

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

Call Item 6

# A Bill

HOUSE BILL 1166

5 By: Representatives Hickinbotham, Jackson  
6  
7

## For An Act To Be Entitled

9 AN ACT TO INCREASE THE TOP CORPORATE INCOME TAX  
10 RATE TO SEVEN PERCENT (7%); TO INCREASE THE  
11 SEVERANCE TAX ON NATURAL GAS BY FIFTEEN CENTS  
12 (15¢) PER ONE THOUSAND CUBIC FEET (1,000 CU.  
13 FT.); TO INCREASE THE CORPORATE FRANCHISE TAX;  
14 AND FOR OTHER PURPOSES.

## Subtitle

15  
16 INCREASES TOP CORPORATE INCOME TAX RATE  
17 TO SEVEN PERCENT (7%), INCREASES  
18 SEVERANCE TAX ON NATURAL GAS BY FIFTEEN  
19 CENTS (15¢) PER ONE THOUSAND CUBIC FEET  
20 (1,000 CU. FT.), AND INCREASES THE  
21 CORPORATE FRANCHISE TAX.  
22  
23  
24

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

27 SECTION 1. Arkansas Code § 26-51-205(a)(2), concerning corporate  
28 income tax on domestic corporations, is amended to read as follows:

29 (2) ~~On net income exceeding \$100,000, a flat rate of six and~~  
30 ~~one-half (6 1/2 %) percent shall be applied to net income~~ Tax at the rate of  
31 seven percent (7%) shall be applied to net income exceeding one hundred  
32 thousand dollars (\$100,000) for tax years beginning on or after January 1,  
33 2004.  
34

35 SECTION 2. Arkansas Code § 26-51-205(b)(2), concerning corporate  
36 income tax on foreign corporations, is amended to read as follows:



1           (2) ~~On net income exceeding \$100,000, a flat rate of six and~~  
 2 ~~one half percent (6 1/2%) shall be applied to the entire net income~~ Tax at the  
 3 rate of seven percent (7%) shall be applied to net income exceeding one  
 4 hundred thousand dollars (\$100,000) for tax years beginning on or after  
 5 January 1, 2004.

6  
 7           SECTION 3. Arkansas Code § 26-51-205(c), concerning the distribution  
 8 of corporate income tax, is amended to read as follows:

9           (c)(1) There is hereby created on the books of the Treasurer of State,  
 10 the Auditor of State, and the Chief Fiscal Officer of the State a fund to be  
 11 known as the "Work Force 2000 Development Fund." This fund shall consist of  
 12 those special revenues as specified in § ~~26-51-205(e)(2)~~ 26-51-  
 13 205(c)(2)(B)(iii) and all other revenues as may be authorized by law.

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

19           (B)(i) For each of the state's fiscal years, the Chief  
 20 Fiscal Officer of the State shall determine as an annual allocation available  
 21 under the provisions of this section an amount based on the total net  
 22 revenues, as enumerated in § 26-51-205(a) and (b), which were collected in  
 23 the immediate past year, multiplied by a factor of six hundred seventy-eight  
 24 ten thousandths (.0678). On the last day of each month of the respective  
 25 fiscal year, the Chief Fiscal Officer of the State shall certify to the  
 26 Treasurer of State an amount based on one-twelfth (1/12) of the annual  
 27 allocation provided in this section for transfer as specified in § 26-51-  
 28 205(c)(2)(B)(ii).

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

32           (iii) After the deductions as set out in § 19-5-203  
 33 have been made, the remaining amount shall be credited to the "Work Force  
 34 2000 Development Fund."

35           ~~(iv) The remaining corporate income tax collections~~  
 36 ~~remaining in the Revenue Holding Fund Account shall be credited to the~~

1 ~~General Revenue Fund Account of the State Apportionment Fund, there to be~~  
 2 ~~distributed with the other gross general revenue collections for that month~~  
 3 ~~in accordance with the provisions of § 19-5-201 et seq.~~

4 (C)(i) For the fiscal year beginning July 1, 2005, the  
 5 Chief Fiscal Officer of the State shall determine as an annual allocation  
 6 available under the provisions of this section an amount equal to the total  
 7 net revenues collected under § 26-51-205(a) and (b) in the immediate past  
 8 year, multiplied by a factor of forty-nine thousandths (0.049).

