



State of Arkansas  
Bureau of  
Legislative Research

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August 1, 2011

Meeting Notice

Senate Committee on Revenue and Taxation  
House Committee on Revenue and Taxation  
of the  
ARKANSAS GENERAL ASSEMBLY  
Meeting Jointly

Sen. Larry Teague, Chair  
Sen. Michael Lamoureux, Vice Chair  
Sen. Jerry Taylor  
Sen. Paul Bookout  
Sen. Linda Chesterfield  
Sen. Jake Files  
Sen. Bill Sample  
Sen. Eddie Joe Williams

Rep. Davy Carter, Chair  
Rep. Larry Cowling, Vice Chair  
Rep. Robert S. Moore, Jr.  
Rep. Ed Garner  
Rep. Mike Patterson  
Rep. Uvalde Lindsey  
Rep. Keith M. Ingram  
Rep. Allen Kerr  
Rep. John Burriss  
Rep. Stephen Meeks  
Rep. Lane Jean  
Rep. Fredrick J. Love  
Rep. Mark Biviano  
Rep. Charlie Collins  
Rep. Homer Lenderman

Rep. Kelley Linck  
Rep. Bruce Westerman  
Rep. Justin T. Harris  
Rep. Linda Collins-Smith  
Rep. Nate Bell  
Rep. Duncan Baird, Non-Voting  
Rep. Stephanie Malone, Non-Voting  
Rep. Walls McCrary, Non-Voting  
Rep. Ann V. Clemmer, Non-Voting  
Rep. Jim Nickels, Non-Voting  
Rep. Matthew Shepherd, Non-Voting  
Rep. Jon S. Eubanks, Non-Voting  
Rep. Andy Mayberry, Non-Voting  
Rep. Mary P. "Prissy" Hickerson, Non-Voting  
Rep. David J. Sanders, Non-Voting

The Senate Interim Committee on Revenue and Taxation and the House Interim Committee on Revenue and Taxation will meet **Thursday, August 18, 2011 at 10:00 a.m., in Room B, MAC.**

A tentative agenda will be posted on the Internet at [www.arkleg.state.ar.us](http://www.arkleg.state.ar.us) in advance of the actual meeting date.

Sincerely,

A handwritten signature in black ink that reads "Mary Carol Poole".

Mary Carol Poole  
Legislative Analyst  
Bureau of Legislative Research

**AGENDA**  
**Senate Committee on Revenue and Taxation**  
**House Committee on Revenue and Taxation**  
**Meeting Jointly**

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**Thursday, August 18, 2011**

**10:00 AM**

**Room B, MAC**

**Little Rock, Arkansas**

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Sen. Larry Teague, Chair  
Sen. Michael Lamoureux, Vice Chair  
Sen. Jerry Taylor  
Sen. Paul Bookout  
Sen. Linda Chesterfield  
Sen. Jake Files  
Sen. Bill Sample  
Sen. Eddie Joe Williams

Rep. Davy Carter, Chair  
Rep. Larry Cowling, Vice Chair  
Rep. Robert S. Moore, Jr.  
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Rep. Matthew Shepherd, Non-Voting  
Rep. Jon S. Eubanks, Non-Voting  
Rep. Andy Mayberry, Non-Voting  
Rep. Mary P. "Prissy" Hickerson, Non-Voting  
Rep. David J. Sanders, Non-Voting

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A. Call to Order

B. Opening Comments by Chairs: **Senator Larry R. Teague**  
**Representative Davy Carter**

C. Consideration to Adopt Interim Study Proposal Referred to Committee:

1. **ISP2011-054 BY SEN. CRUMBLY** TO CREATE A TAX INCENTIVE TO ATTRACT NEW BUSINESS AND EXPAND EXISTING BUSINESSES IN AREAS THAT HAVE HIGH PROVERTY OR HIGH UNEMPLOYMENT
2. **ISP2011-066 BY REP. ENGLISH** TO EXEMPT FROM INCOME TAX A LIMITED AMOUNT OF RETIREMENT BENEFITS RECEIVED FOR SERVICE IN THE ARMED FORCES
3. **ISP2011-069 BY REP. LINCK** TO CREATE AN EXEMPTION FROM THE SALES AND USE TAX FOR UTILITIES USED BY A VOLUNTEER FIRE DEPARTMENT
4. **ISP2011-074 BY SEN. LAMOUREUX** TO REPEAL CERTAIN INCOME TAX EXEMPTIONS, CREDITS, INCENTIVES, REDUCED RATES AND OTHER SECTIONS OF THE ARKANSAS CODE THAT REDUCE TAX LIABILITY; TO PROVIDE FOR CORRESPONDING REDUCTION TO THE INCOME TAX RATES FOR INDIVIDUALS, TRUSTS AND ESTATES
5. **ISP2011-076 BY SEN. FILES** TO CLARIFY THE EXEMPTION FROM SALES AND USE TAX FOR REPLACEMENTS OF MANUFACTURING MACHINERY AND EQUIPMENT THAT IMPROVE, MODERNIZE, AND EXPAND EXISTING FACILITIES

**Notice: Silence your cell phones. Keep your personal conversations to a minimum. Observe restrictions designating areas as "Members and Staff Only"**

