

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

As Engrossed: H12/26/03
A Bill

Call Item 6

HOUSE BILL 1030

5 By: Representative Boyd
6
7

For An Act To Be Entitled

9 AN ACT TO LEVY GROSS RECEIPTS TAX ON SERVICES; TO
10 LEVY AN ADDITIONAL THREE-EIGHTHS OF ONE PERCENT
11 (.375%) GROSS RECEIPTS TAX; AND FOR OTHER
12 PURPOSES.
13

Subtitle

15 TO LEVY GROSS RECEIPTS TAX ON SERVICES
16 AND TO LEVY AN ADDITIONAL THREE-EIGHTHS
17 OF ONE PERCENT (.375%) GROSS RECEIPTS
18 TAX.
19
20

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

23 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended
24 by adding additional sections to read as follows:

25 26-52-316. Accountants and tax preparers.

26 (a) For purposes of this section:

27 (1) "Accountant" means any person, partnership, corporation,
28 limited liability company, or other entity certified or licensed or required
29 to be licensed under § 17-12-301, § 17-12-312, or §§ 17-12-401 -- 17-12-404,
30 or any accountant certified or licensed or required to be licensed by another
31 state who performs services in the State of Arkansas;

32 (2) "Employer" means those who have a right to exercise control
33 as to how, when, and where services are to be performed;

34 (3) "Practice of public accounting" means the performance of
35 professional services as defined in this section or the performance of
36 professional services while using the title or designation of certified



1 public accountant, public accountant, CPA, PA, accountant, or auditor;

2 (4) "Services" means all acts, work, or professional services
3 rendered, furnished, or performed for a valuable consideration by any
4 accountant or tax preparer for a consumer or client other than an employer;
5 and

6 (5) "Tax preparer" means any person, partnership, corporation,
7 limited liability company, or other entity that prepares, files, or assists
8 in the preparation or filing of any state or federal tax return or related
9 document or provides any accounting or bookkeeping services.

10 (b) All fees and compensation collected by any accountant or tax
11 preparer for services performed are subject to the gross receipts tax levied
12 by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

13
14 26-52-317. Advertising agencies and services.

15 (a) The gross receipts or gross proceeds derived from the performance
16 of advertising services by advertising agencies are subject to the Arkansas
17 Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

18 (b)(1) "Advertising agency" means a person or a legal entity that
19 plans, creates and arranges for production of advertising for clients;

20 (2) "Advertising services" includes:

21 (A) Advertising space and time, including advertising
22 space in newspapers, magazines, advertising supplements, and other
23 publications;

24 (B) Television and radio advertising time;

25 (C) Billboard advertising space and time; and

26 (D) Other advertising space and time, including, but not
27 limited to, outdoor structures, displays, banners, broadcasts, devices,
28 vehicles, or airborne devices.

29
30 26-52-318. Architects.

31 (a) For purposes of this section:

32 (1) "Architect" means any person, firm, partnership,
33 corporation, limited liability company, or other entity who is an architect
34 as defined by § 17-15-102 or who engages in the practice of architecture as
35 defined by § 17-15-102 or who is registered as an architect by another state
36 who performs services in the State of Arkansas;

1 (2) "Employer" means those who have a right to exercise control
2 as to how, when, and where services are to be performed; and

3 (3) "Services" means all acts or work rendered, furnished, or
4 performed for a valuable consideration by any person engaged in the practice
5 of architecture for a consumer or client other than an employer.

6 (b) All fees and compensation collected by any architect for services
7 performed are subject to the gross receipts tax levied by the Arkansas Gross
8 Receipts Act of 1941, as amended, § 26-52-101 et seq.

9
10 26-52-319. Attorneys.

11 (a) As used in this section:

12 (1) "Attorney" means any:

13 (A) Person licensed or required to be licensed to practice
14 law in the state or federal courts in Arkansas;

15 (B) Partnership, association, or corporation of licensed
16 attorneys; and

17 (C) Attorney licensed or required to be licensed by
18 another state who provides services in the State of Arkansas;

19 (2) "Employer" means those who have a right to exercise control
20 as to how, when, and where services are to be performed;

21 (3) "Practice of law" means any service related to the legal
22 representation of clients, including, but not limited to, acts included in
23 § 16-22-501(a) that involves conduct regulated by the Arkansas Supreme Court;
24 and

25 (4) "Services" means all acts, work, or representation rendered,
26 furnished, or performed for a valuable consideration by any person engaged in
27 the practice of law for a consumer or client other than an employer.

28 (b) All fees and compensation collected by any attorney for services
29 performed are subject to the gross receipts tax levied by the Arkansas Gross
30 Receipts Act of 1941, as amended, § 26-52-101 et seq.

31 (c)(1) Any attorney required to collect and remit gross receipts tax
32 on fees collected for services under this section shall obtain a sales tax
33 permit for the purpose of identification.

34 (2) The provisions of §§ 26-52-501(a) and 26-18-206 making it
35 unlawful to operate a business without a permit shall not apply to the
36 practice of law by an attorney.

1 (3) The provisions of § 26-18-702 allowing the director to
2 enjoin the operation of a business shall not apply to the practice of law by
3 an attorney.

4
5 26-52-320. Auctioneers.

6 (a) The gross receipts or gross proceeds derived from all auction
7 sales of new or used tangible personal property by auctioneers licensed or
8 required to be licensed under the Auctioneer's Licensing Act, § 17-17-101, et
9 seq. are subject to the Arkansas Gross Receipts Act of 1941, as amended, §
10 26-52-101 et seq. unless a sale is exempt from tax under an exemption
11 provided to the purchaser of the tangible personal property.

12 (b) Auctioneers and consignees are considered the sellers of all items
13 sold and the exemption for isolated sales provided in § 26-52-401(17) shall
14 not apply to any sales by auctioneers or consignees.

15
16 26-52-321. Bail bondsmen.

17 The gross receipts tax levied by the Arkansas Gross Receipts Act of
18 1941, as amended, § 26-52-101 et seq. is levied on all fees collected by bail
19 bondsmen licensed or required to be licensed under § 17-19-101 et seq., as
20 amended.

21
22 26-52-322. Banks and financial institutions.

23 (a) The gross receipts or gross proceeds derived from service charges
24 of banks and financial institutions are subject to the Arkansas gross
25 receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended,
26 § 26-52-101 et seq.

27 (b) "Service charges" include fees for transferring funds from one (1)
28 account to another, stop payment charges, debit card replacement charges,
29 copy and research fees, bill payment fees, returned deposit item fees, fees
30 for issuing certified checks, and any other charges for bank or financial
31 institution services.

32
33 26-52-323. Barbers and cosmetologists.

34 (a) The gross receipts or gross proceeds from all services rendered by
35 barbers, cosmetologists, or electrologists are subject to the Arkansas Gross
36 Receipts Act of 1941, as amended, § 26-52-101 et seq.

1 (b) For purposes of this section, "barbering" means those services
2 specified in § 17-20-102 without regard to whether the services are performed
3 by a person licensed by the State Board of Barber Examiners.

4 (c) For purposes of this section, "cosmetologist" means a person who
5 practices the art of cosmetology, including electrolysis, and is licensed or
6 required to be licensed under § 17-26-101 et seq.

7
8 26-52-324. Brokerage fees.

9 The gross receipts or gross proceeds derived from fees charged by
10 brokers licensed to buy and sell stocks, bonds, or other securities are
11 subject to the Arkansas gross receipts tax levied by the Arkansas Gross
12 Receipts Act of 1941, as amended, § 26-52-101 et seq.

13
14 26-52-325. Charter services.

15 The gross receipts or gross proceeds derived from the service of
16 renting an aircraft with a pilot's service, renting a bus with a driver's
17 service, or renting a motor vehicle, including limousines, with a driver's
18 service are subject to the gross receipts tax levied by the Arkansas Gross
19 Receipts Act of 1941, as amended, § 26-52-101 et seq.

