

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

As Engrossed: S1/20/04
A Bill

Call Item 6

SENATE BILL 62

5 By: Senator Wooldridge
6
7

For An Act To Be Entitled

9 AN ACT TO PROVIDE ADDITIONAL REVENUE TO FUND THE
10 STATE EDUCATION SYSTEM; TO LEVY AN ADDITIONAL
11 FIVE-EIGHTHS OF ONE PERCENT (0.625%); TO
12 ELIMINATE THE REQUIREMENT THAT PROPERTY "COME TO
13 REST" IN THE STATE OR "BECOME COMMINGLED" WITH
14 PROPERTY IN THE STATE IN ORDER TO BE SUBJECT TO
15 USE TAX; TO IMPOSE A GROSS RECEIPTS TAX ON
16 CERTAIN SERVICES; TO REPEAL THE INDIVIDUAL INCOME
17 TAX EXEMPTION FOR CAPITAL GAINS; TO INCREASE THE
18 TAX ON LIQUOR; TO INCREASE THE TAX ON WINE; TO
19 INCREASE THE WHOLESALE VENDING TAX; TO REQUIRE
20 THAT ALL VENDING MACHINE OPERATORS OBTAIN BOTH A
21 SALES TAX PERMIT AND A DECAL; TO CREATE THE
22 EDUCATIONAL ADEQUACY TRUST FUND; AND FOR OTHER
23 PURPOSES.
24

Subtitle

25
26 TO PROVIDE ADDITIONAL REVENUE TO FUND
27 THE EDUCATIONAL SYSTEM.
28

29
30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
31

32 *SECTION 1. Arkansas Code § 26-52-302, concerning levying additional*
33 *sales taxes, is amended to add an additional subsection to read as follows:*
34 *(d)(1) Beginning March 1, 2004, there is levied an additional excise*
35 *tax of five-eighths of one percent (0.625%) upon all taxable sales of*
36 *property and services subject to the tax levied by the Arkansas Gross*



1 Receipts Act of 1941, § 26-52-101 et seq.

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

6
7 SECTION 2. Arkansas Code § 26-52-311(b)(1), pertaining to the rental
8 vehicle tax, is amended to read as follows:

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

14
15 SECTION 3. Arkansas Code § 26-53-107, effective until contingency in
16 Acts 2003, No. 1273, § 88 is met, is amended to add an additional subsection
17 to read as follows:

18 (d)(1) Beginning March 1, 2004, there is levied an additional excise
19 tax of five-eighths of one percent (0.625%) upon all tangible personal
20 property subject to the tax levied by the Arkansas Compensating Tax Act of
21 1949, § 26-53-101 et seq.

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

26
27 SECTION 4. Arkansas Code § 26-53-107, effective when contingency in
28 Acts 2003, No. 1223, § 88 is met, is amended to read as follows:

29 (d)(1) Beginning March 1, 2004, there is levied an additional excise
30 tax of five-eighths of one percent (0.625%) upon all tangible personal
31 property and taxable services subject to the tax levied by the Arkansas
32 Compensating Tax Act of 1949, § 26-53-101 et seq.

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

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

SECTION 5. Arkansas Code § 26-53-106 is amended to read as follows:

26-53-106. Imposition and rate of tax generally - Presumption.

[Effective until contingency in Acts 2003, No. 1273, § 88 is met.]

(a) There is levied and there shall be collected from every person in this state a tax or excise for the privilege of storing, using, distributing, or consuming within this state any article of tangible personal property purchased for storage, use, distribution, or consumption in this state at the rate of three percent (3%) of the sales price of the property.

~~(b) This tax will not apply with respect to the storage, use, distribution, or consumption of any article of tangible personal property purchased, produced, or manufactured outside this state until the transportation of the article has finally come to rest within this state or until the article has become commingled with the general mass of property of this state.~~

~~(e)(b)~~ This tax shall apply to use, storage, distribution, or consumption of every article of tangible personal property, except as provided in this subchapter, irrespective of whether the article or similar articles are manufactured within the State of Arkansas or are available for purchase within the State of Arkansas and irrespective of any other condition.

~~(d)(1)(A)(c)(1)(A)~~ For the purpose of the proper administration of this subchapter and to prevent evasion of the tax and the duty to collect the tax imposed in this section, it shall be presumed that tangible personal property sold by any vendor for delivery in this state or transportation to this state is sold for storage, use, distribution, or consumption in this state unless the vendor selling the tangible personal property has taken from the purchaser a resale certificate signed by and bearing the name, address, and sales tax permit number of the purchaser certifying that the property was purchased for resale.

(B) The use by the purchaser of a resale certificate and any resulting liability for, or exemption from, use tax in a transaction involving a resale certificate shall be governed in all respects by the terms of § 26-52-517.

(2) It is further presumed that tangible personal property shipped, mailed, expressed, transported, or brought to this state by the

1 purchaser was purchased from a vendor for storage, use, distribution, or
2 consumption in this state.

3
4 SECTION 6. Arkansas Code § 26-53-106 is amended to read as follows:

5 26-53-106. Imposition and rate of tax generally - Presumptions.

6 [Effective when contingency in Acts 2003, No. 1273, § 88 is met.]

7 (a) There is levied and there shall be collected from every person in
8 this state a tax or excise for the privilege of storing, using, distributing,
9 or consuming within this state any article of tangible personal property or
10 taxable service purchased for storage, use, distribution, or consumption in
11 this state at the rate of three percent (3%) of the sales price of the
12 property.