6. **ISP2011-084 BY SEN. SALMON** TO OBTAIN ACCURATE LOCAL DISCRPTIONS OF TAX-DELINQUENT AND OTHER LANDS; TO REGULATE THE SALE AND REDEMPTION OF TAX-DELINQUENT LANDS
7. **ISP2011-090 BY REP. NICKELS** TO CREATE THE ARKANSAS SMALL BUSINESS TAX FAIRNESS ACT; TO REQUIRE COMBINED REPORTING FOR INCOME TAX PURPOSES
8. **ISP2011-091 BY REP. SUMMERS** TO EXEMPT A HEARING INSTRUMENT RECOMMENDED BY AN AUDIOLOGIST FROM THE SALES AND USE TAX
9. **ISP2011-092 BY REP. COLLINS** TO PROVIDE KINDERGARTEN THROUGH TWELFTH GRADE (K-12) SCHOLARSHIPS TO ECONOMICALLY DISADVANTAGED CHILDREN BY PROVIDING A TAX CREDIT FOR CORPORATE OR INDIVIDUAL DONORS FOR CONTRIBUTIONS TO NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS
10. **ISP2011-093 BY REP. HYDE** TO CREATE AN EXEMPTION FROM THE SALES AND USE TAX FOR ELECTRIC VEHICLES
11. **ISP2011-121 BY SEN. RAPERT** TO PROVIDE ECONOMIC RELIEF TO CITIZENS OF THE STATE OF ARKANSAS IN ORDER TO ENSURE THAT ITS CITIZENS HAVE THE OPPORTUNITY TO SUCCEED BY AMENDING THE INCOME TAX ACT OF 1929 REGARDING THE INCOME TAX RATES FOR PERSONS LIVING IN CERTAIN COUNTIES
12. **ISP2011-129 BY REP. KING** TO AMEND THE TAX ON DYED DISTILLATE SPECIAL FUELS USED FOR OFF-ROAD PURPOSES
13. **ISP2011-130 BY REP. COWLING** TO GRADUALLY REDUCE THE SALES AND USE TAX ON UTILITIES THAT ARE USED BY QUALIFYING AGRICULTURAL STRUCTURES AND QUALIFYING AGRICULTURE, HORTICULTURE, AND AQUACULTURE EQUIPMENT
14. **ISP2011-131 BY REP. COWLING** AN ACT CONCERNING SALES AND USE TAX EXEMPTIONS FOR AGRICULTURAL EQUIPMENT, MACHINERY, AND SUPPLIES
15. **ISP2011-132 BY REP. GILLAM** TO PROVIDE AN INCOME TAX CREDIT FOR VOLUNTEER FIREFIGHTERS
16. **ISP2011-133 BY REP. COWLING** TO GRADUALLY REDUCE THE SALES AND USE TAX LEVIED ON NATURAL GAS AND ELECTRICITY USED BY MANUFACTURERS
17. **ISP2011-157 BY REP. BIVIANO** TO INCREASE THE EQUITY INVESTMENT FUND TAX CREDIT
18. **ISP2011-163 BY SEN. MADISON** TO ACHIEVE FAIRNESS AMONG RETAILERS BY CLARIFYING THE APPLICATION OF THE GROSS RECEIPTS TAX AND COMPENSATING USE TAX TO CONSIGNMENT SALES
19. **ISP2011-175 BY SEN. HUTCHINSON** A STUDY CONCERNING THE FILING OF LIENS AGAINST DELINQUENT TAXPAYERS BY THE DEPARTMENT OF FINANCE AND ADMINISTRATION

D. Other Business

E. Adjournment

INTERIM STUDY PROPOSAL 2011-054

State of Arkansas  
88th General Assembly  
Regular Session, 2011

# A Bill

SENATE BILL 771

By: Senator Crumbly

Filed with: Interim Senate Committee on Revenue and Taxation  
pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

AN ACT TO CREATE A TAX INCENTIVE TO ATTRACT NEW  
BUSINESS AND EXPAND EXISTING BUSINESSES IN AREAS THAT  
HAVE HIGH POVERTY OR HIGH UNEMPLOYMENT; AND FOR OTHER  
PURPOSES.

### Subtitle

TO CREATE A TAX INCENTIVE TO ATTRACT NEW  
BUSINESS AND EXPAND EXISTING BUSINESSES  
IN AREAS THAT HAVE HIGH POVERTY OR HIGH  
UNEMPLOYMENT.

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

SECTION 1. Arkansas Code § 26-51-303(a)(9) and (10), concerning  
exemption from the Income Tax Act of 1929, § 26-51-101 et seq., are amended  
to read as follows:

(9) Corporations, trusts, and any community chest, fund, or  
foundation, organized and operated exclusively for religious, charitable,  
scientific, literary, or educational purposes, or for the prevention of  
cruelty to children or animals, no part of the net earnings of which inures  
to the benefit of any private shareholder or individual, no substantial part  
of the activities of which is carrying on propaganda or otherwise attempting  
to influence legislation, and which does not participate in, or intervene in,  
including the publishing or distributing of statements, any political

1 campaign on behalf of or in opposition to any candidate for public office;  
2 and

3 (10) A political organization that does not have political  
4 organization taxable income for the tax year under 26 U.S.C. § 527, as in  
5 effect on January 1, 2009; and

6 (11)(A) Except as provided in subdivision (11)(B), beginning  
7 January 1, 2012, and ending December 31, 2027, a business, partnership,  
8 limited liability company, or corporation that for at least eighteen (18)  
9 months:

10 (i)(a) Expands its established business by  
11 increasing its workforce by twenty-five percent (25%); or

12 (b)(1) Is a new business, partnership, limited  
13 liability company, or corporation with a workforce of at least twenty-five  
14 (25) full-time employees that work at least forty (40) hours per week.