20
21 26-52-326. Commercial art and design.

22 The gross receipts or gross proceeds derived from the service of
23 creating or designing commercial art or graphic designs for a customer are
24 subject to the gross receipts tax levied by Arkansas Gross Receipts Tax Act
25 of 1941, as amended, § 26-52-101 et seq.

26
27 26-52-327. Computer consultants.

28 (a) For purposes of this section:

29 (1) "Computer consultant" means any person, firm, partnership,
30 corporation, limited liability company, or other entity who installs,
31 maintains, repairs, or updates computer hardware or software or who provides
32 technical support or assistance in the purchase, installation, maintenance,
33 repair or updating of computer hardware or software;

34 (2) "Employer" means those who have a right to exercise control
35 as to how, when, and where services are to be performed; and

36 (3) "Services" means all acts or work rendered, furnished, or

1 performed for a valuable consideration by any person engaged in computer
2 consulting for a consumer or client other than an employer.

3 (b) All fees and compensation collected by any computer consultant for
4 services performed are subject to the gross receipts tax levied by the
5 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

6
7 26-52-328. Court reporting services.

8 (a) The gross receipts or gross proceeds derived from court reporting
9 services are subject to the Arkansas gross receipts tax levied by the
10 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

11 (b)(1) "Court reporting services" means the recording or transcription
12 of proceedings, including depositions, meetings, and mediation or arbitration
13 hearings by video, audio, stenographic, or other means.

14 (2) "Court reporting services" does not include services
15 rendered, furnished, or performed for a valuable consideration by a court
16 reporter for a consumer or client other than an employer.

17
18 26-52-329. Data processing services.

19 (a) The gross receipts or gross proceeds derived from data processing
20 services are subject to the Arkansas gross receipts tax levied by the
21 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

22 (b)(1) "Data processing services" includes word processing, data
23 entry, data retrieval, data search, information compilation, payroll and
24 business accounting data production, and other computerized data and
25 information storage or manipulation.

26 (2) "Data processing service" also includes the use of a
27 computer or computer time for data processing whether the processing is
28 performed by the provider of the computer or computer time or by the
29 purchaser or other beneficiary of the service.

30
31 26-52-330. Dry cleaning and laundry.

32 (a) The gross receipts tax levied by the Arkansas Gross Receipts Act
33 of 1941, as amended, § 26-52-101 et seq., is levied on the gross receipts or
34 gross proceeds derived from laundry and dry cleaning services, including, but
35 not limited to:

36 (1) Cleaning, pressing, repairing, altering, and storing

1 clothes; and

2 (2) Carpet, drapery, upholstery, and industrial cleaning.

3 (b) "Laundry and dry cleaning services" includes services provided by
4 coin-operated facilities operated by the customer.

5
6 26-52-331. Funeral services.

7 The gross receipts or gross proceeds derived from the rendering,
8 furnishing, or performance of funeral services are subject to Arkansas gross
9 receipts tax as levied by the Arkansas Gross Receipts Act of 1941, as
10 amended, § 26-52-101 et seq.

11
12 26-52-332. Employment fees.

13 (a) All fees and compensation collected by an employment agency,
14 employment placement agency, or temporary-help firm are subject to the gross
15 receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended,
16 § 26-52-101 et seq.

17 (b) As used in this section:

18 (1) "Employment agency" means any person engaged in the business
19 of providing or supplying personnel, on a temporary or long-term basis, to
20 perform work or labor under the supervision or control of another, when the
21 personnel so supplied receive their wages, salary, or other compensation from
22 the provider of the service;

23 (2) "Employment placement agency" means any person engaged in
24 the business of locating or finding employment for a person or finding or
25 locating an employee to fill an available position; and

26 (3) "Temporary-help firm" means a person who employs individuals
27 for the purpose of assigning those individuals to work for the clients of the
28 temporary-help firm to support or supplement a client's workforce during
29 employee absences, temporary skill shortages, seasonal workloads, special
30 assignments and projects, and other similar work situations.

31
32 26-52-333. Engineers.

33 (a) For purposes of this section:

34 (1) "Engineer" means any person, firm, partnership, corporation,
35 limited liability company, or other entity who is a professional engineer as
36 defined by § 17-30-101 or who engages in the practice of engineering as

1 defined by § 17-30-101 or who is registered as an engineer by another state
2 who performs services in the State of Arkansas;

3 (2) "Employer" means those who have a right to exercise control
4 as to how, when, and where services are to be performed; and

5 (3) "Services" means all acts or work rendered, furnished, or
6 performed for a valuable consideration by any person engaged in the practice
7 of engineering for a consumer or client other than an employer.

8 (b) All fees and compensation collected by any engineer for services
9 performed are subject to the gross receipts tax levied by the Arkansas Gross
10 Receipts Act of 1941, as amended, § 26-52-101 et seq.

11
12 26-52-334. Environmental consultants.

13 (a) For purposes of this section:

14 (1) "Environmental consultant" means any person, firm,
15 partnership, corporation, limited liability company, or other entity who
16 provides environmental consulting services;

17 (2) "Environmental consulting services" includes services
18 provided by environmental scientists, engineers, and other experts and
19 establishments that primarily engage in providing advice and assistance to
20 businesses and other organizations on environmental issues, such as the
21 control of environmental contamination from pollutants, toxic substances, and
22 hazardous materials;

23 (3) "Employer" means those who have a right to exercise control
24 as to how, when, and where services are to be performed; and

25 (4) "Services" means all acts or work rendered, furnished, or
26 performed for a valuable consideration by any person engaged in environmental
27 consulting for a consumer or client other than an employer.

28 (b) All fees and compensation collected by any environmental
29 consultant for services performed are subject to the gross receipts tax
30 levied by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et
31 seq.

32
33 26-52-335. Interior designers.

34 (a) For purposes of this section:

35 (1) "Interior designer" means any person, firm, partnership,
36 corporation, limited liability company, or other entity who provides the

1 service of designing or decorating the interiors of houses or buildings,
2 counseling with respect to designing or decoration, or the procurement of
3 furniture, fixtures, or home or building decorations;

4 (2) "Employer" includes those who have a right to exercise
5 control as to how, when, and where services are to be performed; and

6 (3) "Services" means all acts or work rendered, furnished, or
7 performed for a valuable consideration by any person engaged in interior
8 design for a consumer or client other than an employer.

9 (b) All fees and compensation collected by any interior designer for
10 services performed are subject to the gross receipts tax levied by the
11 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

12
13 26-52-336. Investment counseling.

14 The gross receipts or gross proceeds derived from the rendering,
15 furnishing, or performance of services by persons engaged in the business of
16 counseling others relative to investments in or disposition of property
17 rights, whether real, personal, tangible or intangible are subject to
18 Arkansas gross receipts tax as levied by the Arkansas Gross Receipts Act of
19 1941, as amended, § 26-52-101 et seq.

20
21 26-53-337. Landscape architects.

22 (a) For purposes of this section:

23 (1) "Landscape architect" means any person, firm, partnership,
24 corporation, limited liability company, or other entity who is a landscape
25 architect as defined by § 17-36-102 or who engages in landscape architecture
26 as defined by § 17-36-102, or who is licensed as a landscape architect by
27 another state who performs services in the State of Arkansas;

28 (2) "Employer" means those who have a right to exercise control
29 as to how, when, and where services are to be performed; and

30 (3) "Services" means all acts or work rendered, furnished, or
31 performed for a valuable consideration by any person engaged in landscape
32 architecture for a consumer or client other than an employer.

33 (b) All fees and compensation collected by any landscape architect for
34 services performed are subject to the gross receipts tax levied by the
35 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

36

1 26-52-338. Lobbyists.