13 ~~(b) This tax will not apply with respect to the storage, use,~~
14 ~~distribution, or consumption of any article of tangible personal property~~
15 ~~purchased, produced, or manufactured outside this state until the~~
16 ~~transportation of the article has finally come to rest within this state or~~
17 ~~until the article has become commingled with the general mass of property of~~
18 ~~this state.~~

19 ~~(e)(b)~~ This tax shall apply to use, storage, distribution, or
20 consumption of every article of tangible personal property or taxable service
21 except as provided in this subchapter irrespective of whether the article or
22 similar articles are manufactured within the State of Arkansas or are
23 available for purchase within the State of Arkansas and irrespective of any
24 other condition.

25 ~~(d)(1)(A)(c)(1)(A)~~ For the purpose of the proper administration of
26 this subchapter and to prevent evasion of the tax and the duty to collect the
27 tax imposed in this section, it shall be presumed that tangible personal
28 property or taxable services sold by any vendor for delivery in this state or
29 transportation to this state are sold for storage, use, distribution, or
30 consumption in this state unless the vendor selling the tangible personal
31 property or taxable services has taken from the purchaser a resale
32 certificate signed by and bearing the name, address, and sales tax permit
33 number of the purchaser certifying that the property was purchased for resale
34 except that sales made electronically will not require the purchaser's
35 signature.

36 (B) The use by the purchaser of a resale certificate and

1 any resulting liability for, or exemption from, use tax in a transaction
2 involving a resale certificate shall be governed in all respects by the terms
3 of § 26-52-517.

4 (2) It is further presumed that tangible personal property or
5 taxable services shipped, mailed, expressed, transported, or brought to this
6 state by the purchaser were purchased from a vendor for storage, use,
7 distribution, or consumption in this state.

8
9 SECTION 7. Arkansas Code § 26-52-301(3)(C), effective until
10 contingency in Acts 2003, No. 1273, § 88 is met, is amended to read as
11 follows:

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

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

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

31 (iv) The General Assembly determines and affirms
32 that the original intent of subdivision (3) of this section which provides
33 that gross receipts derived from certain services would be subject to the
34 gross receipts tax was not intended to be applicable, nor shall Arkansas
35 gross receipts taxes be collected, with respect to services performed on
36 watches and clocks which are received by mail or common carrier from outside

1 this state and which, after the service is performed, are returned by mail or
2 common carrier or in the repairman's own conveyance to points outside this
3 state.

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

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

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

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

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

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

34 (viii)(a) Additionally, the gross receipts tax
35 levied in this section shall not apply to the initial installation,
36 alteration, addition, cleaning, refinishing, replacement, or repair of

1 nonmechanical, passive, or manually operated components of buildings or other
2 improvements or structures affixed to real estate, including, but not limited
3 to, the following:

- 4 (1) Walls;
- 5 ~~(2)~~ Floors;
- 6 ~~(3)~~(2) Ceilings;
- 7 ~~(4)~~(3) Doors;
- 8 ~~(5)~~(4) Locks;
- 9 ~~(6)~~(5) Windows;
- 10 ~~(7)~~(6) Glass;
- 11 ~~(8)~~(7) Heat and air ducts;
- 12 ~~(9)~~(8) Roofs;
- 13 ~~(10)~~(9) Wiring;
- 14 ~~(11)~~(10) Breakers;
- 15 ~~(12)~~(11) Breaker boxes;
- 16 ~~(13)~~(12) Electrical switches and
17 receptacles;
- 18 ~~(14)~~(13) Light fixtures;
- 19 ~~(15)~~(14) Pipes;
- 20 ~~(16)~~(15) Plumbing fixtures;
- 21 ~~(17)~~(16) Fire and security alarms;
- 22 ~~(18)~~(17) Intercoms;
- 23 ~~(19)~~(18) Sprinkler systems;
- 24 ~~(20)~~(19) Parking lots;
- 25 ~~(21)~~(20) Fences;
- 26 ~~(22)~~(21) Gates;
- 27 ~~(23)~~(22) Fireplaces; and
- 28 ~~(24)~~(23) Similar components which become
29 a part of real estate after, installation, except flooring.

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

34 (c) Subdivision (3)(C)(viii) of this section shall
35 not apply to any services subject to tax pursuant to the terms of ~~subdivision~~
36 ~~(3)(E)~~ subdivisions (3)(C)(i) and (3)(E) of this section.

1
2 SECTION 8. Arkansas Code § 26-52-301(3)(C), effective when contingency
3 in Acts 2003, No. 1273, § 88 is met, is amended to read as follows:

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

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

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

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

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

1 repaired or remanufactured in this state and are then shipped back to the
2 state of origin.

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

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

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

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

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

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

- 32 (1) Walls;
- 33 ~~(2) Floors;~~
- 34 ~~(3)~~(2) Ceilings;
- 35 ~~(4)~~(3) Doors;
- 36 ~~(5)~~(4) Locks;

1 ~~(6)~~(5) Windows;

2 ~~(7)~~(6) Glass;

3 ~~(8)~~(7) Heat and air ducts;

4 ~~(9)~~(8) Roofs;

5 ~~(10)~~(9) Wiring;

6 ~~(11)~~(10) Breakers;

7 ~~(12)~~(11) Breaker boxes;

8 ~~(13)~~(12) Electrical switches and

9 receptacles;

10 ~~(14)~~(13) Light fixtures;

11 ~~(15)~~(14) Pipes;

12 ~~(16)~~(15) Plumbing fixtures;

13 ~~(17)~~(16) Fire and security alarms;

14 ~~(18)~~(17) Intercoms;

15 ~~(19)~~(18) Sprinkler systems;

16 ~~(20)~~(19) Parking lots;

17 ~~(21)~~(20) Fences;

18 ~~(22)~~(21) Gates;

19 ~~(23)~~(22) Fireplaces; and

20 ~~(24)~~(23) Similar components which become

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

22 (b) Contractors are deemed to be consumers or

23 users of all tangible personal property used or consumed by them in providing

24 such nontaxable services, in the same manner as when performing any other

25 contract.