9 (ii) On the last day of each month of the fiscal  
 10 year, the Chief Fiscal Officer of the State shall certify to the Treasurer of  
 11 State an amount equal to one-twelfth (1/12) of the annual allocation  
 12 calculated in subdivision (c)(2)(C)(i) of this section.

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

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

21 (D)(i) For the fiscal year beginning July 1, 2006, and  
 22 fiscal years thereafter, the Chief Fiscal Officer of the State shall  
 23 determine as an annual allocation available under the provisions of this  
 24 section an amount equal to the total net revenues collected under § 26-51-  
 25 205(a) and (b) in the immediate past year, multiplied by a factor of seventy-  
 26 four thousandths (0.074).

27 (ii) On the last day of each month of the fiscal  
 28 year, the Chief Fiscal Officer of the State shall certify to the Treasurer of  
 29 State an amount equal to one-twelfth (1/12) of the annual allocation  
 30 calculated in subdivision (c)(2)(D)(i) of this section.

31 (iii) The Treasurer of State shall transfer the  
 32 amount certified in subdivision (c)(2)(D)(i) of this section from the Revenue  
 33 Holding Fund Account of the State Apportionment Fund to the Special Revenue  
 34 Fund Account of the State Apportionment Fund as part of the gross special  
 35 revenues.

36 (iv) After the deductions under § 19-5-203 have been

1 made, the remaining amount shall be credited to the Educational Adequacy  
 2 Trust Fund.

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

10  
 11 SECTION 4. Arkansas Code § 26-51-205(d)(1), concerning the Work Force  
 12 2000 Development Fund, is amended to read as follows:

13 (d)(1) All proceeds ~~derived from the additional tax levied by this~~  
 14 ~~section~~ credited to the Work Force 2000 Development Fund as provided by § 26-  
 15 51-205(c)(2)(B)(iii) shall be used exclusively for the authorized educational  
 16 activities of:

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

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

24  
 25 SECTION 5. Arkansas Code § 26-54-104 is amended to read as follows:  
 26 26-54-104. Annual franchise tax.

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

29 (1) Each life, fire, accident, surety, liability, steam boiler,  
 30 tornado, health, or other kind of insurance company of whatever nature,  
 31 having an outstanding capital stock of less than five hundred thousand  
 32 dollars (\$500,000) shall pay ~~one hundred dollars (\$100)~~ three hundred dollars  
 33 (\$300). Each such company having an outstanding capital stock of five  
 34 hundred thousand dollars (\$500,000) or more shall pay ~~two hundred dollars~~  
 35 ~~(\$200)~~ four hundred dollars (\$400);

36 (2) Each legal reserve mutual insurance corporation having

1 assets of less than one hundred million dollars (\$100,000,000) shall pay ~~one~~  
 2 ~~hundred dollars (\$100)~~ three hundred dollars (\$300). Each such corporation  
 3 having assets of one hundred million dollars (\$100,000,000) or more shall pay  
 4 ~~two hundred dollars (\$200)~~ four hundred dollars (\$400);

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

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

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

18 (6) Each corporation, other than those in subdivisions (1)-(5)  
 19 of this section, shall pay an amount equivalent to ~~twenty seven one-~~  
 20 ~~hundredths of one percent (0.27%)~~ thirty one-hundredths of one percent  
 21 (0.30%) of that proportion of the par value of its outstanding capital stock  
 22 that the value of its real and personal property in the State of Arkansas  
 23 bears to the total value of the real and personal property of the  
 24 corporation. No corporation shall pay an annual tax of less than ~~fifty~~  
 25 ~~dollars (\$50.00)~~ two hundred fifty dollars (\$250) ~~nor more than one million~~  
 26 ~~seventy five thousand dollars (\$1,075,000)~~;

27 (7) Each corporation, actually and actively in the process of  
 28 liquidation and which does not rent or lease its property but which retains  
 29 its corporate charter or authority for the sole purpose of winding up its  
 30 affairs, shall pay an annual tax as provided in subdivision (6) of this  
 31 section or an amount equivalent to ~~twenty seven one hundredths of one percent~~  
 32 ~~(0.27%)~~ thirty one-hundredths of one percent (0.30%) of the value of its real  
 33 and tangible personal property in Arkansas, whichever is smaller, but in no  
 34 instance shall the tax be less than ~~fifty dollars (\$50.00)~~ two hundred fifty  
 35 dollars (\$250) ~~nor more than one million seventy five thousand dollars~~  
 36 ~~(\$1,075,000)~~;

