for the sale of cigarettes within Arkansas, the *Unfair Cigarette Sales Act* (§4-75-701 et seq.) prohibits the sale of cigarettes by a wholesaler or retailer at less than the wholesaler's or retailer's cost to purchase the cigarettes. Currently, the "basic cost" of cigarettes to wholesalers and retailers is computed minus any trade discounts that have been taken. This results in a lower retail sales price to the consumer and, in turn, lower sales tax revenue on retail sales of cigarettes in Arkansas.

THE BILL: This bill amends the definition of the "basic cost" of cigarettes by providing that the gross invoice cost of cigarettes (cost without any deduction for trade discounts or other allowances) is to be used for purposes of computing the basic cost of cigarettes. The bill also requires that retailers compute sales tax on the full selling price of cigarettes before any deductions are made to the selling price for manufacturers' coupons, buydowns or any other forms of manufacturers promotional allowances.

COMMENTS:

1. The *Unfair Cigarette Sales Act* is administered and enforced by the Arkansas Tobacco Control Board.
2. An increase in the "basic cost" of cigarettes to a retailer will mean an increase in the retail sales price of the cigarettes and therefore increased sales tax revenue. Likewise, sales tax revenue should also increase with the computation of tax on the "full" selling price of the cigarettes without any deductions for coupons or other forms of allowances.
3. The bill has an emergency clause making it effective upon its approval by the Governor.

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

Act 627 of 2003
SENATE BILL 532

5 By: Senators T. Smith, Horn
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS PROVISIONS OF THE UNFAIR
10 CIGARETTE SALES ACT TO SIMPLIFY THE APPLICATION
11 AND ADMINISTRATION OF THE ACT, AND TO AVOID THE
12 LOSS OF GROSS RECEIPTS TAX REVENUES FROM
13 CIGARETTE SALES; AND FOR OTHER PURPOSES.
14

Subtitle

15 TO AMEND VARIOUS PROVISIONS OF THE
16 UNFAIR CIGARETTE SALES ACT TO SIMPLIFY
17 THE APPLICATION AND ADMINISTRATION OF
18 THE ACT, AND TO AVOID THE LOSS OF GROSS
19 RECEIPTS TAX REVENUES FROM CIGARETTE
20 SALES.
21
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 4-75-702(1), relating to the meaning of the
27 term "basic cost of cigarettes" as used in the Unfair Cigarette Sales Act, is
28 amended to read as follows:

29 (1) "Basic cost of cigarettes" means whichever of the two (2)
30 following amounts is lower, namely, the gross invoice cost of cigarettes to
31 the wholesaler or retailer, as the case may be, or the lowest gross
32 replacement cost of cigarettes to the wholesaler or retailer, as the case may
33 be, within thirty (30) days prior to the date of sale, in the quantity last
34 purchased, whether within or before the thirty-day period, ~~less, in either of~~
35 ~~the two (2) cases, all trade discounts except customary discounts for cash,~~
36 plus the full face value of any stamps or any tax which may be required by



1 any cigarette tax act of this state or political subdivision thereof, now in
2 effect or hereafter enacted, if not already included in the gross invoice
3 cost of cigarettes to the wholesaler or retailer, as the case may be;
4

5 SECTION 2. Arkansas Code § 4-75-702(4), relating to the meaning of the
6 term "Cost to the retailer" as used in the Unfair Cigarette Sales Act, is
7 amended to read as follows:

8 (4)(A) "Cost to the retailer" means the basic cost of the
9 cigarettes involved to the retailer plus the cost of doing business by the
10 retailer as evidenced by the standards and methods of accounting regularly
11 employed by him or her and must include, without limitation, labor including
12 salaries of executives and officers, rent, depreciation, selling costs,
13 maintenance of equipment, delivery costs, all types of licenses, taxes,
14 insurance, and advertising.