15 (2) A new business does not mean a  
16 business that has just changed its name or reincorporated in order to take  
17 advantage of the exemption provided in this section;

18 (ii) Is located in a county in which a major new  
19 business, partnership, limited liability company, or corporation has not  
20 opened or begun operating within the last two (2) years; and

21 (a) The poverty rate of the county for the  
22 preceding calendar year as reported by the United States Department of  
23 Agriculture is at least fifty percent (50%) above the state average; or

24 (b) The unemployment rate is equal to or in  
25 excess of one hundred thirty-five percent (135%) of the state's average  
26 unemployment rate for the preceding calendar year as specified by statewide  
27 annual labor force statistics compiled by the Department of Workforce  
28 Services; and

29 (iii) Has submitted an application and been approved  
30 as an eligible business, partnership, limited liability company, or  
31 corporation by the Arkansas Economic Development Commission as meeting all  
32 the criteria contained in this subdivision (a)(11).

33 (a) The application submitted to the Arkansas  
34 Economic Development Commission shall contain such information as may be  
35 required by the Director of the Arkansas Economic Development Commission to  
36 determine eligibility.



1           (3) "Full-time employee" means an employee that works at least  
2 forty (40) hours per week;

3           (4) "Major new company" means a company with at least twenty-  
4 five (25) full-time employees; and

5           (5) "Targeted county" means a county in which:

6                   (A) A major new company has not opened or begun operating  
7 within its boundaries within the last two (2) years; and

8                           (i) The poverty rate of the county as reported by  
9 the United States Department of Agriculture is at least fifty percent (50%)  
10 above the state average; or

11                           (ii) The unemployment rate is equal to or in excess  
12 of one hundred thirty-five percent (135%) of the state's average unemployment  
13 rate for the preceding calendar year as specified by statewide annual labor  
14 force statistics compiled by the Department of Workforce Services;

15           (b) Except as provided in subsection (e) of this section, beginning  
16 January 1, 2012, and ending December 31, 2027, the gross receipts or gross  
17 proceeds derived from the sale of tangible personal property or a service to  
18 an eligible company are exempt from the gross receipts tax levied by this  
19 chapter and the compensating use tax levied by the Arkansas Compensating Tax  
20 Act of 1949, § 26-53-101, et seq.

21           (c) The application submitted to the Arkansas Economic Development  
22 Commission shall contain such information as may be required by the Director  
23 of the Arkansas Economic Development Commission to determine eligibility.

24           (d)(1) Upon determination by the Director of the Arkansas Economic  
25 Development Commission that the company qualifies for the tax exemption under  
26 this section, the Director of the Arkansas Economic Development Commission  
27 shall certify to the Director of the Department of Finance and Administration  
28 that the company is an eligible company and transmit with his or her  
29 certification the documents upon which the certification was based or copies  
30 of the documents.

31           (2) Upon receipt by the Director of the Department of Finance  
32 and Administration of a certification from the Director of the Arkansas  
33 Economic Development Commission that the applicant is an eligible company,  
34 the Director of the Department of Finance and Administration shall certify  
35 the eligible company as being exempt from the gross receipts tax levied by

1 this chapter and the compensating use tax levied by the Arkansas Compensating  
2 Tax Act of 1949, § 26-53-101, et seq.

3 (e) An eligible company that locates in a county that has not had a  
4 new company with at least twenty-five (25) employees locate within its  
5 borders for more than five (5) years, is eligible for the sales and use tax  
6 exemption beginning January 1, 2012, and ending December 31, 2037.

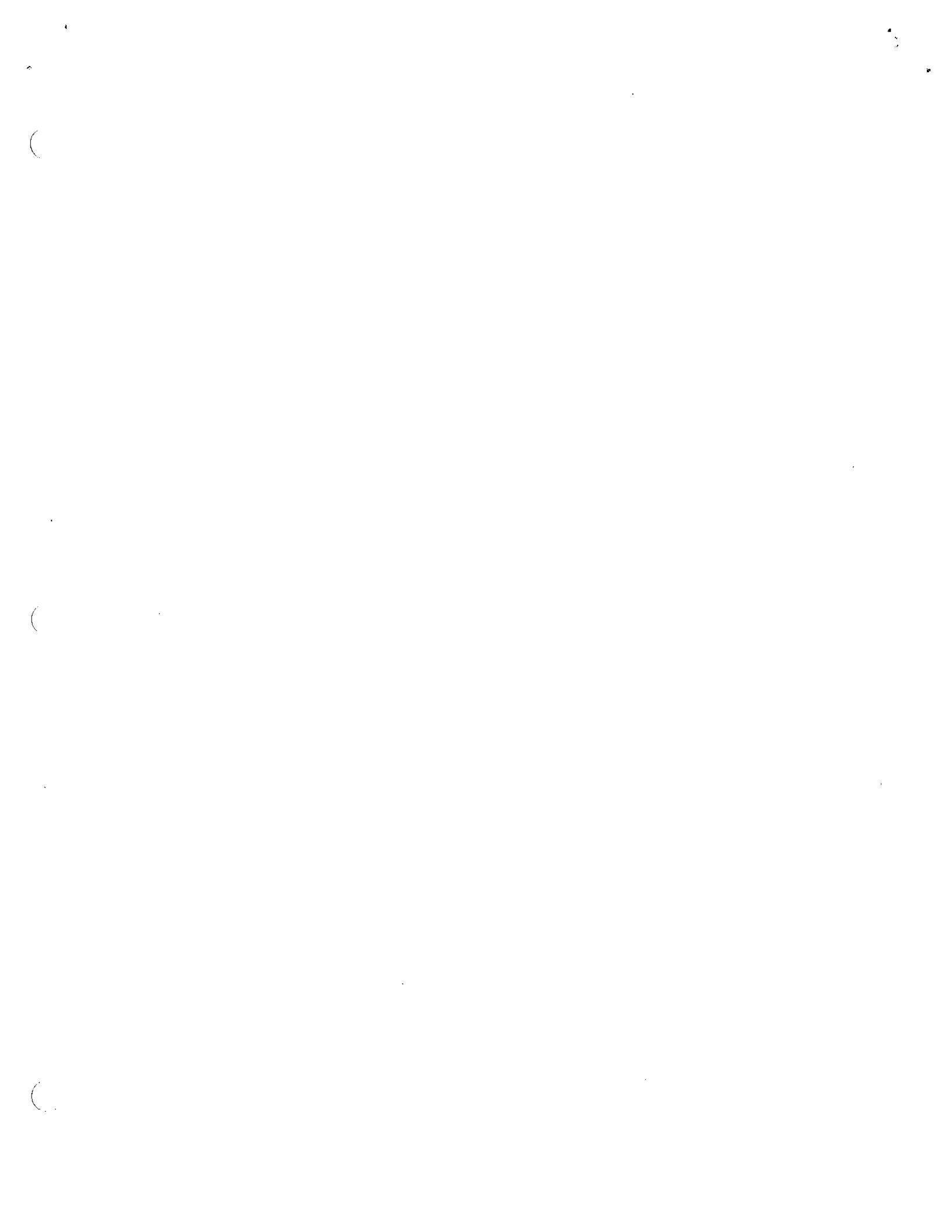
7 (f) The Director of the Arkansas Economic Development Commission may  
8 promulgate such rules and regulations as are necessary to carry out the  
9 intent and purposes of this subchapter.