26 (c) Subdivision (3)(C)(viii) of this section

27 shall not apply to any services subject to tax pursuant to the terms of

28 ~~subdivision (3)(E)~~ subdivisions (3)(C)(i) and (3)(E) of this section.

29

30 SECTION 9. Arkansas Code § 26-52-304 is amended to read as follows:

31 26-52-304. Tax levied on sales of computer software and maintenance of

32 computer hardware.

33 ~~(a)~~ The excise tax levied by the Arkansas Gross Receipts Act, § 26-52-

34 101 et seq., ~~and by any act supplemental thereto,~~ is levied on gross receipts

35 or gross proceeds received from the following:

36 (1)(A) Sales of computer software or programs and software

~~licensing fees, which shall be taxed as sales of tangible personal property, Software shall include tapes, disks, cards, or other devices or materials which contain instructions for a computer and dictate different operations or functions to be performed by the computer;~~

(B) "Computer software or programs" means

(i) A series of instructions sold as a completed program that are coded for acceptance or use by a computer system and designed to permit the computer system to process data and provide results and information.

(ii) The instructions may be in the form of magnetic tapes, semiconductor chips, punched cards, printed instructions, or other tangible or electronic media.

(iii) "Completed program" means any modification, installation, or maintenance charges made in connection with the sale of the program;

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

(3) Charges for installation of computer software or programs;

(4) Software transmitted from one computer or system to another computer or system, electronically or otherwise;

~~(b) It is found and determined by the General Assembly that technological advances in the computer industry have created an uncertainty as to whether sales of computer software constitute a transfer of tangible personal property.~~

~~(c) This section is not intended to affect the taxability of any sales of computer software prior to February 9, 1984.~~

SECTION 10. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended to add an additional section to read as follows:

26-52-316. Services subject to tax.

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

(1) Wrecker and towing services;

(2) Collection and disposal of solid wastes;

(3) Cleaning parking lots and gutters;

(4) Dry cleaning and laundry services;

- 1 (5) Industrial laundry services;
2 (6) Mini warehouse and self storage rental services;
3 (7) Body piercing, tattooing, and electrolysis services;
4 (8) Pest control services;
5 (9) Security and alarm monitoring services;
6 (10) Boat storage and docking fees;
7 (11) Furnishing camping spaces or trailer spaces at public or
8 privately-owned campgrounds, except for federal campgrounds, on less than a
9 month-to-month basis;

10 (12)(A) Locksmith services.

11 (B) "Locksmith services" means repairing, servicing, or
12 installing locks and locking devices, whether the locks and locking devices
13 are:

14 (i) Incorporated into real property;

15 (ii) Incorporated into tangible personal property;

16 or

17 (iii) Locks separate and apart from other property.

18 (C) "Locksmith services" also includes unlocking locks or
19 locking devices for another person.

20 (13)(A) Personal instruction services.

21 (B) "Personal instruction services" means teaching an
22 individual or group of individuals:

23 (i) To play a musical instrument or to dance;

24 (ii) To paint, sculpt, draw, make pottery or

25 jewelry, or otherwise engage in artistic or creative activities;

26 (iii) To mime, act, or otherwise engage in dramatic
27 activities;

28 (iv) Tae kwon do, tae bo, kung fu, karate, or other
29 martial arts;

30 (v) To play or improve skills in baseball, football,
31 basketball, soccer, volleyball, golf, tennis, or other sports;

32 (vi) To drive a motor vehicle;

33 (vii) To fly an airplane, glider, or other aircraft;

34 or

35 (viii) To operate a boat, jet ski, or other
36 watercraft; and

1 (14) Pet grooming and kennel services.

2
3 SECTION 11. Arkansas Code § 26-51-815 is amended to read as follows:
4 26-51-815. Computing capital gains and losses.

5 (a) To the extent they apply to capital gains and losses realized or
6 incurred during income years beginning after December 31, 1996, 26 U.S.C. §§
7 1211-1237 and 1239-1257 as in effect on January 1, 1999, and the regulations
8 of the Secretary of the Treasury promulgated thereunder and in effect on
9 January 1, 1999, are adopted for the purpose of computing tax liability under
10 the Income Tax Act of 1929, as amended, § 26-51-101 et seq. However, the
11 provisions of this section shall not apply to C corporations as defined in 26
12 U.S.C. § 1361, as in effect on January 1, 1997. Furthermore, any other
13 provisions of the federal income tax law and regulations necessary for
14 interpreting and implementing 26 U.S.C. §§ 1211-1237 and 1239-1257 are
15 adopted to that extent and as in effect on January 1, 1999.

16 ~~(b) If a taxpayer has a net capital gain for tax years beginning on~~
17 ~~and after January 1, 1999, thirty percent (30%) of the gain shall be exempt~~
18 ~~from state income tax.~~

19 ~~(e)~~(b) Section 1202 of the Internal Revenue Code of 1986, as in effect
20 on January 1, 1995, regarding the exclusion from gain of certain small
21 business stock, is adopted for the purpose of computing Arkansas income tax
22 liability.

