

Hall of the House of Representatives
84th General Assembly - Second Extraordinary Session, 2003
Amendment Form

Subtitle of House Bill No. 1030

"TO LEVY GROSS RECEIPTS TAX ON SERVICES AND TO LEVY AN ADDITIONAL
THREE-EIGHTHS OF ONE PERCENT (.375%) GROSS RECEIPTS TAX."

Amendment No. 3 to House Bill No. 1030.

Amend House Bill No. 1030 as engrossed, H12/26/03 (version: 12-26-2003 10:56):

Add Representative Hickinbotham as a House sponsor

AND

Delete Representative Boyd as a House sponsor

AND

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

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

AND

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

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

AND

Delete all sections of the bill after the enacting clause and substitute:

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

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

(2) The tax shall be collected, reported, and paid in the same



manner and at the same time as prescribed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., for the collection, reporting, and payment of Arkansas gross receipts taxes.

SECTION 2. Effective March 1, 2004, Arkansas Code § 26-52-311(b)(1), pertaining to the rental vehicle tax, is amended to read as follows:

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

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

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

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

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

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

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

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

(C)(i) Service of initial installation, alteration, addition, cleaning, refinishing, replacement, and repair of motor vehicles, aircraft, farm machinery and implements, motors of all kinds, tires and batteries, boats, electrical appliances and devices, furniture, rugs, flooring, upholstery, household appliances, televisions and radios, jewelry, watches and clocks, engineering instruments, medical and surgical instruments, machinery of all kinds, bicycles, office machines and equipment, shoes, tin and sheetmetal, mechanical tools, and shop equipment.

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

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

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

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

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

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

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

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

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

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

- (1) Walls;
- ~~(2) Floors;~~

~~(3)~~(2) Ceilings;
~~(4)~~(3) Doors;
~~(5)~~(4) Locks;
~~(6)~~(5) Windows;
~~(7)~~(6) Glass;
~~(8)~~(7) Heat and air ducts;
~~(9)~~(8) Roofs;
~~(10)~~(9) Wiring;
~~(11)~~(10) Breakers;
~~(12)~~(11) Breaker boxes;
~~(13)~~(12) Electrical switches and

receptacles;

~~(14)~~(13) Light fixtures;
~~(15)~~(14) Pipes;
~~(16)~~(15) Plumbing fixtures;
~~(17)~~(16) Fire and security alarms;
~~(18)~~(17) Intercoms;
~~(19)~~(18) Sprinkler systems;
~~(20)~~(19) Parking lots;
~~(21)~~(20) Fences;
~~(22)~~(21) Gates;
~~(23)~~(22) Fireplaces; and
~~(24)~~(23) Similar components which become

a part of real estate after, installation, except flooring.

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

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

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

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

(C)(i) Service of initial installation, alteration, addition, cleaning, refinishing, replacement, and repair of motor vehicles, aircraft, farm machinery and implements, motors of all kinds, tires and batteries, boats, electrical appliances and devices, furniture, rugs, flooring, upholstery, household appliances, televisions and radios, jewelry, watches and clocks, engineering instruments, medical and surgical instruments, machinery of all kinds, bicycles, office machines and equipment, shoes, tin and sheetmetal, mechanical tools, and shop equipment.

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

performed solely by the customer or by mechanical equipment.

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

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

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

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

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

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

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

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

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

(1) Walls;

- ~~(2)~~ Floors;
- ~~(3)~~(2) Ceilings;
- ~~(4)~~(3) Doors;
- ~~(5)~~(4) Locks;
- ~~(6)~~(5) Windows;
- ~~(7)~~(6) Glass;
- ~~(8)~~(7) Heat and air ducts;
- ~~(9)~~(8) Roofs;
- ~~(10)~~(9) Wiring;
- ~~(11)~~(10) Breakers;
- ~~(12)~~(11) Breaker boxes;
- ~~(13)~~(12) Electrical switches and

receptacles;

- ~~(14)~~(13) Light fixtures;
- ~~(15)~~(14) Pipes;
- ~~(16)~~(15) Plumbing fixtures;
- ~~(17)~~(16) Fire and security alarms;
- ~~(18)~~(17) Intercoms;
- ~~(19)~~(18) Sprinkler systems;
- ~~(20)~~(19) Parking lots;
- ~~(21)~~(20) Fences;
- ~~(22)~~(21) Gates;
- ~~(23)~~(22) Fireplaces; and
- ~~(24)~~(23) Similar components which become

a part of real estate after installation, except flooring.

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

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

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

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

26-52-316. Services subject to tax.

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

- (1) Wrecker and towing services;
- (2) Collection and disposal of solid wastes;
- (3) Cleaning parking lots and gutters;
- (4) Dry cleaning and laundry services;
- (5) Industrial laundry services;
- (6) Mini warehouse and self storage rental services;
- (7) Body piercing, tattooing, and electrolysis services;
- (8) Pest control services;
- (9) Security and alarm monitoring services;
- (10) Boat storage and docking fees;

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

(12) Locksmith services; and

(13) Pet grooming and kennel services.

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

(A) Incorporated into real property;

(B) Incorporated into tangible personal property; or

(C) Locks separate and apart from other property.

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

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

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

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

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

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

(B) ~~This tax~~ The taxes levied in subdivision (d)(1)(A) of this section shall be in lieu of any state gross receipts tax on the gross receipts or gross proceeds derived from the sale of the property by the vending device operator through a vending device.

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

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

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

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

(C) For each coin-operated bulk vending device requiring a

coin or thing of value of more than twenty-five cents (25¢) for a sale, seven dollars and fifty cents (\$7.50);

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

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

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

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

(1) ~~With eighty~~ Eighty percent (80%) of ~~such amount being the~~ fees collected under § 26-57-1206(a)(1)(B) through (E) and sixty percent (60%) of the fees collected under §26-57-1206(a)(1)(A) shall be deposited to the credit of the General Revenue Fund Account of the State Apportionment Fund provided by § 19-5-202; and

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

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

SECTION 11. Educational Adequacy Trust Fund.

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

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

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

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

(2) On the last day of each month of the fiscal year, the Chief Fiscal Officer of the State shall certify to the Treasurer of State an amount equal to one-twelfth (1/12) of the annual allocation amount determined in subdivision (d)(1) of this section for transfer to the Educational Adequacy Trust Fund.

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

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

The Amendment was read _____
By: Representative Hickinbotham
BBC/BBC - 01-30-2004 10:53
BBC057

Chief Clerk