10  
11 SECTION 3. EFFECTIVE DATE. This act is effective beginning January 1,  
12 2012.

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14  
15 Referred by the Arkansas Senate

16 Prepared by: MMC/VJF  
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INTERIM STUDY PROPOSAL 2011-066

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

HOUSE BILL 1023

4 By: Representative English

5  
6 Filed with: Interim House Committee on Revenue and Taxation  
7 pursuant to A.C.A. §10-3-217.  
8

## For An Act To Be Entitled

9  
10 AN ACT TO EXEMPT FROM INCOME TAX A LIMITED AMOUNT OF  
11 RETIREMENT BENEFITS RECEIVED FOR SERVICE IN THE ARMED  
12 FORCES; AND FOR OTHER PURPOSES.  
13

### Subtitle

14 TO EXEMPT FROM INCOME TAX A LIMITED AMOUNT  
15 OF RETIREMENT BENEFITS RECEIVED FOR SERVICE  
16 IN THE ARMED FORCES.  
17

18  
19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 26-51-307 is amended to read as follows:  
23 26-51-307. Retirement or disability benefits.

24 (a)(1) The first six thousand dollars (\$6,000) of benefits received by  
25 any resident of this state from an individual retirement account or the first  
26 six thousand dollars (\$6,000) of retirement benefits received by any resident  
27 of this state from public or private employment-related retirement systems,  
28 plans, or programs, regardless of the method of funding for these systems,  
29 plans, or programs, ~~shall be~~ is exempt from the state income tax.

30 (2)(A) Only individual retirement account benefits received by  
31 an individual retirement account participant after reaching fifty-nine and  
32 one-half (59½) years of age qualify for the exemption.

33 (B) The only other distributions or withdrawals from an  
34 individual retirement account that qualify for the exemption before the  
35 individual retirement account participant reaches fifty-nine and one-half

1 (59½) years of age are those made on account of the participant's death or  
2 disability.

3 (C) All other premature distributions or early withdrawals  
4 including, ~~but not limited to,~~ without limitation those taken for medical-  
5 related expenses, higher education expenses, or a first-time home purchase do  
6 not qualify for the exemption.

7 (b)(1)(A) Except as provided in subdivision (b)(2) and subsection (e)  
8 of this section, the exemption provided for in subsection (a) of this section  
9 for benefits received from an individual retirement account or from a public  
10 or private employment-related retirement system, plan, or program ~~shall be~~ is  
11 the only exemption from the state income tax allowed for benefits received  
12 from an individual retirement account or from any publicly or privately  
13 supported employment-related retirement system, plan, or program, excepting  
14 only benefits received under systems, plans, or programs which are by federal  
15 law exempt from the state income tax.

16 (B) ~~No~~ Except as provided in subsection (e) of this  
17 section, no taxpayer shall not receive an exemption greater than six thousand  
18 dollars (\$6,000) during any tax year under ~~the provisions of~~ this section.

19 (2) ~~The provisions of this~~ This section shall not apply to  
20 retirement or disability benefits received under a plan, system, or fund  
21 described in § 26-51-404(b)(6).

22 (c)(1) Section 72 of the Internal Revenue Code of 1986, as in effect  
23 on January 1, 2009, is the sole method by which a recipient of benefits from  
24 an individual retirement account or from public or private employment-related  
25 retirement systems, plans, or programs may deduct or recover his or her cost  
26 of contribution to the plan when computing his or her income for state income  
27 tax purposes.

28 (2) A taxpayer shall not be allowed to deduct or recover any  
29 portion of the taxpayer's cost of contribution to the plan that the taxpayer:

30 (A) Has ~~once~~ already deducted or recovered; or

31 (B) Would have been allowed to deduct or recover under any  
32 provision of law or court decision.

33 (d)(1) An individual who is sixty-five (65) years of age or older and  
34 who does not claim an exemption under subsection (a) of this section ~~shall be~~  
35 is entitled to an additional state income tax credit of twenty dollars  
36 (\$20.00).

1           (2) This credit is in addition to all other credits allowed by  
2 law.