2 The gross receipts or gross proceeds derived from lobbying as defined
3 in § 21-8-402 are subject to the Arkansas gross receipts tax levied by the
4 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

5
6 26-52-339. Locksmith services.

7 (a) The gross receipts or gross proceeds derived from locksmith
8 services are subject to the Arkansas gross receipts tax levied by the
9 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

10 (b)(1) "Locksmith services" means repairing, servicing, or installing
11 locks and locking devices, whether the 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.

17
18 26-52-340. Management consultants.

19 (a) For purposes of this section:

20 (1) "Management consultant" means any person, firm, partnership,
21 corporation, limited liability company, or other entity who provides
22 management consulting services;

23 (2) "Management consulting" means furnishing advice and
24 assistance to businesses and other organizations on management issues, such
25 as strategic and organizational planning; financial planning and budgeting;
26 marketing objectives and policies; human resource policies, practices and
27 planning; production scheduling; and control planning;

28 (3) "Employer" means those who have a right to exercise control
29 as to how, when, and where services are to be performed; and

30 (4) "Services" means all acts or work rendered, furnished, or
31 performed for a valuable consideration by any person engaged in management
32 consulting for a consumer or client other than an employer.

33 (b) All fees and compensation collected by any management consultant
34 for services performed are subject to the gross receipts tax levied by the
35 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

36

1 26-52-341. Massage therapists.

2 The excise tax levied by Arkansas Gross Receipts Act of 1941, as
3 amended, § 26-52-101 et seq. is levied on all services performed by massage
4 therapists licensed or required to be licensed under § 17-86-102 et seq.

5
6 26-52-342. Meeting rooms.

7 The gross receipts or gross proceeds from the rental of meeting rooms
8 for meetings, conferences, conventions, social functions, and other events
9 are subject to the Arkansas gross receipts tax levied by the Arkansas Gross
10 Receipts Act of 1941, as amended, § 26-52-101 et seq.

11
12 26-52-343. Moving and storage.

13 (a)(1) The gross receipts or gross proceeds from mini-storage are
14 subject to the Arkansas gross receipts tax levied by the Arkansas Gross
15 Receipts Act of 1941, as amended, § 26-52-101 et seq.

16 (2)(A) "Mini-storage" means a commercial operation that provides
17 individual storage units of various sizes to persons for the purpose of
18 storing tangible personal property.

19 (B) "Mini-storage" includes a secured area where vehicles,
20 boats, recreational vehicles, camping trailers, and other types of tangible
21 personal property are stored.

22 (b) The gross receipts or gross proceeds from docking or storage
23 spaces for boats in boat docks or marinas are subject to the Arkansas gross
24 receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended,
25 § 26-52-101 et seq.

26 (c) The gross receipts or gross proceeds derived from the service of
27 moving, storing, and packing tangible personal property belonging to other
28 persons are subject to the Arkansas gross receipts tax levied by the Arkansas
29 Gross Receipts Tax Act of 1941, as amended, § 26-52-101 et seq.

30
31 26-52-344. Personal instruction services.

32 (a) The gross receipts or gross proceeds derived from personal
33 instruction services are subject to the Arkansas gross receipts tax levied by
34 the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

35 (b) "Personal instruction services" includes teaching an individual or
36 group of individuals:

1 (1) To play a musical instrument or to dance;

2 (2) To paint, sculpt, draw, make pottery or jewelry, or
3 otherwise engage in artistic or creative activities;

4 (3) To mime, act, or otherwise engage in dramatic activities;

5 (4) Tae kwon do, tae bo, kung fu, karate, or other martial arts;

6 (5) To play or improve skills in baseball, football, basketball,
7 soccer, volleyball, golf, tennis, or other sports;

8 (6) To drive a motor vehicle;

9 (7) To fly an airplane, glider, or other aircraft; or

10 (8) To operate a boat, jet ski, or other watercraft.

11
12 26-52-345. Pest control.

13 (a) The gross receipts or gross proceeds derived from providing pest
14 control services are subject to the Arkansas Gross Receipts Act of 1941, as
15 amended, § 26-52-101 et seq.

16 (b) For purposes of this section, "pest control services" means those
17 services enumerated in § 17-37-102(13), without regard to whether the
18 services are performed by a person licensed by the State Plant Board.

19
20 26-52-346. Private investigators.

21 The gross receipts or gross proceeds derived from all services
22 performed or rendered by private investigators licensed or required to be
23 licensed under the Private Investigators and Private Security Agencies Act, §
24 17-40-101 et seq. are subject to the Arkansas Gross Receipts Act of 1941, as
25 amended, § 26-52-101 et seq.

26
27 26-52-347. Process servers.

28 The gross receipts or gross proceeds derived from all fees collected by
29 any person serving a summons, process, or order are subject to the Arkansas
30 Gross Receipts Act of 1941, as amended, § 26-52-101, et seq.

31
32 26-52-348. Real estate fees and commissions.

33 (a) The gross receipts tax levied by the Arkansas Gross Receipts Act
34 of 1941, as amended, § 26-52-101 et seq. is levied on the gross receipts or
35 gross proceeds derived from real estate broker services, real estate
36 settlement charges and closing fees, and real estate management services

1 related to the sale, lease, exchange, management of Arkansas real property,
2 whether the services are performed by a person licensed by the Arkansas Real
3 Estate Commission or otherwise.

4 (b) As used in this section:

5 (1) "Real estate broker services" means those activities listed
6 in § 17-42-103 for which a fee is paid; and

7 (2) "Real estate settlement charges and closing fees" includes
8 all fees for services related to the sale of Arkansas real property,
9 including abstract fees, appraisal fees, title search fees, closing fees, but
10 not including title insurance premiums.

11
12 26-52-349. Secretarial and word processing services.

13 (a) The gross receipts or gross proceeds derived from secretarial and
14 word processing services are subject to the Arkansas gross receipts tax
15 levied by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et
16 seq.

17 (b) "Secretarial and word processing services" includes:

18 (1) Document preparation, printing, or copying;

19 (2) Preparation of documents for mailing or distribution; and

20 (3) Document filing or storage, including transfer of
21 information to a hard drive, diskette, CD-Rom, or other electronic media.

22
23 26-52-350. Security services and alarm monitoring.

24 (a) The gross receipts derived from the sale of all security services,
25 security guard services, and alarm monitoring services are subject to the
26 Arkansas gross receipts tax levied by the Arkansas Gross Receipts Act of
27 1941, as amended, § 26-52-101 et seq.

28 (b) The security services or security guard services of off-duty
29 police officers and off-duty firefighters are exempt from the tax levied by
30 subsection (a) of this section.

31
32 26-52-351. Surveying and mapping services.

33 (a) The gross receipts or gross proceeds derived from surveying and
34 mapping services are subject to the Arkansas gross receipts tax levied by the
35 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

36 (b) "Surveying and mapping services" includes the:

1 (1) Determination of the location of:

2 (A) Land boundaries and land boundary corners; or

3 (B) Boundaries of archeological sites;

4 (2) Preparation of plats or maps showing the shape and areas of
5 tracts of land and their subdivisions into smaller tracts;

6 (3) The preparation of plats or maps showing the location of
7 streets, roads, and the right-of-way of tracts to give access to smaller
8 tracts; or

9 (4) Preparation of any other plats or maps concerning land.

10
11 26-52-352. Travel services.

12 The gross receipts or gross proceeds derived from all services rendered
13 in making travel arrangements by travel agencies or other reservation
14 services are subject to the Arkansas gross receipts tax levied by the
15 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

16
17 26-52-353. Tourism.

18 (a) The gross receipts or gross proceeds derived from camping fees,
19 fees charged for excursion tours, and fees charged for hunting and fishing
20 guide services are subject to the Arkansas Gross Receipts Act of 1941, as
21 amended, § 26-52-101 et seq.

