

ARKANSAS SENATE

84th General Assembly - Second Extraordinary Session, 2003

Amendment Form

Subtitle of Senate Bill No. 61

"LEVIES FLAT (7%) CORPORATE INCOME TAX RATE AND INCREASES INCOME TAX SURCHARGE, SEVERANCE TAX ON NATURAL GAS, BEER TAX, AND THE PERCENTAGE OF PROPERTY VALUE THAT IS SUBJECT TO PROPERTY TAX."

Amendment No. 1 to Senate Bill No. 61.

Amend Senate Bill No. 61 as originally introduced:

Delete all sections following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code 3-7-104(6), concerning the rate of beer gallonage tax, is amended to read as follows:

(6)(A)(i) A tax at the rate of seven dollars and fifty cents (\$7.50) per barrel of thirty-two (32) gallons, and proportionately for larger and smaller gallonages per barrel, on all beer having an alcoholic content of five percent (5%) or less by weight sold or offered for sale in the State of Arkansas.

(ii) Beginning March 1, 2004, an additional tax at the rate of one dollar and fifty cents (\$1.50) per barrel of thirty-two (32) gallons, and proportionately for larger and smaller gallonages per barrel, on all beer having an alcoholic content of five percent (5%) or less by weight sold or offered for sale in the State of Arkansas.

(B) This tax shall be paid in the manner prescribed by § 3-7-401 et seq.; and

SECTION 2. Arkansas Code 3-5-1408(3), concerning the rate of beer gallonage tax levied on native brewers, is amended to read as follows:

(3)(A) Pay a tax at the rate of seven dollars and fifty cents (\$7.50) per barrel, and proportionately for larger and smaller gallonages per barrel, on all beer and malt beverages in quantities of up to sixty-thousand (60,000) barrels per year and sold or offered for sale in the state.

(B) Beginning March 1, 2004, pay an additional tax at the rate of one dollar and fifty cents (\$1.50) per barrel, and proportionately for larger and smaller gallonages per barrel, on all beer and malt beverages in quantities of up to sixty-thousand (60,000) barrels per year that is sold or offered for sale in the state.

SECTION 3. Arkansas Code 26-26-303 is repealed.



~~26-26-303. Percentage of value to be used in appraisal.~~

~~(a) The appraisal and assessment shall be according to value as required by Arkansas Constitution, Article 16, Section 5.~~

~~(b) The percentage of true and full market or actual value to be used in the appraisal and assessment shall be fixed and certified by the Arkansas Public Service Commission as provided by § 26-24-104.~~

~~(c) Until and unless a budget system is adopted with provisions for eliminating excessive and illegal tax rates and expenditures, the commission shall not fix and certify a percentage of true and full market or actual value in excess of twenty percent (20%).~~

SECTION 4. Arkansas Code § 26-26-304(e)(1), concerning the ratio of assessed value or property to market value, is amended to read as follows:

(e)(1)(A) In For assessment years prior to 2005 and in addition to the other provisions of this section, whenever the August 1 ratio for the classifications of market value real estate, personal property (business), personal property (auto and other), or agri (agricultural and timber) falls below eighteen percent (18%) or above twenty-two percent (22%) of full fair market value, the county shall be deemed to have failed the ratio study and shall be subject to the corrective actions outlined in subdivision (f) of this section.

(B) For assessment years 2005 and 2006 and in addition to the other provisions of this section, whenever the August 1 ratio for the classifications of market value real estate, business personal property, personal property other than business, or agricultural and timber property falls below twenty percent (20%) or above twenty-four percent (24%) of full fair market value, the county shall be deemed to have failed the ratio study and shall be subject to the corrective actions outlined in subsection (f) of this section.

(C) For assessment year 2007 and subsequent years, and in addition to the other provisions of this section, whenever the August 1 ratio for the classifications of market value real estate, business personal property, personal property other than business, or agricultural and timber property falls below twenty-two percent (22%) or above twenty-six percent (26%) of full fair market value, the county shall be deemed to have failed the ratio study and shall be subject to the corrective actions outlined in subsection (f) of this section.