3           (e) The retirement benefits received by a resident of this state from  
4 the armed forces are exempt from the income tax imposed by the Income Tax Act  
5 of 1929, § 26-51-101 et seq., as follows:

6           (1) For tax year 2011, the first nine thousand dollars (\$9,000);

7           (2) For tax year 2012, the first fourteen thousand dollars  
8 (\$14,000);

9           (3) For tax year 2013, the first nineteen thousand dollars  
10 (\$19,000);

11           (4) For tax year 2014, the first twenty-four thousand dollars  
12 (\$24,000);

13           (5) For tax year 2015, the first twenty-nine thousand dollars  
14 (\$29,000); and

15           (6) For tax years beginning on and after January 1, 2016, the  
16 first thirty-five thousand dollars (\$35,000).

17           (f) As used in subsection (e) of this section, "armed forces" means  
18 the United States Air Force, the United States Army, the United States Coast  
19 Guard, the United States Marine Corps, the United States Navy, the National  
20 Guard of any state, the reserve components of any of the armed forces listed  
21 in this subsection, and any other branch of the military and naval forces or  
22 auxiliaries of any state or the United States.

23           (f) A taxpayer claiming an exemption under subsection (e) of this  
24 section is not eligible for an exemption under subsection (a) of this  
25 section.

26  
27           SECTION 2. Effective date. This act is effective for tax years  
28 beginning on or after January 1, 2011.

29  
30 Referred by the Arkansas House of Representatives

31 Prepared by: JLL/VJF



INTERIM STUDY PROPOSAL 2011-069

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

HOUSE BILL 1757

4 By: Representative Linck

5  
6 Filed with: Interim House Committee on Revenue and Taxation  
7 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

8 AN ACT TO CREATE AN EXEMPTION FROM THE SALES AND USE  
9 TAX FOR UTILITIES USED BY A VOLUNTEER FIRE  
10 DEPARTMENT; AND FOR OTHER PURPOSES.

### Subtitle

11 TO CREATE AN EXEMPTION FROM THE SALES AND  
12 USE TAX FOR UTILITIES USED BY A VOLUNTEER  
13 FIRE DEPARTMENT.

14  
15  
16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

17 SECTION 1. Arkansas Code § 26-52-434 is amended to read as follows:  
18 26-52-434. Fire protection equipment and emergency equipment =

19 Utilities.

20  
21 (a) The gross receipts or gross proceeds derived from a purchase of or  
22 a repair to fire protection equipment and emergency equipment to be owned by  
23 and exclusively used by a volunteer fire department are exempt from the taxes  
24 levied under:

- 25 (1) This chapter;
- 26 (2) The Arkansas Compensating Tax Act of 1949, § 26-53-101 et  
27 seq.; and
- 28 (3) All other state, local, and county sales and use taxes.

29 (b) The gross receipts or gross proceeds derived from a purchase of  
30 supplies and materials to be used in the construction and maintenance of  
31 volunteer fire departments, including without limitation improvements and  
32

1 fixtures ~~thereon~~ on the volunteer fire department, and property of any nature  
2 appurtenant ~~thereto~~ to the volunteer fire department or used in connection  
3 ~~therewith~~ with the volunteer fire department are exempt from the taxes levied  
4 under:

5 (1) This chapter;

6 (2) The Arkansas Compensating Tax Act of 1949, § 26-53-101 et  
7 seq.; and

8 (3) All other state, local, and county sales and use taxes.

9 (c) The gross receipts or gross proceeds derived from the sale of  
10 electricity, natural gas, propane gas, water, and communication services sold  
11 as a utility or provided as a public service and used by a volunteer fire  
12 department are exempt from the taxes levied under:

13 (1) This chapter;

14 (2) The Arkansas Compensating Tax Act of 1949, § 26-53-101 et  
15 seq.; and

16 (3) All other state, local, and county sales and use taxes.  
17

18 SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective on the  
19 first day of the calendar quarter following the effective date of this act.  
20

21 Referred by the Arkansas House of Representatives

22 Prepared by: JLL/VJF  
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INTERIM STUDY PROPOSAL 2011-074

1  
2 State of Arkansas  
3 88th General Assembly  
4 Regular Session, 2011

*As Engrossed: S3/15/11*

**A Bill**

SENATE BILL 758

5  
6 By: Senator M. Lamoureux  
7 By: Representative Hammer

8 Filed with: Interim Senate Committee on Revenue and Taxation  
9 pursuant to A.C.A. §10-3-217.

10 **For An Act To Be Entitled**

11 AN ACT TO REPEAL CERTAIN INCOME TAX EXEMPTIONS,  
12 CREDITS, INCENTIVES, REDUCED RATES, AND OTHER  
13 SECTIONS OF THE ARKANSAS CODE THAT REDUCE TAX  
14 LIABILITY; TO PROVIDE FOR CORRESPONDING REDUCTION TO  
15 THE INCOME TAX RATES FOR INDIVIDUALS, TRUSTS, AND  
16 ESTATES; AND FOR OTHER PURPOSES.

17  
18  
19 **Subtitle**

20 TO REPEAL CERTAIN INCOME TAX EXEMPTIONS,  
21 CREDITS, INCENTIVES, REDUCED RATES, AND  
22 OTHER STATUTES THAT REDUCE TAX LIABILITY  
23 AND TO PROVIDE FOR A CORRESPONDING  
24 ADJUSTMENT TO THE INCOME TAX RATES FOR  
25 INDIVIDUALS, TRUSTS, AND ESTATES.

26  
27  
28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

29  
30 SECTION 1. Arkansas Code Title 26, Chapter 51, Subchapter 2 is amended  
31 to add an additional section to read as follows:

32 26-51-208. Adjustment of tax rates.

33 (a)(1) For each of the tax years 2013 through 2017 inclusive, and for  
34 each tax year thereafter as stated in subsection (b), the Department of  
35 Finance and Administration shall calculate the individual amount of income  
36 tax that the state would have received with respect to each exemption,



1 credit, incentive, reduced tax rate, and other section of the Arkansas Code  
2 that reduces tax liability if the exemptions, credits, incentives, reduced  
3 tax rates, and other sections of the Arkansas Code that reduce tax liability  
4 that are repealed by this act were not in effect.