22 (b) For purposes of this section:

23 (1) "Camping fees" means fees for furnishing camping spaces or
24 trailer spaces at public or privately-owned campgrounds, except for federal
25 campgrounds, on less than a month-to-month basis; and

26 (2) "Excursion tours" means river boat and lake boat cruises and
27 excursions, local sightseeing and excursion tours, helicopter tours, and
28 excursion railroads.

29
30 26-52-354. Veterinary services.

31 The gross receipts or gross proceeds derived from all services
32 performed or rendered by veterinarians licensed or required to be licensed
33 under the Arkansas Veterinary Medical Practice Act, § 17-101-101, et seq.
34 are subject to the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-
35 101 et seq.

1 26-52-355. Water well construction services.

2 (a) All fees and compensation collected by any water well driller or
3 water well contractor for services performed in Arkansas are subject to the
4 gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, as
5 amended, § 26-52-101 et seq.

6 (b) "Water well driller" means any person who engages for compensation
7 in well construction.

8 (c) "Water well contractor" means any person who engages in the
9 business of well construction or pump installation or repair, exclusive of
10 surveying or other acts preparatory to the construction of a water well.

11
12 SECTION 2. Arkansas Code § 26-52-301(2), establishing an excise tax on
13 *property and services, and that is effective until contingency in Acts 2003,*
14 *No. 1273, § 88 is met, is amended to read as follows:*

15 (2)(A) Natural or artificial gas, electricity, water, ice,
16 steam, sewer services, sanitation services, garbage collection, and solid and
17 liquid waste collection and disposal ~~or any other utility or public service,~~
18 ~~except transportation services, sewer services, and sanitation or garbage~~
19 ~~collection services;.~~

20 (B) Any other utility or public service except
21 transportation services;

22
23 SECTION 3. Arkansas Code § 26-52-301(2), establishing an excise tax on
24 *property and services that is effective when contingency in Acts 2003, No.*
25 *1273, § 88 is met, is amended to read as follows:*

26 (2)(A) Natural or artificial gas, electricity, water, ice,
27 steam, sewer services, sanitation services, garbage collection, and solid and
28 liquid waste collection and disposal ~~or any other utility or public service,~~
29 ~~except transportation services, sewer services, and sanitation or garbage~~
30 ~~collection services;.~~

31 (B) Any other utility or public service except
32 transportation services;

33 SECTION 4. Arkansas Code § 26-52-301(3)(C)(i), concerning sales tax on
34 various services and which is effective until contingency in Acts 2003, No.
35 1273, § 88 is met, is amended to read as follows:

36 (3)(C)(i) Service of initial installation, inspection,

1 alteration, addition, cleaning, refinishing, replacement, and repair of motor
2 vehicles, aircraft, farm machinery and implements, motors of all kinds, tires
3 and batteries, boats, electrical appliances and devices, furniture, rugs,
4 upholstery, household appliances, televisions and radios, jewelry, watches
5 and clocks, engineering instruments, medical and surgical instruments,
6 machinery of all kinds, bicycles, office machines and equipment, shoes, tin
7 and sheetmetal, mechanical tools, guns, and shop equipment.

8

9 SECTION 5. Arkansas Code § 26-52-301(3)(C)(i), concerning sales tax on
10 various services and which is effective when contingency in Acts 2003, No.
11 1273, § 88 is met, is amended to read as follows:

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

20

21 SECTION 6. Arkansas Code § 26-52-301(3)(C)(viii), pertaining to gross
22 receipts tax on services and which is effective until contingency in Acts
23 2003, No. 1273, § 88 is met, is amended to read as follows:

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

29

(1) Walls;

30

(2) Floors;

31

(3) Ceilings;

32

(4) Doors;

33

(5) Locks;

34

(6) Windows;

35

(7) Glass;

36

(8) Heat and air ducts;

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

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

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

25 (d) The gross receipts tax levied in this section
 26 shall apply to all labor charges incurred by a contractor or subcontractor in
 27 performance of a contract, including new construction of a building, either
 28 residential or commercial.

29
 30 *SECTION 7.* Arkansas Code § 26-52-301(3)(C)(viii), pertaining to gross
 31 receipts tax on services and which is effective when contingency in Acts
 32 2003, No. 1273, § 88 is met, is amended to read as follows:

33 (viii)(a) ~~Additionally, the~~ The gross receipts tax
 34 *levied in this section shall not apply to the alteration, addition, cleaning,*
 35 *refinishing, replacement, or repair of nonmechanical, passive, or manually*
 36 *operated components of buildings or other improvements or structures affixed*

1 to real estate, including, but not limited to, the following:

- 2 (1) Walls;
- 3 (2) Floors;
- 4 (3) Ceilings;
- 5 (4) Doors;
- 6 (5) Locks;
- 7 (6) Windows;
- 8 (7) Glass;
- 9 (8) Heat and air ducts;
- 10 (9) Roofs;
- 11 (10) Wiring;
- 12 (11) Breakers;
- 13 (12) Breaker boxes;
- 14 (13) Electrical switches and
- 15 receptacles;
- 16 (14) Light fixtures;
- 17 (15) Pipes;
- 18 (16) Plumbing fixtures;
- 19 (17) Fire and security alarms;
- 20 (18) Intercoms;
- 21 (19) Sprinkler systems;
- 22 (20) Parking lots;
- 23 (21) Fences;
- 24 (22) Gates;
- 25 (23) Fireplaces; and
- 26 (24) Similar components which become a
- 27 part of real estate after installation.

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

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

35 (d) The gross receipts tax levied in this section
 36 shall apply to all labor charges incurred by a contractor or subcontractor in

1 performance of a contract, including new construction of a building, either
2 residential or commercial.

3
4 SECTION 8. Arkansas Code § 26-52-301(3)(D), pertaining to the sales
5 tax exclusion for services purchased by radio or television companies and
6 which is effective until contingency in Acts 2003, No. 1273, § 88 is met,, is
7 amended to read as follows:

8 (D)~~(i)~~ Service of cable television, community antenna
9 television, and any and all other distribution of television, video, or radio
10 services with or without the use of wires provided to subscribers or paying
11 customers or users, including all service charges and rental charges, whether
12 for basic service, premium channels, or other special service, and including
13 installation and repair service charges and any other charges having any
14 connection with the providing of the said services-; and

15 ~~(ii) The tax levied by this section does not apply to services~~
16 ~~purchased by radio or television companies for use in providing their~~
17 ~~services; and~~

18
19 SECTION 9. Arkansas Code § 26-52-301(3)(D), pertaining to the sales
20 tax exclusion for services purchased by radio or television companies and
21 which is effective when contingency in Acts 2003, No. 1273, § 88 is met, is
22 amended to read as follows:

23 (D)~~(i)~~ Service of cable television, community antenna
24 television, and any and all other distribution of television, video, or radio
25 services with or without the use of wires provided to subscribers or paying
26 customers or users, including all service charges and rental charges, whether
27 for basic service, premium channels, or other special service, and including
28 installation and repair service charges and any other charges having any
29 connection with the providing of the said services-; and

30 ~~(ii) The tax levied by this section does not apply~~
31 ~~to services purchased by radio or television companies for use in providing~~
32 ~~their services; and~~

33
34 SECTION 10. Arkansas Code § 26-52-301(3)(E), pertaining to gross
35 receipts tax on services and which is effective until contingency in Acts
36 2003, No. 1273, § 88 is met, is amended to read as follows:

1 (E)(i) Service of providing transportation or delivery of
 2 money, property, or valuables by armored car; service of providing cleaning
 3 or janitorial work, including cleaning the outside of a building and its
 4 grounds; pet grooming and pet boarding or kennel services; taxidermy
 5 services; service of providing wrecker and towing services; service of
 6 boarding or training horses; service of pool cleaning and servicing; pager
 7 services; telephone answering services; lawn care and landscaping services;
 8 service of parking a motor vehicle or allowing the motor vehicle to be
 9 parked; service of storing a motor vehicle; service of storing furs; service
 10 of providing indoor tanning at a tanning salon.