23 ~~(d)~~(c)(1) If a taxpayer has a net capital gain from a venture capital
24 investment, one hundred percent (100%) of the gain shall be exempt from the
25 Income Tax Act of 1929, § 26-51-101 et seq., if:

26 (A) The venture capital investment was initially made on
27 or after January 1, 2001; and

28 (B) The venture capital investment was held for at least
29 five (5) years prior to disposition.

30 (2)(A) "Venture capital" means equity financing, broadly
31 defined, including early stage research, development, commercialization, seed
32 capital for startup enterprises, and other risk capital for expansion of
33 entrepreneurial enterprises doing business in Arkansas that are qualified
34 technology-based enterprises doing business in Arkansas, qualified
35 biotechnology enterprises doing business in Arkansas, or qualified technology
36 incubator clients doing business in Arkansas.

1 (B) "Venture capital" does not include the purchase of a
2 share of stock in a company if, on the date on which the share of stock is
3 purchased, the company has securities outstanding that are:

4 (i) Registered on a national securities exchange
5 under Section 12(b) of Title I of the Securities Exchange Act of 1934 as it
6 exists on January 1, 2001;

7 (ii) Registered or required to be registered under
8 Section 12(g) of Title I of the Securities Exchange Act of 1934 as it exists
9 on January 1, 2001; or

10 (iii) Required to be registered except for the
11 exemptions in Section 12(g)(2) of Title I of the Securities Exchange Act of
12 1934 as it exists on January 1, 2001.

13 (C) "Qualified biotechnology enterprise" means a
14 corporation, partnership, limited liability company, sole proprietorship, or
15 other entity that is certified by the department pursuant to § 2-8-108.

16 (D) "Qualified technology incubator" means a business
17 incubator certified by the Board of Directors of the Arkansas Science and
18 Technology Authority as being a facility operated in cooperation with an
19 Arkansas college or university to foster the growth of technology-based
20 enterprises.

21 (E) "Qualified technology incubator client" means a
22 corporation, partnership, limited liability company, sole proprietorship, or
23 other entity that, as of the date of the venture capital investment, is
24 certified by an Arkansas college or university as currently receiving, or
25 having received within the previous three (3) years, the services of a
26 qualified technology incubator.

27 (F) "Qualified technology-based enterprise" means a
28 corporation, partnership, limited liability company, sole proprietorship, or
29 other legal entity whose primary business directly involves commercializing
30 the results of research in fields having long-term economic or commercial
31 value to the state and having been identified in the research and development
32 plan approved by the board.

33
34 SECTION 12. Arkansas Code § 3-7-104 is amended to read as follows:
35 3-7-104. Rate of tax.

36 There is levied and there shall be collected as provided by law and

1 regulation the following taxes:

2 (1)(A)(i) A tax at the rate of two dollars and fifty cents
3 (\$2.50) on each gallon of spirituous liquor sold or offered for sale in the
4 State of Arkansas.

5 (ii) Beginning March 1, 2004, an additional tax at
6 the rate of fifty cents (50¢) on each gallon of spirituous liquor sold or
7 offered for sale in this state.

8 (B) "Spirituous liquor", as used in this section, means
9 liquor distilled from the fermented juices of grain, fruits, or vegetables
10 and any mixture containing liquor distilled from the fermented juices of
11 grain, fruits, or vegetables, with an alcoholic content of twenty-one percent
12 (21%) or more alcohol by weight;

13 (2)(A) A tax at the rate of one dollar (\$1.00) on each gallon of
14 premixed spirituous liquor sold or offered for sale in the State of Arkansas.

15 (B) "Premixed spirituous liquor", as used in this section,
16 means liquor distilled from the fermented juices of grain, fruits, or
17 vegetables, having an alcoholic content of less than twenty-one percent (21%)
18 alcohol by weight but more than five percent (5%) alcohol by weight;

19 (3)(A) A tax at the rate of fifty cents (50¢) on each gallon of
20 light spirituous liquor sold or offered for sale in the State of Arkansas.

21 (B) "Light spirituous liquor", as used in this section,
22 means liquor distilled from the fermented juices of grain, fruits, or
23 vegetables and any mixture containing liquor distilled from the fermented
24 juices of grain, fruits, or vegetables, having an alcoholic content between
25 one-half of one percent (0.5%) and five percent (5%) alcohol by weight;

26 (4)(A)(i) A tax at the rate of seventy-five cents (75¢) on each
27 gallon of vinous liquor, except wines fermented and manufactured within the
28 State of Arkansas from grapes, berries, or other fruits grown in Arkansas, as
29 authorized by §§ 3-5-401 - 3-5-412, sold or offered for sale in the State of
30 Arkansas.

31 (ii) Beginning March 1, 2004, an additional tax at
32 the rate of twenty-five cents (25¢) on each gallon of vinous liquor, except
33 wines fermented and manufactured within this state from grapes, berries, or
34 other fruits grown in Arkansas, as authorized by §§ 3-5-401 - 3-5-412, sold
35 or offered for sale in this state.

36 (B) "Vinous liquor", as used in this section, means the

1 fermented juices of grapes, berries, or other fruits and any other mixture
2 containing the fermented juices of grapes, berries, or other fruits, having
3 an alcoholic content of more than five percent (5%) alcohol by weight;

4 (5)(A) A tax at the rate of twenty-five cents (25¢) on each
5 gallon of light wine except light wine fermented and manufactured within the
6 State of Arkansas from grapes, berries, or other fruits grown in Arkansas, as
7 authorized by §§ 3-5-401 - 3-5-412, sold or offered for sale in the State of
8 Arkansas.