SECTION 5. Arkansas Code Title 26, Chapter 26, Subchapter 3 is amended to add a new section to read as follows:

26-26-312. Assessed value.

(a) As used in this section:

(1) "Appraised value" means the market or current use value of property estimated by an appraiser in accordance with the provisions of Article 16, Section 5 of the Arkansas Constitution or Article 16, Section 15 of the Arkansas Constitution;

(2) "Assessment level" means the percentage of the appraised value of property that equals the full assessed value of property;

(3) "Full assessed value" means the value of property determined by multiplying the appraised value by the assessment level; and

(4) "Taxable assessed value" means the value of property that is subject to property tax after adjustments required by Amendment 79 to the

Arkansas Constitution.

(b) For assessment years 2005 and 2006, all real and personal property subject to ad valorem tax shall be assessed at an assessment level of twenty-two percent (22%). Ad valorem tax shall be levied upon the taxable assessed value.

(c) For assessment year 2007 and subsequent years, all real and personal property subject to ad valorem tax shall be assessed at an assessment level of twenty-four percent (24%). Ad valorem tax shall be levied upon the taxable assessed value.

SECTION 6. Arkansas Code § 26-51-205 is amended to read as follows:
26-51-205. Corporations - Work Force 2000 Development Fund.

(a) ~~Every~~ For tax years beginning on or after January 1, 2004, every corporation organized under the laws of this state shall pay annually an income tax with respect to carrying on or doing business ~~on~~ at a flat rate of seven percent (7%) of the entire net income of the corporation, as now defined by the laws of the State of Arkansas, received by such corporation during the income year., ~~on the following basis:~~

~~(1) On the first \$3,000 of net income or any part thereof 1%
On the second \$3,000 net income or any part thereof2%
On the next \$5,000 of net income or any part thereof3%
On the next \$14,000 of net income or any part thereof5%
On the next \$75,000 of net income or any part thereof, but not exceeding \$100,0006 %~~

~~(2) On net income exceeding \$100,000, a flat rate of six and one half (6 1/2 %) percent shall be applied to the entire net income.~~

(b) ~~Every~~ For tax years beginning on or after January 1, 2004, every foreign corporation doing business within the jurisdiction of this state shall pay annually an income tax ~~on~~ at the flat rate of seven percent (7%) of the proportion of its entire net income as now determined by the income tax laws of Arkansas., ~~on the following basis:~~

~~(1) On the first \$3,000 of net income or any part thereof 1%
On the second \$3,000 of net income or any part thereof2%
On the next \$5,000 of net income or any part thereof3%
On the next \$14,000 of net income or any part thereof5%
On the next \$75,000 of net income or any part thereof, but not exceeding \$100,0006%~~

~~(2) On net income exceeding \$100,000, a flat rate of six and one half percent (6 1/2%) shall be applied to the entire net income.~~

(c)(1) There is hereby created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Work Force 2000 Development Fund." This fund shall consist of those special revenues as specified in § ~~26-51-205(e)(2)~~ 26-51-206(c)(2)(B)(iii) and all other revenues as may be authorized by law.

(2)(A) The Revenue Services Division of the Department of Finance and Administration shall deposit the funds collected under the provisions of this section for corporate income tax into the State Treasury, there to be credited to the Revenue Holding Fund Account of the State Apportionment Fund.

(B)(i) For each of the state's fiscal years, the Chief Fiscal Officer of the State shall determine as an annual allocation available under the provisions of this section an amount based on the total net

revenues, as enumerated in § 26-51-205(a) and (b), which were collected in the immediate past year, multiplied by a factor of six hundred seventy-eight ten thousandths (.0678). On the last day of each month of the respective fiscal year, the Chief Fiscal Officer of the State shall certify to the Treasurer of State an amount based on one-twelfth (1/12) of the annual allocation provided in this section for transfer as specified in § 26-51-205(c)(2)(B)(ii).

(ii) The Treasurer of State shall then transfer the amount so certified to the Special Revenue Fund Account as part of the gross special revenues.