11 ~~(ii) [Repealed].~~

12 ~~(iii)~~(ii) For purposes of this section:

13 (a) "Landscaping" means: the installation,
 14 preservation, or enhancement of ground covering by planting trees, bushes and
 15 shrubbery, grass, flowers, and other types of decorative plants; and

16 (1) The activity of arranging or modifying
 17 areas of land and natural scenery for an improved or aesthetic effect;

18 (2) The addition, removal, or arrangement of
 19 natural forms, features, and plantings; and

20 (3) The addition, removal, or modification of
 21 retaining walls, ponds, sprinkler systems, or other landscape construction
 22 services;

23 (b) "Lawn care" means:

24 (1) ~~the~~ The maintenance, preservation,
 25 pruning, cutting, trimming, or enhancement of ground covering of
 26 nonresidential property, including shrubs, trees, grass, flowers, bushes, and
 27 other decorative plants, and does not include planting trees, bushes and
 28 shrubbery, grass, flowers, and other types of decorative plants; and

29 (2) Trimming of trees on residential and
 30 nonresidential property; and

31 (c) "Residential" means a single family residence
 32 used solely as the principal place of residence of the owner;

33
 34 SECTION 11. Arkansas Code § 26-52-301(3)(E), pertaining to gross
 35 receipts tax on services and which is effective when contingency in Acts
 36 2003, No. 1273, § 88 is met, is amended to read as follows:

1 (E)(i) Service of providing transportation or delivery of
 2 money, property, or valuables by armored car; service of providing cleaning
 3 or janitorial work, including cleaning the outside of a building and its
 4 grounds; pet grooming and pet boarding or kennel services; taxidermy
 5 services; service of providing wrecker and towing services; service of
 6 boarding or training horses; service of pool cleaning and servicing; pager
 7 services; telephone answering services; lawn care and landscaping services;
 8 service of parking a motor vehicle or allowing the motor vehicle to be
 9 parked; service of storing a motor vehicle; service of storing furs; service
 10 of providing indoor tanning at a tanning salon.

11 ~~(ii) [Repealed].~~

12 ~~(iii)~~(ii) For purposes of this section:

13 (a) "Landscaping" means: the installation,
 14 preservation, or enhancement of ground covering by planting trees, bushes and
 15 shrubbery, grass, flowers, and other types of decorative plants; and

16 (1) The activity of arranging or
 17 modifying areas of land and natural scenery for an improved or aesthetic
 18 effect;

19 (2) The addition, removal, or
 20 arrangement of natural forms, features, and plantings; and

21 (3) The addition, removal, or
 22 modification of retaining walls, ponds, sprinkler systems, or other
 23 landscape construction services;

24 (b) "Lawn care" means:

25 (1) the The maintenance, preservation,
 26 pruning, cutting, trimming, or enhancement of ground covering of
 27 nonresidential property, including shrubs, trees, grass, flowers, bushes, and
 28 other decorative plants, and does not include planting trees, bushes and
 29 shrubbery, grass, flowers, and other types of decorative plants.

30 (2) Trimming of trees on residential and
 31 nonresidential property; and

32 (c) "Residential" means a single family
 33 residence used solely as the principal place of residence of the owner;
 34

35 SECTION 12. Arkansas Code § 26-52-301(6), concerning gross receipts
 36 subject to gross receipts tax and which is effective until contingency in

1 Acts 2003, No. 1273, § 88 is met, is amended to read as follows:

2 (6)(A) ~~Dues and membership fees to~~ Dues or fees for joining,
3 membership, or initiation in:

4 (i) Health spas, health clubs, and fitness clubs;
5 ~~and~~

6 (ii) Private clubs within the meaning of § 3-9-
7 202(10) which hold any permit from the Alcoholic Beverage Control Board
8 allowing the sale, dispensing, or serving of alcoholic beverages of any kind
9 on the premises; and

10 (iii)(a) Private clubs that do not hold a permit
11 from the Alcoholic Beverage Control Board.

12 (b) "Private club" includes a country club,
13 golf club, city club, yacht club, dinner club, social club, theater club, or
14 dance club if the club:

15 (1) Restricts access to facilities,
16 amenities, or activities to members or guests of members;

17 (2) Is organized for social, pleasure,
18 or recreational purposes; or

19 (3) Provides facilities for member
20 activities.

21 (c) Semiprivate athletic or recreational clubs
22 that do not hold a permit from the Alcoholic Beverage Control Board, if the
23 club:

24 (1) Permits public, nonmember access to
25 facilities for a fee;

26 (2) Offers club memberships; or

27 (3) Provides facilities for member
28 activities.

29 (B)(i) Except as provided in subdivision (B)(ii) of this
30 section, the gross receipts derived from services provided by or through a
31 health spa, health club, fitness club, or private club shall not be subject
32 to gross receipts tax unless the service is specifically enumerated as a
33 taxable service under this chapter.

34 (ii) The gross receipts derived by a private club
35 from the charges to members for the preparation and serving of mixed drinks
36 or for the cooling and serving of beer and wine shall be subject to gross

1 receipts tax as well as any supplemental taxes as provided by law.

2
3 *SECTION 13.* Arkansas Code § 26-52-301(6), concerning gross receipts
4 subject to gross receipts tax and which is effective when contingency in Acts
5 2003, No. 1273, § 88 is met, is amended to read as follows:

6 (6)(A) ~~Dues and membership fees to~~ Dues or fees for joining,
7 membership, or initiation in:

8 (i) Health spas, health clubs, and fitness clubs;
9 ~~and~~

10 (ii) Private clubs within the meaning of § 3-9-
11 202(10) which hold any permit from the Alcoholic Beverage Control Board
12 allowing the sale, dispensing, or serving of alcoholic beverages of any kind
13 on the premises; and

14 (iii)(a) Private clubs that do not hold a permit
15 from the Alcoholic Beverage Control Board.

16 (b) "Private club" includes a country club,
17 golf club, city club, yacht club, dinner club, social club, theater club, or
18 dance club if the club:

19 (1) Restricts access to facilities,
20 amenities, or activities to members or guests of members;

21 (2) Is organized for social, pleasure,
22 or recreational purposes; or

23 (3) Provides facilities for member
24 activities.

25 (c) Semiprivate athletic or recreational clubs
26 that do not hold a permit from the Alcoholic Beverage Control Board, if the
27 club:

28 (1) Permits public, nonmember access to
29 facilities for a fee;

30 (2) Offers club memberships; or

31 (3) Provides facilities for member
32 activities.

33 (B)(i) Except as provided in subdivision (B)(ii) of this
34 section, the gross receipts derived from services provided by or through a
35 health spa, health club, fitness club, or private club shall not be subject
36 to gross receipts tax unless the service is specifically enumerated as a

1 taxable service under this chapter.

2 (ii) The gross receipts derived by a private club
3 from the charges to members for the preparation and serving of mixed drinks
4 or for the cooling and serving of beer and wine shall be subject to gross
5 receipts tax as well as any supplemental taxes as provided by law.

6
7 *SECTION 14.* Arkansas Code § 26-52-304(a), pertaining to computer
8 software and services, is amended to read as follows:

9 (a) The excise tax levied by the Arkansas Gross Receipts Act of 1941,
10 as amended, § 26-52-101, et seq., ~~and by any act supplemental thereto,~~ is
11 levied on gross receipts or gross proceeds received from the following:

12 (1) Sales of computer software or licenses to use software,
13 ~~which shall be taxed as sales of tangible personal property whether or not~~
14 the software or license is delivered in a tangible or intangible manner.
15 Software shall include ~~tapes, disks, cards, or other devices or materials~~
16 ~~which contain~~ instructions for a computer and dictate different operations or
17 functions to be performed by the computer;

18 (2) Service of repairing or maintaining computer equipment or
19 hardware in any form; and

20 (3) Service of programming, writing, creating, producing,
21 designing, modifying, installing, implementing, or maintaining computer
22 software or processing of data.