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

4 ~~(b)(1) In addition to the annual franchise taxes levied in subsection~~  
 5 ~~(a) of this section, there is hereby levied a franchise tax of three dollars~~  
 6 ~~(\$3.00) per year on each corporation required to report and remit franchise~~  
 7 ~~taxes under that subsection. All revenues derived from the additional~~  
 8 ~~franchise tax levied in subsection (a) of this section shall be deposited in~~  
 9 ~~the State Treasury as special revenues and shall be credited to the Voter~~  
 10 ~~Registration Signature Imaging System Fund and shall be used exclusively for~~  
 11 ~~acquiring and operating a voter registration signature imaging system in the~~  
 12 ~~office of the Secretary of State.~~

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

16  
 17 SECTION 6. The increased rate of franchise tax provided in Section 1  
 18 of this act shall be effective for calendar years beginning January 1, 2004.  
 19 Taxes due for calendar years prior to 2004 shall remain due and payable at  
 20 the rates in existence prior to the effective date of this act.

21  
 22 SECTION 7. Arkansas Code § 26-54-105(c), concerning the filing of  
 23 franchise tax reports, is amended to read as follows:

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

29 (2) The franchise tax as computed on the report shall be  
 30 remitted with the franchise tax report on or before ~~June 1~~ May 1 of the  
 31 reporting year.

32  
 33 SECTION 8. Effective July 1, 2005, Arkansas Code § 26-54-113 is  
 34 amended to read as follows:

35 26-54-113. Disposition of funds.

36 (a) All taxes and penalties collected under the provisions of this

chapter each month shall be ~~general revenues and shall be~~ deposited in the State Treasury to the credit of the Revenue Holding Fund Account of the State Apportionment Fund.

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

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

SECTION 9. 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 cubic feet (1,000 cu. ft.).

(b)(1) The additional severance tax on natural gas shall be at the rate of three cents (3¢) per one thousand cubic feet (1,000 cu. ft.) 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 pounds (50 lbs.) 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

1 pounds (50 lbs.) per square inch gauge or less under operating conditions.

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

7 (3) To qualify for the reduced tax rate provided in this  
 8 subsection (b), an oil well must have a casing head pressure of fifty pounds  
 9 (50 lbs.) per square inch or less for the entire taxable month.

10 (c)(1) The additional severance tax on natural gas shall be at the  
 11 rate of one and three-tenths cents (1 3/10¢) per one thousand cubic feet  
 12 (1,000 cu. ft.) on gas produced from a well that has been designated as a gas  
 13 well by the Director of the Arkansas Oil and Gas Commission and determined by  
 14 the Commissioner of Revenues to be incapable of producing an average of five  
 15 hundred thousand cubic feet (500,000 cu. ft.) of gas per day.

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

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

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

26  
 27 SECTION 10. (a) There is created on the books of the Treasurer of  
 28 State, the Auditor of State, and Chief Fiscal Officer of the State a special  
 29 revenue fund to be known as the "Educational Adequacy Trust Fund."

30 (b) The fund shall consist of the revenues generated by Arkansas Code  
 31 §§ 26-51-205(c)(2)(C) and (D), 26-58-127, and other revenues provided by law.

32 (c) On the last day of the month, the Treasurer of State shall  
 33 transfer amounts available in the Educational Adequacy Trust Fund to the  
 34 Department of Education Public School Fund Account established in Arkansas  
 35 Code § 19-5-305, to be used for the purposes as provided by law. The  
 36 Treasurer of State shall make the transfer after making the deductions



1 required from the net special revenues as set out in Arkansas Code § 19-5-  
2 203(b)(2)(A).

3  
4 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the  
5 General Assembly, that the provision of an equal opportunity for an adequate  
6 education to all the citizens of the state is imperative; that additional  
7 funds are immediately needed to provide an equal opportunity for an adequate  
8 education; that this act is designed to provide the additional revenues  
9 needed to provide this equal opportunity to all citizens; and that a delay in  
10 the effective date of this act will cause irreparable harm upon the provision  
11 of essential education opportunities and the proper administration of  
12 educational programs. Therefore, an emergency is declared to exist and this  
13 act being immediately necessary for the preservation of the public peace,  
14 health and safety shall be in full force and effect from and after the date  
15 of March 1, 2004.