15 (B) In the absence of the filing with the Arkansas Tobacco
16 Control Board of proof satisfactory to the Board, of a lesser or higher cost
17 of doing business by the retailer making the sale, the cost of doing business
18 by the retailer shall be presumed to be ~~six~~ seven and one-half percent (~~6%~~
19 7 1/2%) of the basic cost of cigarettes to the retailer.

20 (C) In the case of any retail dealer who in connection
21 with the retail dealer's purchase of any cigarettes shall receive not only
22 the discounts ordinarily allowed upon purchases by a retail dealer but also
23 in whole or in part the discounts ordinarily allowed upon purchases by a
24 wholesale dealer, the cost of doing business by the retail dealer with
25 respect to the said cigarettes shall be, in the absence of proof of a lesser
26 or higher cost of doing business by the retail dealer, the sum of the cost of
27 doing business by the retail dealer and, to the extent that he or she shall
28 have received the full discounts ordinarily allowed to a wholesale dealer,
29 the cost of doing business by a wholesale dealer as defined in subdivision
30 (5)(B) of this section.

31
32 SECTION 3. Arkansas Code § 4-75-702(5), relating to the meaning of the
33 term "Cost to the wholesaler" as used in the Unfair Cigarette Sales Act, is
34 amended to read as follows:

35 (5)(A) "Cost to wholesaler" means the basic cost of the
36 cigarettes involved to the wholesaler plus the cost of doing business by the

1 wholesaler as evidenced by the standards and methods of accounting regularly
2 employed by him or her and must include, without limitation, labor costs,
3 including salaries of executives and officers, rent, depreciation, selling
4 costs, maintenance of equipment, delivery costs, all types of licenses,
5 taxes, insurance, and advertising.

6 (B) In the absence of the filing with the Arkansas Tobacco
7 Control Board of proof satisfactory to the Board, of a lesser or higher cost
8 of doing business by the wholesale dealer making the sale, the cost of doing
9 business by the wholesale dealer shall be presumed to be ~~two~~ four percent
10 ~~(2%) (4%)~~ of the basic cost of the cigarettes to the wholesale dealer, ~~plus~~
11 ~~cartage to the retail outlet, if performed or paid for by the wholesale~~
12 ~~dealer, which cartage cost, in the absence of proof of a lesser or higher~~
13 ~~cost, shall be presumed to be three fourths of one percent (0.75%) of the~~
14 ~~basic cost of the cigarettes to the wholesale dealer;~~

15
16 SECTION 4. Arkansas Code § 4-75-702, concerning definitions under the
17 Unfair Cigarette Sales Act, is amended to add additional subdivisions to read
18 as follows:

19 (13) "Gross Invoice Cost" means the manufacturer's or wholesaler's
20 price for the product sold as listed on the invoice to the wholesaler or
21 retailer, as the case may be, before any deduction for allowances, whether
22 manufacturer promotional allowances or otherwise, or for discounts of any
23 kind; and

24 (14) "Manufacturer Promotional Allowance" means any payment or
25 compensation given by a manufacturer of cigarettes to wholesalers or to
26 retailers to promote the sale of cigarettes, and which the manufacturer
27 requires the wholesaler to pass on to the retailer and the retailer to pass
28 on to the retailer's customer.

29
30 SECTION 5. Arkansas Code § 4-75-709 is amended to read as follows:
31 4-75-709. Combination sales.

32 (a) In all advertisements, offers for sale, or sales involving two (2)
33 or more items, at least one (1) of which items is cigarettes, at a combined
34 price, and in all advertisements, offers for sale, or sales involving the
35 giving of any gift or concession of any kind, whether coupons or otherwise,
36 the wholesaler's or retailer's combined selling price shall not be below the

1 cost to the wholesaler or the cost to the retailer, respectively, of the
2 total of all articles, products, commodities, gifts, and concessions included
3 in the transactions; but if any such articles, products, commodities, gifts,
4 or concessions shall not be cigarettes, the basic cost thereof shall be
5 determined in the manner provided in § 4-75-702(1).