23
24 *SECTION 15.* Arkansas Code § 26-52-401(4), providing a sales tax
25 exemption for the sale of newspapers, is repealed.

26 ~~(4) Gross receipts or gross proceeds derived from the sale of~~
27 ~~newspapers;~~

28
29 *SECTION 16.* Arkansas Code § 26-52-401(13) and (14), providing a sales
30 tax exemption for advertising space and publications sold through
31 subscription, are repealed.

32 ~~(13) Gross proceeds derived from sales of advertising space in~~
33 ~~newspapers and publications and billboard advertising services;~~

34 ~~(14) Gross receipts or gross proceeds derived from sales of~~
35 ~~publications sold through regular subscription, regardless of the type or~~
36 ~~content of the publication or the place printed or published;~~

1
2 SECTION 17. Arkansas Code § 26-53-109(a), pertaining to use tax, is
3 amended to read as follows:

4 (a) The excise tax levied by the Arkansas Compensating Tax Act, § 26-
5 53-101 et seq., and by any act supplemental thereto, is levied on the
6 privilege of storing, using, distributing, or consuming within this state any
7 computer software or license to use software which shall be treated as a use,
8 storage, distribution, or consumption of tangible personal property for
9 purposes of tax, whether the software or license is delivered in a tangible
10 or intangible manner. Computer software shall include ~~tapes, disks, cards,~~
11 ~~or other devices or materials which contain~~ instructions for a computer and
12 dictate different operations or functions to be performed by the computer.
13

14 SECTION 18. Arkansas Code § 26-57-1203(9), concerning definitions
15 related to vending devices, is amended to read as follows:

16 (9) "Operator" means the person who (as owner, lessee, bailee or
17 otherwise) is responsible for removing money from the vending device and who
18 is the person ~~who would otherwise be~~ responsible for reporting and paying the
19 applicable gross receipts (sales) taxes on sales made through the vending
20 device.
21

22 SECTION 19. Arkansas Code § 26-57-1204(a) is amended to read as
23 follows:

24 (a)(1) *Any person who is the operator of a vending device in this*
25 *state that is made available for use and operation by the general public*
26 ~~*(whether the operator is the owner of such vending device, or a lessee,*~~
27 ~~*renter, bailee, etc. of the owner of such vending device)* may, in lieu of~~
28 ~~*paying sales taxes under the provisions of § 26-52-101, et seq., or under the*~~
29 ~~*provisions of § 26-57-1001, et seq. elect to pay the decal fees provided by §*~~
30 ~~*26-57-1206. If such election is not made by the operator, then the general or*~~
31 ~~*special sales taxes that are otherwise applicable to the operation of these*~~
32 ~~*vending devices shall be imposed upon the sale of tangible personal property*~~
33 ~~*from such vending devices.*~~ shall:

34 (A) Pay the decal fees provided by § 26-57-1206; and

35 (B) Collect and remit the state gross receipts taxes
36 levied under Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. and

1 Amendment 75 of the Arkansas Constitution, and any applicable city and county
2 gross receipts taxes.

3 (2) The provisions of subdivision (a)(1) of this section shall
4 apply whether the operator of a vending device is the owner of the vending
5 device, or is the lessee, renter, or bailee of the owner of the vending
6 device.

7 SECTION 20. Arkansas Code § 26-57-1204(b) is amended to read as
8 follows:

9 (b) The operator of vending devices, ~~who makes the election to pay the~~
10 ~~decals fees provided by this subchapter,~~ shall be responsible for applying to
11 the Director of the Department of Finance and Administration for the issuance
12 of an annual or special vending device decal for such vending device and
13 shall, at the same time, pay to the Director of the Department of Finance and
14 Administration the annual or special vending device decal fee provided for by
15 this subchapter, before such vending device is made available for use and
16 operation by the general public.

17

18 SECTION 21. Arkansas Code § 26-57-1204(d) is amended to read as
19 follows:

20 (d)(1) The annual or special vending device decals, and the
21 application provided for herein, shall be in such form as prescribed by the
22 Director of the Department of Finance and Administration. These decals and
23 applications shall contain on their faces such information and descriptions
24 as shall be required by regulations adopted by the Director of the Department
25 of Finance and Administration to properly and reasonably implement the
26 provisions of this subchapter.

27 (2) Any number of vending devices may be included in one (1)
28 application, but all vending devices operated by the applying operator must
29 be made subject to this ~~alternative~~ decal fee. ~~Such operator may not choose~~
30 ~~to have part of his or her vending devices covered by the decal fee provided~~
31 ~~by this subchapter, while other vending devices operated by the same operator~~
32 ~~during the decal registration year would be subject to the general or special~~
33 ~~sales taxes that would be otherwise applicable to the sale of tangible~~
34 ~~personal property from such vending devices.~~

35

36 SECTION 22. Arkansas Code § 26-57-1206 is amended to read as follows:

1 26-57-1206. Annual decal fee - Special decal - ~~In lieu of sales tax,~~
2 ~~{Effective January 1, 1998.}~~

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

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

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

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

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

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

27 (2) The annual vending device decal issued by the Director of
28 the Department of Finance and Administration, after payment of the
29 appropriate annual vending device decal fee, shall bear on its face the year
30 of its issue, and such annual decal must be affixed to each vending device in
31 a place that is clearly visible to the user of such device before each such
32 vending device may be placed for public use or operation in this state by the
33 operator.

34 (3) Such annual vending device decal shall not be transferred
35 from one (1) vending device to another, unless the person who is the operator
36 of such vending device shall establish to the satisfaction of the Director of

1 the Department of Finance and Administration that the vending device to which
2 the annual vending device decal is to be transferred is a vending device that
3 is replacing the vending device to which such annual decal was originally
4 affixed.

5 (b) In those instances where it is shown to the satisfaction of the
6 Director of the Department of Finance and Administration that a vending
7 device upon which an annual vending device decal fee is otherwise due will be
8 placed in service for use by members of the general public for a definite,
9 but limited, period of time that is less than one (1) year, such as where the
10 vending device shall be placed for public use in connection with fairs,
11 carnivals, and places of amusement that operate only during certain seasons
12 of the year, the Director of the Department of Finance and Administration
13 shall issue a special vending device decal and collect a special vending
14 device decal fee for such vending devices as hereinafter computed:

15 (1) Such special decal may be issued for any number of thirty-
16 day periods, less than a full year, and such special decal shall indicate on
17 its face that it is a special decal, not an annual decal, and such special
18 decal shall be for one (1) or more thirty-day periods, but such special decal
19 state on its face the precise dates for which it has been issued and such
20 special decal shall not be transferred from one (1) vending device to
21 another.

22 (2) The special vending device decal fee shall be computed and
23 paid by the person who is the operator of such vending device on the basis of
24 one-fifth (1/5) of the annual vending device decal fee charged by this
25 subchapter for the type of vending device operated, for each thirty-day
26 period for which such special decal is ~~issue~~ issued.

27 (3) In the event the vending device is made available to the
28 public for a period beyond that for which the special decal is issued, then a
29 full year's fee and penalty, as set out in § 26-57-1206, shall be due on such
30 vending device from the person who is the operator of such vending device.