(iii) After the deductions as set out in § 19-5-203 have been made, the remaining amount shall be credited to the "Work Force 2000 Development Fund."

~~(iv) The remaining corporate income tax collections remaining in the Revenue Holding Fund Account shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections for that month in accordance with the provisions of § 19-5-201 et seq.~~

(C)(i) For the fiscal year beginning July 1, 2005 and fiscal years thereafter, the Chief Fiscal Officer of the State shall determine as an annual allocation available under the provisions of this section an amount equal to the total net revenues collected under § 26-51-205(a) and (b) in the immediate past calendar year, multiplied by a factor of one hundred six thousandths (0.106).

(ii) 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 calculated in subdivision (c)(2)(C)(i) of this section.

(iii) The Treasurer of State shall transfer the amount certified in subdivision (c)(2)(C)(ii) of this section from the Revenue Holding Fund Account of the State Apportionment Fund to the Special Revenue Fund Account as part of the gross special revenues.

(iv) After the deductions under § 19-5-203 have been made, the remaining amount shall be credited to the Educational Adequacy Trust Fund Account.

(D) The corporate income tax collections remaining in the Revenue Holding Fund Account after the transfers required under subdivisions (c)(2)(B) and (C) of this section shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections for that month in accordance with the provisions of § 19-5-201, et. seq.

~~(d)(1) All proceeds derived from the additional tax levied by this section~~ credited to the Work Force 2000 Development Fund as provided by § 26-51-205(c)(2)(B)(iii) shall be used exclusively for the authorized educational activities of:

(A) Any postsecondary vocational-technical school, technical institute, comprehensive lifelong learning center, technical college, community college; or

(B) Any postsecondary vocational-technical school, technical institute, comprehensive lifelong learning center, or technical college that merges with a two-year branch of a four-year institution, a four-year institution, a technical college, or a community college.

(2) The distribution of the proceeds shall be supervised by the State Board of Workforce Education and Career Opportunities for the postsecondary vocational-technical schools, technical institutes, and comprehensive lifelong learning centers. The distribution of the proceeds for technical colleges, community colleges, or any postsecondary vocational-technical school, technical institute, comprehensive lifelong learning center, or technical college that merges with a two-year branch of a four-year institution, a four-year institution, a technical college, or a community college shall continue at the same proportion as those distributions made in fiscal year 1996-97, excluding one-time capital disbursements and professional development disbursements made in fiscal year 1996-97 equal to the amount of funds distributed in fiscal year 1998-99. Any increase in the amount of funds in the Work Force 2000 Development Fund above the amount distributed in fiscal year 1998-99 shall be supervised by the Arkansas Higher Education Coordinating Board and shall be distributed after a review of needs including, but not limited to, equity considerations and workforce development and after consultation with the presidents and chancellors of the technical and former technical colleges.

SECTION 7. Arkansas Code § 26-51-207, as added by Act 38 of 2003, First Extraordinary Session, is amended to read as follows:

26-51-207. Income tax surcharge.

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

(b) For tax years beginning on or after January 1, 2004, there is levied an additional income tax surcharge of two percent (2%) of the tax liability of every person required to file an Arkansas income tax return.

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

(2) The ~~surcharge~~ income tax surcharges levied under subsections (a) and (b) of this section shall be computed on the tax liability that would have been due had the income tax exemption of §§ 26-52-601 through 26-52-607 not been available.

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

~~(e)(d)~~ The revenues derived from the additional tax imposed by ~~this section~~ subsection (a) of this section shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections.

(e)(1) The revenues derived from the additional tax imposed by subsection (b) of this section shall be deposited in the State Treasury as special revenues.

(2) After the deductions required by § 19-5-203 have been made, the remaining amount shall be credited to the Educational Adequacy Trust Fund Account.

~~(d)(f)~~ For purposes of this section, "tax liability" means the tax imposed pursuant to §§ 26-51-201 through 26-51-206, 26-51-301, and 26-51-302,

before the application of any tax credits.