6 (b) The redemption by a retailer of coupons supplied to consumers by
7 manufacturers and redeemable from the retailer by the manufacturers is not a
8 violation of this subchapter, if the sum of the coupon and other
9 consideration paid by the consumer is not below the cost to the retailer.
10 However, a retailer accepting a manufacturer's coupon must compute the
11 applicable gross receipts tax on the full selling price before deduction for
12 the manufacturer's coupon.

13 (c) Any manufacturer promotional allowance provided to a wholesaler or
14 retailer may be passed on to the purchaser by the wholesaler or retailer
15 without violating this subchapter, if the sum of the manufacturer promotional
16 allowance and other consideration paid by the purchaser is not below the cost
17 to the wholesaler or retailer, as the case may be. However, a retailer
18 passing a manufacturer promotional allowance on to the retailer's customer
19 must compute the applicable gross receipts tax on the full selling price
20 before deduction for the manufacturer promotional allowance.

21
22 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
23 Eighty-Fourth General Assembly of the State of Arkansas that the Arkansas
24 Unfair Cigarette Sales Act, § 4-75-701 et seq., sets minimum selling prices
25 for wholesale and retail sales of cigarettes in Arkansas; that the purpose of
26 the Unfair Cigarette Sales Act is to promote the fair and lawful competition
27 in the wholesale and retail sale of cigarettes in the State of Arkansas; that
28 confusion has arisen as to the proper application of the Unfair Cigarette
29 Sales Act in light of certain promotional activities of cigarette
30 manufacturers; that the confusion threatens to negatively impact fair and
31 lawful competition in the wholesale and retail sale of cigarettes in the
32 State of Arkansas; and that the confusion threatens to negatively impact the
33 proper and lawful collection of the gross receipts tax. Therefore, an
34 emergency is declared to exist and this act being immediately necessary for
35 the preservation of the public peace, health, and safety shall become
36 effective on:

- 1 (1) The date of its approval by the Governor;
- 2 (2) If the bill is neither approved nor vetoed by the Governor,
- 3 the expiration of the period of time during which the Governor may veto the
- 4 bill; or
- 5 (3) If the bill is vetoed by the Governor and the veto is
- 6 overridden, the date the last house overrides the veto.

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9 APPROVED: 3/24/2003

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TAXPAYER PROTECTION PLEDGE

I, TON WOODS, PLEDGE TO THE
TAXPAYERS OF THE 7TH DISTRICT OF THE
STATE OF ARKANSAS AND ALL

THE PEOPLE OF THIS STATE THAT
I WILL OPPOSE AND VOTE AGAINST

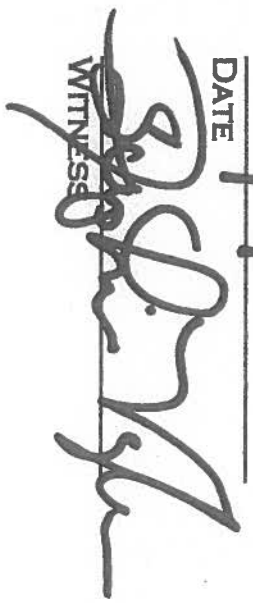
ANY AND ALL EFFORTS TO INCREASE TAXES.


SIGNATURE


WITNESS

PLEASE SIGN AND RETURN TO:
AMERICANS FOR TAX REFORM
722 12TH ST., NW, 4TH FLOOR
WASHINGTON, DC 20005
FAX: 1-202-785-0261

1/1/12
DATE


WITNESS

The Taxpayer Protection Pledge is a project of Americans for Tax Reform (ATR). ATR works with taxpayer groups and activists around the country to ask all candidates and elected officials to make this important commitment to taxpayers. The national list of signers can be accessed at www.ATR.org.