9 (B) "Light wine", as used in this section, means the
10 fermented juices of grapes, berries, or fruits and any other mixture
11 containing the fermented juices of grapes, berries, or fruits, having an
12 alcoholic content of between one-half of one percent (0.5%) and five percent
13 (5%) alcohol by weight;

14 (6)(A) A tax at the rate of seven dollars and fifty cents
15 (\$7.50) per barrel of thirty-two (32) gallons, and proportionately for larger
16 and smaller gallon ages per barrel, on all beer having an alcoholic content
17 of five percent (5%) or less by weight sold or offered for sale in the State
18 of Arkansas.

19 (B) This tax shall be paid in the manner prescribed by §
20 3-7-401 et seq.; and

21 (7) A tax at the rate of twenty cents (20¢) on each gallon of
22 malt liquor sold or offered for sale in the State of Arkansas.

23
24 SECTION 13. Arkansas Code § 3-5-409(a), concerning the tax rate on
25 native wine, is amended to read as follows:

26 (a)(1)(A) Under the provisions of this subchapter, for the privilege
27 of manufacturing wine and for selling it at the winery or in this state,
28 there is imposed, assessed, and levied a tax of seventy-five cents (75¢) per
29 gallon upon all the wine manufactured and sold in this state under the
30 provisions of this subchapter.

31 (B) Beginning March 1, 2004, for the privilege of
32 manufacturing wine and for selling it at the winery or in this state, there
33 is imposed, assessed, and levied an additional tax of twenty-five cents (25¢)
34 per gallon upon all the wine manufactured and sold in this state under the
35 provisions of this subchapter.

36 (2) For the privilege of manufacturing light wine under the

1 provisions of this subchapter, and for selling it at the winery or in this
2 state, there is imposed, assessed, and levied a tax of twenty-five cents
3 (25¢) per gallon upon all light wine manufactured and sold in this state
4 under the provisions of this subchapter.

5
6 SECTION 14. Arkansas Code § 3-5-605(c), concerning the tax levied on
7 each gallon of imported wines or wines produced from fruits and vegetables
8 not grown in this state, is amended to read as follows:

9 (c)(1)(A) An Arkansas winery importing fruits or vegetables grown
10 outside the State of Arkansas for use in making wines in this state shall pay
11 the seventy-five cents (75¢) per gallon tax levied on imported wines or wines
12 produced from fruits and vegetables not grown in this state or on wine made
13 from such juices extracted from fruits or vegetables brought into the state
14 if the wine is sold in Arkansas.

15 (B) Beginning March 1, 2004, an Arkansas winery importing
16 fruits or vegetables grown outside the State of Arkansas for use in making
17 wines in this state shall pay an additional twenty-five cents (25¢) per
18 gallon tax levied on imported wines or wines produced from fruits and
19 vegetables not grown in this state or on wine made from such juices extracted
20 from fruits or vegetables brought into the state if the wine is sold in
21 Arkansas.

22 (2) The tax shall be paid in the same manner as prescribed by
23 law on the twentieth day of the month on sales in Arkansas for the month
24 preceding.

25 (3) Records at the Arkansas winery required by federal law shall
26 be maintained to reflect the ratio of blend of Arkansas-grown wine and the
27 amount of wine in the blend made from the fruits or vegetables grown outside
28 the State of Arkansas.

29 (4) The seventy-five cents (75¢) per gallon tax and the
30 additional twenty-five cents (25¢) per gallon tax levied effective March 1,
31 2004, shall be required to be paid only on the portion of the blend made from
32 fruits or vegetables grown outside the State of Arkansas which are sold in
33 Arkansas.

34 (5) The tax on the Arkansas-grown portion of the wine blend
35 shall be the same as now required on wines produced from Arkansas-grown
36 fruits and vegetables.

1
2 SECTION 15. Arkansas Code § 3-5-606(b), concerning the tax levied on
3 each gallon of imported wines for blending, is amended to read as follows:

4 (b)(1) The Arkansas winery shall pay a tax of seventy-five cents (75¢)
5 per gallon on all wines imported into this state if the wines are sold in
6 Arkansas. The seventy-five cents (75¢) per gallon tax shall be required to be
7 paid only on the portion of the blend not grown and produced in Arkansas. The
8 tax on the Arkansas-grown portion of the wine blend shall be the same as now
9 required for wines produced from Arkansas-produced fruits and vegetables.

10 (2) Beginning March 1, 2004, the Arkansas winery shall pay an
11 additional tax of twenty-five cents (25¢) per gallon on all wines imported
12 into this state if the wines are sold in Arkansas. The additional twenty-
13 five cents (25¢) per gallon tax shall be required to be paid only on the
14 portion of the blend not grown and produced in Arkansas. The tax on the
15 Arkansas-grown portion of the wine blend shall be the same as now required
16 for wines produced from Arkansas-produced fruits and vegetables.

17
18 SECTION 16. Arkansas Code § 26-57-1002 is amended to read as follows:
19 26-57-1002. Registration - Records - Amount of tax.

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

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

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

32 (2) The vending device operator shall maintain suitable records
33 reflecting all purchases of tangible personal property during each calendar
34 month for resale through a vending device.