~~(e)(g)~~ This section The income tax surcharge levied in subsection (a) of this section shall apply to tax years beginning in calendar years 2003 and 2004.

~~(f)(1)(h)(1)~~ This section The income tax surcharge levied in subsection (a) of this section shall also continue to apply to tax years beginning on and after January 1, 2005, except as provided in this subsection ~~(f)(h)~~.

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

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

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

(C) When the budget estimates required by § 19-4-202(b) for the fiscal year ending June 30, 2006, reflect projected growth in general revenues available for distribution equal to or in excess of one hundred twenty-one million dollars (\$121,000,000) but less than one hundred thirty-nine million dollars (\$139,000,000), then the tax rate levied in § 26-51-207(a) shall be reduced to two percent (2%) for tax years beginning in calendar year 2005 and for subsequent years.

(i) The income tax surcharge levied in subsection (b) of this section shall apply to tax years beginning on or after January 1, 2004, and shall not be subject to the reduction or expiration provided in subsection (h) of this section.

SECTION 8. Arkansas Code Title 26, Chapter 58, Subchapter 1 is amended to add a new section to read as follows:

26-58-127. Additional severance tax on natural gas.

(a) Except as provided in subsections (b)--(d) of this section, in addition to the tax levied by § 26-58-111(5), there is levied an additional severance tax on natural gas at the rate of fifteen cents (15¢) per one thousand (1,000) cubic feet.

(b)(1) The additional severance tax on natural gas shall be at the rate of three cents (3¢) per one thousand (1,000) cubic feet on gas:

(A) Produced from a well that has been designated as an oil well by the Director of the Arkansas Oil and Gas Commission and determined by the Commissioner of Revenues to have a wellhead pressure of fifty (50) pounds per square inch gauge or less under operating conditions;
or

(B) That has risen in a vaporous state through the annular space between the casing and tubing of the oil well and has been released through lines connected with the casing head if the gas has been determined by the Commissioner of Revenues to have a casing head pressure of fifty (50) pounds per square inch gauge or less under operating conditions.

(2) For purposes of applying the reduced tax rate provided in this subsection (b), an oil well being produced by the method commonly known as gas lift shall be presumed, in the absence of a determination to the contrary by the Commissioner of Revenues, to have a wellhead pressure of fifty (50) pounds per square inch or less under operating conditions.

(3) To qualify for the reduced tax rate provided in this subsection (b), an oil well must have a casing head pressure of fifty (50) pounds or less per square inch for the entire taxable month.

(c)(1) The additional severance tax on natural gas shall be at the rate of one and three-tenths cents (1.33¢) per one thousand (1,000) cubic feet on gas produced from a well that has been designated as a gas well by the Director of the Arkansas Oil and Gas Commission and determined by the Commissioner of Revenues to be incapable of producing an average of five hundred thousand (500,000) cubic feet of gas per day.

(2) To qualify for the reduced tax rate provided in this subsection (c), a gas well must be incapable of producing five hundred thousand (500,000) cubic feet of gas per day during the entire taxable month.

(d) The additional severance tax on natural gas shall be at the rate of seven cents (7¢) per one thousand (1,000) cubic feet on gas that is produced from a natural gas well that has an approved contract price of less than fifty-two cents (52¢) per one thousand (1,000) cubic feet.

(e) The additional severance tax levied under this section shall begin on March 1, 2004.

SECTION 9. (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 fund shall consist of the revenues generated by Arkansas Code §§ 26-51-205(c)(2)(C), 26-51-207(b), 26-58-127, 3-7-104(6)(A)(ii), 3-5-1408(3)(B), and other revenues provided by law.

(c) On the last day of the month, the Treasurer of State shall transfer amounts available in the Educational Adequacy Fund to the Department of Education Public School Fund Account established in Arkansas Code § 19-5-305, to be used for the purposes as 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).

SECTION 10. 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 declared to exist and this act being immediately necessary for the 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 the first time, rules suspended and read the second time and _____

By: Senator Wooldridge

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Secretary