5 (2) The department shall:

6 (A) Calculate the sum over five (5) years of the  
7 individual amounts calculated under subdivision (a)(1) of this section for  
8 each of the exemptions, credits, incentives, reduced tax rates, and other  
9 sections of the Arkansas Code that reduce tax liability that were in effect  
10 on the effective date of this act but are not effective as of January 1,  
11 2019;

12 (B) Determine the average of each of the individual  
13 amounts calculated under subdivision (a)(2)(A) of this section; and

14 (C) Calculate the adjustment in the tax rates stated in §  
15 26-51-201 that would be necessary to reduce the tax rates in a proportional  
16 manner that causes the total income tax receipt reduction to match the total  
17 of the average amounts calculated under subdivision (a)(2)(B) of this  
18 section.

19 (b)(1) For tax year 2019, the tax rates stated in § 26-51-201 shall be  
20 adjusted according to the calculation provided in subdivision (a)(2) of this  
21 section.

22 (2) For tax years beginning on and after January 1, 2020, the  
23 tax rates stated in § 26-51-201 shall be adjusted:

24 (A) According to the calculation provided in subdivision  
25 (a)(2) of this section; and

26 (B) Based on the individual amounts of income tax that the  
27 state would have received during the previous five (5) tax years for each of  
28 the exemptions, credits, incentives, reduced tax rates, and other sections of  
29 the Arkansas Code that reduce tax liability that were in effect on the  
30 effective date of this act but are not effective as of the date of the  
31 calculation.

32 (3) The department shall calculate the adjustment provided under  
33 this subsection (b) by January 1 of the year in which the adjusted rates are  
34 effective.

35  
36 SECTION 2. Arkansas Code § 26-51-201 is amended to read as follows:

1 26-51-201. Individuals, trusts, and estates.

2 (a) A tax is imposed upon, ~~and with respect to,~~ the entire income of  
3 every resident, individual, trust, or estate. The tax shall be levied,  
4 collected, and paid annually upon the entire net income as defined and  
5 computed in this chapter at the following rates, ~~giving effect to the tax~~  
6 ~~credits provided hereafter,~~ and in the manner ~~set forth~~ stated:

7 (1) On the first two thousand nine hundred ninety-nine dollars  
8 (\$2,999) of net income or any part thereof, one percent (1%);

9 (2) On the next three thousand dollars (\$3,000) of net income or  
10 any part thereof, two and one-half percent (2½%);

11 (3) On the next three thousand dollars (\$3,000) of net income or  
12 any part thereof, three and one-half percent (3½%);

13 (4) On the next six thousand dollars (\$6,000) of net income or  
14 any part thereof, four and one-half percent (4½%);

15 (5) On the next ten thousand dollars (\$10,000) of net income or  
16 any part thereof, six percent (6%); and

17 (6) On net income of twenty-five thousand dollars (\$25,000) and  
18 above, seven percent (7%).

19 (b) However, no state income tax ~~shall be~~ is due ~~this~~ the state from a  
20 trust or estate created by a nonresident donor, trustor, or settlor, or by a  
21 nonresident testator even though administered by a resident trustee or  
22 personal representative except on income derived from:

23 (1) ~~Lands~~ Land situated in ~~this~~ the state, including without  
24 limitation gains from ~~any~~ a sale thereof;

25 (2) ~~Any~~ An interest in ~~lands~~ land situated in ~~this~~ the state,  
26 including, without limitation, chattels real, ~~including~~ and gains from ~~any~~ a  
27 sale thereof;

28 (3) Tangible personal property located in ~~Arkansas~~ the state,  
29 including without limitation gains from ~~any~~ a sale thereof; and

30 (4) ~~Unincorporated businesses~~ An unincorporated business  
31 domiciled in ~~Arkansas~~ the state.

32 (c) No income tax ~~shall be~~ is due the ~~State of Arkansas~~ state from a  
33 nonresident beneficiary on income received from a trust being administered by  
34 a resident trustee except on income derived by the trust from:

35 (1) ~~Lands~~ Land situated in ~~this~~ the state, including without  
36 limitation gains from ~~any~~ a sale thereof;

1           (2) Any An interest in ~~lands~~ land situated in ~~this~~ the state,  
2 including, without limitation, chattels real, ~~including and~~ gains from any a  
3 sale thereof;

4           (3) Tangible personal property located in Arkansas the state,  
5 including without limitation gains from any a sale thereof; and

6           (4) ~~Unincorporated businesses~~ An unincorporated business  
7 domiciled in Arkansas the state.

8           (d)(1) Not later than December 15 of 1998, and each subsequent  
9 calendar year, the ~~director~~ Director of the Department of Finance and  
10 Administration shall prescribe a table ~~which~~ that shall apply in lieu of the  
11 table contained in § 26-51-201(a) with respect to taxable years beginning in  
12 the succeeding calendar year.

13           (A)(i) The director shall increase the minimum and maximum  
14 dollar amounts for each rate bracket ~~(rounding to the nearest \$100)~~ for which  
15 a tax is imposed under ~~such~~ the table by the cost-of-living adjustment ~~(COLA)~~  
16 for ~~such~~ the calendar year and ~~by not changing the rate applicable to any~~  
17 ~~rate bracket as adjusted.~~

18           (ii) The adjusted minimum and maximum dollar amounts  
19 for each rate bracket shall be rounded to the nearest one hundred dollars  
20 (\$100).

21           (iii) The director shall not change the rate  
22 applicable to any rate bracket as adjusted.