31 (c)(1) The annual or special vending device decal fees required to be
32 paid by subsections (a) and (b) of this section shall be paid by the person
33 who is the operator of such vending device in ~~lieu of the~~ in addition to the
34 requirement that such person collect and remit ~~+(1)~~ the state and local gross
35 receipts (sales) taxes levied pursuant to the provisions of the Arkansas
36 Gross Receipts Act of 1941, as amended, § 26-52-101 et. seq., or any

1 provision of Chapters 74 and 75 of Title 26, or any other provision of this
 2 Code which provides for the levy of a local sales tax; ~~or (2) the special~~
 3 ~~sales taxes levied pursuant to the provisions the Vending Devices Sales Tax~~
 4 ~~Act of 1995, § 26-57-1001, et seq.~~

5 (2) Where gross receipts or gross proceeds are received by a
 6 person who is the operator of a vending device from the sale of any item of
 7 tangible personal property, through the vending device, where the annual or
 8 special vending device decal fee has been paid and such decal is affixed to
 9 the vending device, then it is the intent of the General Assembly that such
 10 gross proceeds or gross receipts shall ~~not~~ be subject to ~~any~~ the state or
 11 local gross receipts (sales) taxes imposed in this state.

12 (d) Any sales made by the operator of a coin-operated vending device
 13 that is made without the use of a vending device, e.g., office coffee
 14 service, manual hot foods lines, catering events, etc., shall be subject to
 15 the state and local gross (sales) taxes levied pursuant to the provisions of
 16 the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101, et seq, or
 17 any provision of Chapters 74 and 75 of Title 26, or any other provision of
 18 the Code that provides for the levy of a local sales tax.

19 ~~(e) For all vending devices that the operator does not elect to have~~
 20 ~~covered by the decal fee provided by this section, the operator of that~~
 21 ~~vending device shall acquire from the Director of the Department of Finance~~
 22 ~~and Administration an identifying decal that the operator shall affix to the~~
 23 ~~vending device in a prominent place so as to establish to the consuming~~
 24 ~~public that such vending device is not covered by the provisions of this~~
 25 ~~subchapter. The Director of the Department of Finance and Administration~~
 26 ~~shall establish, by reasonable regulations, the amount to be charged for such~~
 27 ~~identifying decal, which amount shall not exceed the cost of producing such~~
 28 ~~decal.~~

29 ~~(f) Operators who elect to pay tax at the wholesale level and which~~
 30 ~~have been issued an identification number by the Department of Finance and~~
 31 ~~Administration as of March 31, 1997, shall be entitled to utilize that~~
 32 ~~identification number for all vending devices owned by that operator.~~

33
 34 SECTION 23. Arkansas Code § 26-57-1208 is repealed.

35 ~~26-57-1208. Distribution of revenue.~~

36 ~~(a) It is hereby declared to be the purpose of this subchapter to~~

1 ~~provide revenues for general governmental functions of the state, and its~~
2 ~~counties and municipalities, in lieu of the state and local gross receipts~~
3 ~~(sales) taxes or vending devices sales taxes that would otherwise be due and~~
4 ~~owing from the person who is the operator of such vending devices. For that~~
5 ~~purpose and to that end, it is expressly provided that the revenue derived by~~
6 ~~the Director of the Department of Finance and Administration from the sale of~~
7 ~~annual or special vending device decal fees, including penalties, shall be~~
8 ~~deposited by the director into the State Treasury and credited as follows.~~

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

11 ~~(1) With eighty percent (80%) of such amount being deposited to~~
12 ~~the credit of the General Revenue Fund Account of the State Apportionment~~
13 ~~Fund provided by § 19-5-202; and~~

14 ~~(2) With twenty percent (20%) of such amount being deposited by~~
15 ~~the Treasurer of the State in the Identification Pending Trust Fund for Local~~
16 ~~Sales and Use Taxes in accordance with the provisions of §§ 26-74-221 and 26-~~
17 ~~75-223, and all revenues deposited into that fund shall be distributed to the~~
18 ~~cities and counties of this state in accordance with the provisions of §§ 26-~~
19 ~~74-221(a)(2)(C)(ii) and 26-75-223(a)(2)(C)(ii).~~

20
21 SECTION 24. Arkansas Code §§ 26-57-1001 through 26-57-1005 are
22 repealed.

23 ~~26-57-1001. Definitions.~~

24 ~~For the purposes of this subchapter, the following definitions shall apply:~~

25 ~~(1) "Director" shall mean the Director of the Department of~~
26 ~~Finance and Administration or his authorized agents;~~

27 ~~(2) "Person" shall mean any individual, partnership,~~
28 ~~corporation, limited liability corporation, association, organization, or~~
29 ~~nonprofit corporation, and any county or municipal subdivision of this state;~~

30 ~~(3)(A) "Vending device" shall mean any machine or manual device~~
31 ~~which dispenses tangible personal property after a coin or thing of value is~~
32 ~~inserted.~~

33 ~~(B) The term "vending device" shall not include devices~~
34 ~~used exclusively for the purpose of selling cigarettes, newspapers,~~
35 ~~magazines, or postage stamps; and~~

36 ~~(4) "Vending device operator" shall mean any person who sells~~

1 ~~tangible personal property through vending devices, and who elects to pay the~~
2 ~~taxes imposed by § 26-57-1002.~~

3
4 ~~26-57-1002. Registration—Records—Amount of tax.~~

5 ~~(a) Any person who sells tangible personal property through vending~~
6 ~~devices may elect to register with the director as a vending device operator~~
7 ~~and pay the state and local sales and use taxes as provided in this section.~~

8 ~~(b) Any person who elects to register as a vending device operator~~
9 ~~shall obtain a gross receipts tax permit from the director as provided in §~~
10 ~~26-52-201 et seq.~~

11 ~~(c)(1) All tangible personal property purchased by a vending device~~
12 ~~operator for resale through a vending device shall be purchased exempt from~~
13 ~~the Arkansas gross receipts tax, § 26-52-101 et seq., the Arkansas~~
14 ~~compensating use tax, § 26-53-101 et seq., and any local sales and use taxes~~
15 ~~pursuant to the sale for resale exemption provided for in § 26-52-401(12).~~

16 ~~(2) The vending device operator shall maintain suitable records~~
17 ~~reflecting all purchases of tangible personal property during each calendar~~
18 ~~month for resale through a vending device.~~

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

23 ~~(B) This tax shall be in lieu of any state gross receipts~~
24 ~~tax on the gross receipts or gross proceeds derived from the sale of the~~
25 ~~property by the vending device operator through a vending device.~~

26 ~~(2)(A) An additional tax of one percent (1%) is hereby levied on~~
27 ~~the purchase price of all tangible personal property purchased or withdrawn~~
28 ~~from inventory during each calendar month for resale through a vending~~
29 ~~device.~~

30 ~~(B) This tax shall be in lieu of any local gross receipts~~
31 ~~taxes imposed by any city or county of this state on the gross receipts or~~
32 ~~gross proceeds derived from the sale of the property by the vending device~~
33 ~~operator through a vending device.~~

34 ~~(e) The taxes levied by subsection (d) of this section shall be~~
35 ~~reported and paid in the same manner and at the same time as prescribed by~~
36 ~~law for the reporting and payment of the Arkansas gross receipts tax, § 26-~~

1 ~~52-101 et seq.~~

2 ~~(f) When calculating the taxes due under this section, a vending~~
3 ~~device operator shall be allowed to deduct any manufacturer's rebates~~
4 ~~received which lower the final purchase price paid by the vending device~~
5 ~~operator for property sold through a vending device.~~

6 ~~(g) Any vending device operator who manufactures the product which is~~
7 ~~withdrawn from stock for sale through a vending device shall calculate the~~
8 ~~tax due by multiplying the tax rate set out in subsection (d) of this section~~
9 ~~by the selling price for which the person would sell the product to another~~
10 ~~vending device operator for resale through a vending device.~~

11
12 ~~26-57-1003. Election not to register.~~

13 ~~(a) Any person selling tangible personal property through a vending~~
14 ~~device, and who elects not to register as a vending device operator, shall:~~

15 ~~(1) Surrender any gross receipts tax permits issued by the~~
16 ~~director, unless the permit is needed to report taxable sales other than~~
17 ~~sales through a vending device; and~~