35 (d)(1)(A) ~~A tax of four and one half percent (4.5%)~~ A wholesale
36 vending tax at the rate of ten percent (10%) is hereby levied on the purchase

1 price of all tangible personal property purchased or withdrawn from inventory
2 during each calendar month by a vending device operator for resale through a
3 vending device.

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

7 (2)(A) An additional tax of ~~one percent (1%)~~ one and three-
8 quarters percent (1.75%) is hereby levied on the purchase price of all
9 tangible personal property purchased or withdrawn from inventory during each
10 calendar month for resale through a vending device.

11 (B) This tax shall be in lieu of any local gross receipts
12 taxes imposed by any city or county of this state on the gross receipts or
13 gross proceeds derived from the sale of the property by the vending device
14 operator through a vending device.

15 (e) The taxes levied by subsection (d) of this section shall be
16 reported and paid in the same manner and at the same time as prescribed by
17 law for the reporting and payment of the Arkansas gross receipts tax, § 26-
18 52-101 et seq.

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

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

28
29 SECTION 17. Arkansas Code § 26-57-1003 is repealed:

30 ~~26-57-1003. Election not to register.~~

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

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

36 ~~(2)(A) Pay the Arkansas gross receipts tax, § 26-52-101 et seq.,~~

1 ~~the Arkansas compensating use tax, § 26-53-101 et seq., and any applicable~~
 2 ~~local sales and use taxes to their vendor on all purchases of tangible~~
 3 ~~personal property purchased for resale through a vending device.~~

4 ~~(B)(i) The sale for resale exemption provided in § 26-52-~~
 5 ~~401(12) shall not apply to purchases of tangible personal property for resale~~
 6 ~~through vending devices unless the purchaser is registered with the director~~
 7 ~~as a vending device operator.~~

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

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

18 ~~(c) Any person who elects to pay tax on tangible personal property~~
 19 ~~sold through vending devices in accordance with the provisions of this~~
 20 ~~section and who manufactures the product which is withdrawn from stock for~~
 21 ~~resale through a vending device shall pay the taxes due under this section by~~
 22 ~~multiplying the tax rate by the selling price for which the person would sell~~
 23 ~~the product to another for resale through a vending device.~~

24
 25 SECTION 18. Arkansas Code § 26-57-1004 is amended to read as follows:

26 26-57-1004. Identification of taxpayer - Presumption of nonpayment.

27 (a) All persons who sell tangible personal property through vending
 28 devices shall affix the name and identification number, if any, of the person
 29 responsible for the payment of the taxes imposed by ~~§§ 26-57-1002 and 26-57-~~
 30 ~~1003~~ § 26-57-1002.

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

34 (B) The director shall seal any vending device subject to
 35 this presumption in such a manner as to prevent any further sales through the
 36 device and shall assess and collect a penalty of fifty dollars (\$50.00) per

1 vending device against the person selling tangible personal property through
2 the device.

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

7
8 SECTION 19. Arkansas Code § 26-57-1204 is amended to read as follows:
9 26-57-1204. Application, issuance and display of decal. [Effective
10 January 1, 1998.]

11 (a) Any person who is the operator of a vending device in this state
12 that is made available for use and operation by the general public (whether
13 the operator is the owner of such vending device, or a lessee, renter,
14 bailee, etc. of the owner of such vending device) ~~may, in lieu of paying~~
15 ~~sales taxes under the provisions of § 26-52-101, et seq., or under the~~
16 ~~provisions of § 26-57-1001, et seq. elect to~~ shall obtain a decal and pay the
17 decal fees provided by § 26-57-1206. ~~If such election is not made by the~~
18 ~~operator, then the general or short term sales taxes that are otherwise~~
19 ~~applicable to the operation of these vending devices shall be imposed upon~~
20 ~~the sale of tangible personal property from such vending devices.~~

21 (b) ~~The An~~ operator of vending devices, ~~who makes the election to pay~~
22 ~~the decal fees provided by this subchapter,~~ shall be responsible for applying
23 to the Director of the Department of Finance and Administration for the
24 issuance of an annual or short-term special vending device decal for such
25 vending device and shall, at the same time, pay to the Director of the
26 Department of Finance and Administration the annual or short-term special
27 vending device decal fee provided for by this subchapter, before such vending
28 device is made available for use and operation by the general public.

29 (c) The Director of the Department of Finance and Administration, upon
30 receipt of full payment of the applicable decal fee, and upon approval of
31 such application, shall issue to the person making such application an annual
32 or short-term special vending device decal for the type of vending device or
33 devices covered by such application and payment.

34 (d)(1) The annual or short-term special vending device decals, and the
35 application provided for herein, shall be in such form as prescribed by the
36 Director of the Department of Finance and Administration. These decals and

1 applications shall contain on their faces such information and descriptions
 2 as shall be required by regulations adopted by the Director of the Department
 3 of Finance and Administration to properly and reasonably implement the
 4 provisions of this subchapter.

5 (2) Any number of vending devices may be included in one (1)
 6 application, but all vending devices operated by the applying operator must
 7 be made subject to this ~~alternative~~ decal fee. ~~Such operator may not choose~~
 8 ~~to have part of his or her vending devices covered by the decal fee provided~~
 9 ~~by this subchapter, while other vending devices operated by the same operator~~
 10 ~~during the decal registration year would be subject to the general or sales~~
 11 ~~taxes that would be otherwise applicable to the sale of tangible personal~~
 12 ~~property from such vending devices.~~

13 (e) Before any vending device is put into operation or placed where
 14 the same may be used or operated by any member of the general public, and at
 15 all times when the vending device is being used or operated or made available
 16 to members of the general public for use or operation, an annual or short-
 17 term special vending device decal shall be firmly affixed to the vending
 18 device covered thereby by the person who is the operator of the vending
 19 device, so that such decal shall be plainly visible to, and readable by, the
 20 members of the general public.