23           (B) The yearly COLA cost-of-living adjustment increase in  
24 each rate bracket as provided in subdivision (d)(2) of this section shall  
25 apply to the brackets as contained in § 26-51-201(a) as in effect on January  
26 1, 1998.

27           ~~(2) For purposes of subdivision (d)(1) of this section, the~~  
28 ~~cost-of-living adjustment for any calendar year is the percentage (if any) by~~  
29 ~~which the CPI for the calendar year preceding the taxable year exceeds the~~  
30 ~~CPI for the calendar year 1997, not to exceed three percent (3%). The CPI for~~  
31 ~~any calendar year is the average of the Consumer Price Index as of the close~~  
32 ~~of the 12 month period ending on August 31 of such calendar year. "Consumer~~  
33 ~~Price Index" means the last Consumer Price Index for all urban consumers~~  
34 ~~published by the Department of Labor.~~

35           (2) As used in subsection (d) of this section:

1                   (A) "Average consumer price index" means, for a calendar  
 2 year, the average of the consumer price index as of the close of the 12-month  
 3 period ending on August 31 of the calendar year in which the average is being  
 4 determined.

5                   (B) "Consumer price index" means the last Consumer Price  
 6 Index for All Urban Consumers published by the Department of Labor; and

7                   (C) "Cost-of-living adjustment" means the percentage, if  
 8 any, by which the average consumer price index for the calendar year  
 9 preceding the taxable year exceeds the average consumer price index for the  
 10 calendar year 1997, not to exceed three percent (3%).

11                   (3) The new tables, as adjusted, shall apply for tax returns  
 12 filed for taxable year 1999 and thereafter, and shall be used by the director  
 13 in preparing the income tax withholding tables pursuant to § 26-51-907.

14                   (e) The tax rates stated in subsection (a) of this section are subject  
 15 to the adjustment stated in § 26-51-208.

16  
 17                   SECTION 3. Arkansas Code § 6-45-109 is amended to read as follows:

18                   6-45-109. Certification by the Division of Child Care and Early  
 19 Childhood Education.

20                   ~~(a)~~ The Division of Child Care and Early Childhood Education shall  
 21 certify child care facilities which have an appropriate early childhood  
 22 program, as defined in § 6-45-103. Certification numbers shall be issued to  
 23 those child care facilities that meet the applicable qualifications.

24                   (b) Upon certification of the child care facilities, the division  
 25 shall provide a listing of all certified facilities and their certification  
 26 numbers to the Director of the Department of Finance and Administration for  
 27 the purpose of the income tax credit or refund provided for in §§ 26-51-502  
 28 ~~and 26-51-507.~~

29  
 30                   SECTION 4. Arkansas Code § 9-28-408(a), concerning the church-related  
 31 exemption under the Child Welfare Agency Licensing Act, is amended to read as  
 32 follows:

33                   (a)(1) Any church or group of churches ~~exempt from the state income~~  
 34 ~~tax levied by § 26-51-101 et seq.~~ when operating a child welfare agency shall  
 35 may be exempt exempted from obtaining a license to operate the facility by  
 36 the receipt by the Child Welfare Agency Review Board of written request

1 therefor, together with the written verifications required in subsection (b)  
2 of this section.

3 (2) A written request shall be made by those churches desiring  
4 exemption to the board, which is mandated under the authority of this  
5 subchapter to license all child welfare agencies.  
6

7 SECTION 5. Arkansas Code § 11-10-314(j)(2), concerning the disclosure  
8 of information under the Department of Workforce Services Law, is amended to  
9 read as follows:

10 (2) The Revenue Division of the Department of Finance and  
11 Administration may be provided:

12 (A) Such information as is required and necessary by the  
13 Arkansas Enterprise Zone Act of 1993, § 15-4-1701 et seq., and the Arkansas  
14 Economic Development Act of 1995, § 15-4-1901 et seq.; and

15 ~~(B) The net increase in employment at manufacturing and~~  
16 ~~mining establishments as defined in § 26-51-505 which are participating in~~  
17 ~~the manufacturing jobs tax credit program created by § 26-51-505 if the~~  
18 ~~division provides a list of employers by name, location, and the period of~~  
19 ~~time for which the data is sought; and~~

20 ~~(C)~~ (B) Such information as is necessary for the effective  
21 operation of their respective programs to allow cooperation between the  
22 division and the Department of Workforce Services;  
23

24 SECTION 6. Arkansas Code § 14-164-203(12), concerning the definition  
25 of "technology-based enterprises" under the Municipalities and Counties  
26 Industrial Development Revenue Bond Law, is amended to read as follows:

27 (12) "Technology-based enterprises" means:

28 (A) A grouping of growing business sectors, identified as  
29 targeted businesses ~~in § 15-4-2703(43)(A) and which~~ that pay one hundred  
30 fifty percent (150%) of the lesser of the county or state average wage;

31 (B) "Scientific and technical services business" ~~as~~  
32 ~~defined in § 15-4-2703(33);~~

33 (C) A corporation, partnership, limited liability company,  
34 sole proprietorship, or other legal entity whose primary business directly  
35 involves commercializing the results of research conducted in one (1) of the  
36 six (6) growing business sectors identified as targeted businesses ~~in § 15-4-~~

1 ~~2703(43)(A)~~ and paying not less than one hundred fifty percent (150%) of the  
2 lesser of the county or state average wage; and

3  
4 SECTION 7. Arkansas Code § 14-164-203, concerning the definitions used  
5 under the Municipalities and Counties Industrial Development Revenue Bond  
6 Law, is amended to add two additional subdivisions to read as follows:

7 (14) "Scientific and technical services business" means a  
8 business:

9 (A) Primarily engaged in performing scientific and  
10 technical activities for others, including:

11 (i) Architectural and engineering design;