18 ~~(2)(A) Pay the Arkansas gross receipts tax, § 26-52-101 et seq.,~~
19 ~~the Arkansas compensating use tax, § 26-53-101 et seq., and any applicable~~
20 ~~local sales and use taxes to their vendor on all purchases of tangible~~
21 ~~personal property purchased for resale through a vending device.~~

22 ~~(B)(i) The sale for resale exemption provided in § 26-52-~~
23 ~~401(12) shall not apply to purchases of tangible personal property for resale~~
24 ~~through vending devices unless the purchaser is registered with the director~~
25 ~~as a vending device operator.~~

26 ~~(ii) However, any person not registered as a vending~~
27 ~~device operator who maintains property in inventory for subsequent resale on~~
28 ~~which the state and local sales and use taxes have not been paid, and who~~
29 ~~subsequently withdraws that property from inventory for sale through a~~
30 ~~vending device, shall report and pay the state and local sales and use taxes~~
31 ~~on their purchase price of such property withdrawn from inventory.~~

32 ~~(b) Any person selling property through vending devices who has paid~~
33 ~~the state and local sales and use taxes in the manner provided by this~~
34 ~~section shall not be required to collect and remit state or local sales tax~~
35 ~~on sales of tangible personal property through the vending device.~~

36 ~~(c) Any person who elects to pay tax on tangible personal property sold~~

1 ~~through vending devices in accordance with the provisions of this section and~~
2 ~~who manufactures the product which is withdrawn from stock for resale through~~
3 ~~a vending device shall pay the taxes due under this section by multiplying~~
4 ~~the tax rate by the selling price for which the person would sell the product~~
5 ~~to another for resale through a vending device."~~

6
7 ~~26-57-1004. Identification of taxpayer—Presumption of nonpayment.~~

8 ~~(a) All persons who sell tangible personal property through vending~~
9 ~~devices shall affix the name and identification number, if any, of the person~~
10 ~~responsible for the payment of the taxes imposed by §§ 26-57-1002 and 26-57-~~
11 ~~1003.~~

12 ~~(b)(1)(A) If any vending device does not have the information required~~
13 ~~by subsection (a) of this section affixed thereto, there shall be a~~
14 ~~presumption that the taxes imposed by this subchapter have not been paid.~~

15 ~~(B) The director shall seal any vending device subject to~~
16 ~~this presumption in such a manner as to prevent any further sales through the~~
17 ~~device and shall assess and collect a penalty of fifty dollars (\$50.00) per~~
18 ~~vending device against the person selling tangible personal property through~~
19 ~~the device.~~

20 ~~(2) The presumption in subdivision (b)(1) of this section shall~~
21 ~~be overcome if the person selling property through the vending device affixes~~
22 ~~the information required by this section to the device and proves that the~~
23 ~~taxes imposed by §§ 26-57-1002 and 26-57-1003 have been paid.~~

24
25 ~~26-57-1005. Disposition of revenues.~~

26 ~~(a) The revenues derived from § 26-57-1002(d)(1) shall be general~~
27 ~~revenues and shall be deposited in the State Treasury in the same manner as~~
28 ~~the Arkansas gross receipts tax, § 26-52-101 et seq.~~

29 ~~(b) All revenues derived from § 26-57-1002(d)(2) shall be deposited by~~
30 ~~the Treasurer of State in the Identification Pending Trust Fund for Local~~
31 ~~Sales and Use Taxes in accordance with the provisions of §§ 26-74-221 and 26-~~
32 ~~75-223, and all revenues deposited in that fund shall be distributed to the~~
33 ~~cities and counties of this state in accordance with the provisions of §§ 26-~~
34 ~~74-221(a)(2)(C)(ii) and 26-75-223(a)(2)(C)(ii).~~

35 ~~SECTION 25. Arkansas Code § 26-57-1217 is repealed.~~

36 ~~26-57-1217. Purpose. [Effective January 1, 1998.]~~

1 ~~The purpose for the enactment of this "Vending Devices Decal Act of~~
2 ~~1997" is to provide a simplified method for the operators of such vending~~
3 ~~devices to be able to pay their proportionate amount of state and local~~
4 ~~taxes, without being required to maintain complex financial records that~~
5 ~~would otherwise be required of such operators (who are in the unique position~~
6 ~~among retailers in this state of not being able to pass the cost of sales~~
7 ~~taxes directly on to their customers), and to assure that the State of~~
8 ~~Arkansas and its cities and counties collect their fair share of taxes from~~
9 ~~what is almost entirely a cash business.~~

10
11 SECTION 26. Arkansas Code § 26-52-302, pertaining to additional gross
12 receipts tax, is amended to add a new subsection to read as follows:

13 (d)(1) There is levied an additional excise tax of three-eighths of
14 one percent (.375%) upon all taxable sales of property and services subject
15 to the tax levied by the Arkansas Gross Receipts Act of 1941, as amended,
16 § 26-52-101 et seq.

17 (2) The tax shall be collected, reported, and paid in the same
18 manner and at the same time as is prescribed by the Arkansas Gross Receipts
19 Act of 1941, as amended, § 26-52-101 et seq., for the collection, reporting,
20 and payment of Arkansas gross receipts taxes.

21
22 SECTION 27. Arkansas Code § 26-53-107, pertaining to additional use
23 taxes and which is effective until contingency in Acts 2003, No. 1273, § 88
24 is met, is amended to add a new subsection to read as follows:

25 (d)(1) There is levied an additional excise tax of three-eighths of
26 one percent (.375%) upon all tangible personal property subject to the tax
27 levied by the Arkansas Compensating Tax Act of 1949, as amended, § 26-53-101
28 et seq.

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

33
34 SECTION 28. Arkansas Code § 26-53-107, pertaining to additional use
35 taxes and which is effective when contingency in Acts 2003, No. 1273, § 88 is
36 met, is amended to add a new subsection to read as follows:

1 (d)(1) There is levied an additional excise tax of three-eighths of
2 one percent (.375%) upon all tangible personal property and services subject
3 to the tax levied by the Arkansas Compensating Tax Act of 1949, as amended, §
4 26-53-101 et seq.

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

9
10 SECTION 29. Arkansas Code § 6-5-301(a) is amended to read as follows:

11 (a)(1) There is hereby established on the books of the Treasurer of
12 State, the Auditor of State, and the Chief Fiscal Officer of the State a fund
13 to be known as the "Educational Excellence Trust Fund".

14 (2) For each of the State's fiscal years, the Chief Fiscal
15 Officer of the State shall determine as an annual allocation for this fund an
16 amount based on the total ~~net general revenues as enumerated in § 19-6-201(1)~~
17 ~~and (2) state sales and use tax levied pursuant to §§ 26-52-301, 26-52-302(a)~~
18 ~~and (b), 26-53-106, and 26-53-107 (a) and (b),~~ which were collected in the
19 immediate past year, times a factor of 0.1414.

20
21 SECTION 30. EMERGENCY CLAUSE. It is found and determined by the
22 General Assembly of the State of Arkansas that as a result of the Arkansas
23 Supreme Court decision, Lakeview Sch. Dist. No. 25 v. Huckabee, 351 Ark. 31,
24 91 S.W.3d 472 (2002), additional revenue is necessary for the improvement of
25 public schools, to provide all Arkansas children an adequate education, and
26 to equalize funding for schools and teachers; that without additional
27 revenue, the state will be unable to fulfill its constitutional duty to
28 provide an adequate and equitable education to Arkansas children; and that
29 this act is immediately necessary as it will provide needed revenue for the
30 support and improvement of public schools. Therefore, an emergency is
31 declared to exist and this act being necessary for the preservation of the
32 public peace, health, and safety shall become effective on the first day of
33 the second calendar month following the effective date of this act, with the
34 exception of sections 18 through 25 pertaining to the provisions of Arkansas
35 Code § 26-57-1001 et seq., which shall become effective July 1, 2004.

36

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

/s/ Boyd