21
 22 SECTION 20. Arkansas Code § 26-57-1206 is amended to read as follows:

23 26-57-1206. Annual decal fee - ~~Special decal — In lieu of sales tax,~~
 24 Short-term special decal. ~~{Effective January 1, 1998.}~~

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

33 (A) For each coin-operated vending device requiring a coin
 34 or thing of value ~~of twenty five cents (25¢) or more for a sale, seventy~~
 35 ~~dollars (\$70.00)~~ twenty dollars (\$20.00);

36 ~~(B) For each coin-operated vending device requiring a coin~~

1 ~~or thing of value of less than twenty five cents (25¢) for a sale, fifteen~~
2 ~~dollars (\$15.00);~~

3 ~~(G)(B)~~ For each coin-operated bulk vending device
4 requiring a coin or thing of value ~~of more than twenty five cents (25¢) for a~~
5 sale, ~~seven dollars and fifty cents (\$7.50)~~ five dollars (\$5.00); and

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

9 ~~(E)(C)~~ For each coin-operated manually powered vending
10 devices, coin-operated tabletop snack vending device, or other manually
11 powered coin-operated vending device requiring a coin or thing of value ~~of~~
12 ~~twenty five cents (25¢) or more for a sale, thirty dollars (\$30.00)~~ twenty
13 dollars (\$20.00).

14 (2) The annual vending device decal issued by the Director of
15 the Department of Finance and Administration, after payment of the
16 appropriate annual vending device decal fee, shall bear on its face the year
17 of its issue, and such annual decal must be affixed to each vending device in
18 a place that is clearly visible to the user of such device before each such
19 vending device may be placed for public use or operation in this state by the
20 operator.

21 (3) Such annual vending device decal shall not be transferred
22 from one (1) vending device to another, unless the person who is the operator
23 of such vending device shall establish to the satisfaction of the Director of
24 the Department of Finance and Administration that the vending device to which
25 the annual vending device decal is to be transferred is a vending device that
26 is replacing the vending device to which such annual decal was originally
27 affixed.

28 (b) In those instances where it is shown to the satisfaction of the
29 Director of the Department of Finance and Administration that a vending
30 device upon which an annual vending device decal fee is otherwise due will be
31 placed in service for use by members of the general public for a definite,
32 but limited, period of time that is less than one (1) year, such as where the
33 vending device shall be placed for public use in connection with fairs,
34 carnivals, and places of amusement that operate only during certain seasons
35 of the year, the Director of the Department of Finance and Administration
36 shall issue a short-term special vending device decal and collect a short-

1 term special vending device decal fee for such vending devices as hereinafter
2 computed:

3 (1) Such short-term special decal may be issued for any number
4 of thirty-day periods, less than a full year, and such short-term special
5 decal shall indicate on its face that it is a short-term special decal, not
6 an annual decal, and such short-term special decal shall be for one (1) or
7 more thirty-day periods, but such short-term special decal shall state on its
8 face the precise dates for which it has been issued and such short-term
9 special decal shall not be transferred from one (1) vending device to
10 another.

11 (2) The short-term special vending device decal fee shall be
12 computed and paid by the person who is the operator of such vending device ~~on~~
13 ~~the basis of one fifth (1/5) of the annual vending device decal fee charged~~
14 ~~by this subchapter for the type of vending device operated, for each thirty-~~
15 ~~day period for which such short term decal is issue, on the following basis:~~

16 (A) For each coin-operated or manually-powered vending
17 device, the fee shall be five dollars (\$5.00) for each thirty-day period for
18 which the short-term decal is issued, up to the annual rate of twenty dollars
19 (\$20.00); and

20 (B) For each coin-operated bulk vending device, the fee
21 shall be one dollar (\$1.00) for each thirty-day period for which the short-
22 term decal is issued, up to the annual rate of five dollars (\$5.00).

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

28 (c) The annual or short-term special vending device decal fees
29 required to be paid by subsections (a) and (b) of this section shall be paid
30 by the person who is the operator of such vending device ~~in lieu of the~~
31 ~~requirement that such person collect and remit: (1) the state and local gross~~
32 ~~receipts (sales) taxes levied pursuant to the provisions of the Arkansas~~
33 ~~Gross Receipts Act of 1941, as amended, § 26-52-101 et. seq., or any~~
34 ~~provision of Chapters 74 and 75 of Title 26, or any other provision of this~~
35 ~~Code which provides for the levy of a local sales tax; or (2) in addition to~~
36 the special sales taxes levied pursuant to the provisions of the Vending

1 ~~Devices Sales Tax Act of 1995, § 26-57-1001, et seq. Where gross receipts or~~
2 ~~gross proceeds are received by a person who is the operator of a vending~~
3 ~~device from the sale of any item of tangible personal property, through the~~
4 ~~vending device, where the annual vending device decal fee has been paid and~~
5 ~~such decal is affixed to the vending device, then it is the intent of the~~
6 ~~General Assembly that such gross proceeds or gross receipts shall not be~~
7 ~~subject to any state or local gross receipts (sales) taxes imposed in this~~
8 ~~state.~~

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

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

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

30
31 SECTION 21. Arkansas Code § 26-57-1208 is repealed.

32 ~~26-57-1208. Distribution of revenue. [Effective January 1, 1998.]~~

33 ~~(a) It is hereby declared to be the purpose of this subchapter to~~
34 ~~provide revenues for general governmental functions of the state, and its~~
35 ~~counties and municipalities, in lieu of the state and local gross receipts~~
36 ~~(sales) taxes or vending devices sales taxes that would otherwise be due and~~

1 ~~owing from the person who is the operator of such vending devices. For that~~
 2 ~~purpose and to that end, it is expressly provided that the revenue derived by~~
 3 ~~the Director of the Department of Finance and Administration from the sale of~~
 4 ~~annual or special vending device decal fees, including penalties, shall be~~
 5 ~~deposited by the director into the State Treasury and credited as follows.~~

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

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

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

17
 18 SECTION 22. Arkansas Code § 26-57-1217 is repealed.

19 ~~26-57-1217. Purpose. [Effective January 1, 1998.]~~

20 ~~The purpose for the enactment of this "Vending Devices Decal Act of~~
 21 ~~1997" is to provide a simplified method for the operators of such vending~~
 22 ~~devices to be able to pay their proportionate amount of state and local~~
 23 ~~taxes, without being required to maintain complex financial records that~~
 24 ~~would otherwise be required of such operators (who are in the unique position~~
 25 ~~among retailers in this state of not being able to pass the cost of sales~~
 26 ~~taxes directly on to their customers), and to assure that the State of~~
 27 ~~Arkansas and its cities and counties collect their fair share of taxes from~~
 28 ~~what is almost entirely a cash business.~~

29
 30 SECTION 23. Arkansas Code Title 26, Chapter 57, Subchapter 12 is
 31 amended to add an additional section to read as follows:

32 26-57-1218. Renewal.

33 (a) All annual vending device decals issued by the Director of the
 34 Department of Finance and Administration authorizing the use and operation of
 35 vending devices are renewable by June 30 of each calendar year for the fiscal
 36 year beginning July 1.

1 (b) Any person who renews an annual vending device decal after June 30
2 shall pay a penalty. For each sixty-day period or a portion thereof after
3 June 30 during which the renewal fee is paid, the penalty shall be one-half
4 (1/2) of the yearly renewal fee.

5 (c) No annual vending device decal shall be renewed by the Department
6 of Finance and Administration for a vending device decal holder who has
7 failed to pay any wholesale vending tax, excise tax, or any other state and
8 local taxes.

9
10 SECTION 24. Educational Adequacy Trust Fund.

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

14 (b) The Educational Adequacy Trust Fund shall consist of the revenues
15 enacted by the Second Extraordinary Session of the 84th General Assembly and
16 other revenues as provided by law.

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

23 (d)(1) Additionally, for each of the state's fiscal years, the Chief
24 Fiscal Officer of the State shall determine as an annual allocation amount
25 for the Educational Adequacy Trust Fund an amount equivalent to the revenues
26 generated by Arkansas Code § 26-52-316. The determination shall be based on
27 the total net general revenues as enumerated in § 19-6-201(1) and (2), which
28 were collected in the immediate past year, times a factor of 0.0109.

29 (2) Upon the determination, the Chief Fiscal Officer of the
30 State shall certify to the Treasurer of State the amount determined in
31 subdivision (d)(1) of this section for transfer to the fund.

32 (3) The Treasurer of State shall make the transfer from general
33 revenues after making the deductions required from the net general revenues
34 under Arkansas Code § 19-5-202(b)(2)(B)(i).

35 (e)(1) Additionally, for each of the state's fiscal years, the Chief
36 Fiscal Officer of the State shall determine as an annual allocation amount

1 for this Educational Adequacy Trust Fund an amount equivalent to the revenues
2 generated by the increase in the wholesale vending tax. The determination
3 shall be based on the total net general revenues as enumerated in § 19-6-
4 201(1) and (2), which were collected in the immediate past year, times a
5 factor of 0.0044.

6 (2) Upon the determination, the Chief Fiscal Officer of the
7 State shall certify to the Treasurer of State the amount determined in
8 subdivision (d)(1) of this section for transfer to the Educational Adequacy
9 Trust Fund.

10 (3) The Treasurer of State shall make the transfer from general
11 revenues after making the deductions required from the net general revenues
12 under Arkansas Code § 19-5-202(b)(2)(B)(i).

13
14 SECTION 25. Sections 1 through 6 of this bill become effective on
15 March 1, 2004.

16
17 SECTION 26. Sections 7, 8, 9 and 10 of this bill becomes effective on
18 July 1, 2004.

19
20 SECTION 27. Section 11 applies to tax years beginning on or after
21 January 1, 2004.

22
23 SECTION 28. Sections 12, 13, 14, and 15 become effective on March 1,
24 2004.

25
26 SECTION 29. Sections 16 through 23 become effective on July 1, 2004.

27
28 SECTION 30. EMERGENCY CLAUSE. It is found and determined by the
29 General Assembly, that the provision of an equal opportunity for an adequate
30 education to all the citizens of the state is imperative; that additional
31 funds are immediately needed to provide an equal opportunity for an adequate
32 education; that this act is designed to provide the additional revenues
33 needed to provide this equal opportunity to all citizens; and that a delay in
34 the effective date of this act will cause irreparable harm upon the provision
35 of essential education opportunities and the proper administration of
36 educational programs. Therefore, an emergency is hereby declared to exist

1 and this act being necessary for the immediate preservation of the public
2 peace, health, and safety shall be in full force and effect from and after
3 the date of March 1, 2004.

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/ Wooldridge