12 (ii) Computer programming and computer systems  
13 design; and

14 (iii) Scientific research and development in the  
15 physical, biological, and engineering sciences;

16 (B) Selling expertise;

17 (C) Having production processes that are almost wholly  
18 dependent on worker skills;

19 (D) Deriving at least seventy-five percent (75%) of its  
20 sales revenue from out of state; and

21 (E) Paying average hourly wages that exceed one hundred  
22 fifty percent (150%) of the county or state average hourly wage, whichever is  
23 less; and

24 (15) "Targeted businesses" means a grouping of growing business  
25 sectors, not to exceed six (6), that include the following:

26 (A) Advanced materials and manufacturing systems;

27 (B) Agriculture, food, and environmental sciences;

28 (C) Biotechnology, bioengineering, and life sciences;

29 (D) Information technology;

30 (E) Transportation logistics; and

31 (F) Bio-based products.

32  
33 SECTION 8. Arkansas Code § 15-3-403 is amended to read as follows:

34 15-3-403. Eligibility for grants.

35 To qualify for a grant authorized under § 15-3-404, a business shall:

1 (1) Have operations within the State of Arkansas that are in one  
2 (1) of the six (6) following categories of targeted businesses ~~identified in~~  
3 ~~§ 15-4-2703(43)(A);~~;

4 (i) Advanced materials and manufacturing systems;  
5 (ii) Agriculture, food, and environmental sciences;  
6 (iii) Biotechnology, bioengineering, and life  
7 sciences;

8 (iv) Information technology;

9 (v) Transportation logistics; and

10 (vi) Bio-based products;

11 (2) Pay average hourly wages in excess of one hundred ten  
12 percent (110%) of the county or state average hourly wage, whichever is less;

13 (3) Agree to hire a postdoctoral graduate; and

14 (4) Provide proof that the postdoctoral graduate is an Arkansas  
15 taxpayer and a resident of the State of Arkansas.

16  
17 SECTION 9. Arkansas Code § 15-4-220 is repealed.

18 ~~15-4-220. Audit of economic incentive programs.~~

19 ~~(a) In order to provide information to the General Assembly regarding~~  
20 ~~the benefits of certain economic incentive programs, the Division of~~  
21 ~~Legislative Audit shall prepare a cost-benefit analysis of the incentive~~  
22 ~~programs provided under the Consolidated Incentive Act of 2003, § 15-4-2701~~  
23 ~~et seq.~~

24 ~~(b) The analysis may include, but not be limited to:~~

25 ~~(1) The dollar amount of incentives actually provided;~~

26 ~~(2) The direct and indirect state and local benefits associated~~  
27 ~~with each program; and~~

28 ~~(3) The safeguards to protect noneconomic influences in the~~  
29 ~~award of incentives.~~

30 ~~(c)(1) The analysis may be conducted annually on a rotating basis so~~  
31 ~~that each incentive program provided under the Consolidated Incentive Act of~~  
32 ~~2003, § 15-4-2701 et seq., is evaluated at least one (1) time every five (5)~~  
33 ~~years.~~

34 ~~(2) Should the division's staff be insufficient to conduct the~~  
35 ~~scheduled analysis in a given year, the executive committee of the~~  
36 ~~Legislative Joint Auditing Committee may establish the priority and number of~~

INTERIM STUDY PROPOSAL 2011-076

State of Arkansas  
88th General Assembly  
Regular Session, 2011

**A Bill**

SENATE BILL 331

By: Senator Files

Filed with: Interim Senate Committee on Revenue and Taxation  
pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

AN ACT TO CLARIFY THE EXEMPTION FROM SALES AND USE  
TAX FOR REPLACEMENTS OF MANUFACTURING MACHINERY AND  
EQUIPMENT THAT IMPROVE, MODERNIZE, AND EXPAND  
EXISTING FACILITIES; TO DECLARE AN EMERGENCY; AND FOR  
OTHER PURPOSES.

**Subtitle**

TO CLARIFY THE EXEMPTION FROM SALES AND  
USE TAX FOR REPLACEMENTS OF MANUFACTURING  
MACHINERY AND EQUIPMENT THAT IMPROVE,  
MODERNIZE, AND EXPAND EXISTING FACILITIES  
AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 26-52-402(a)(2), concerning the sales tax  
exemption for manufacturing machinery and equipment, is amended to read as  
follows:

(2)(A)(i) Machinery purchased to replace existing machinery and  
used directly in producing, manufacturing, fabricating, assembling,  
processing, finishing, or packaging of articles of commerce at manufacturing  
or processing plants or facilities in this state will be exempt under this  
subdivision (a)(2).

(ii) Machinery purchased to replace existing  
machinery includes machinery and equipment described in either subdivision



1 (a)(2)(B) or (a)(2)(C) of this section.

2 (B)(i) As used in subdivision (a)(2)(A) of this section,  
3 "machinery purchased to replace existing machinery" means that substantially  
4 all of the machinery and equipment required to perform an essential function  
5 is physically replaced with new machinery.

6 (ii) As used in subdivision (a)(2)(B)(i) of this  
7 section, "substantially" is intended to exclude routine repairs and  
8 maintenance and partial replacements that do not improve efficiency or extend  
9 the useful life of the entire machine, but it is not intended to mean that  
10 foundations and minor components that can be economically adapted, rebuilt,  
11 or refurbished must be completely replaced when replacement would be more  
12 expensive or impracticable than adapting, rebuilding, or refurbishing the old  
13 foundation or minor components.

14 (C)(i) As used in subdivision (a)(2)(A) of this section,  
15 "machinery purchased to replace existing machinery" also means partial  
16 replacements, additions or enhancements of machinery or equipment that:

17 (a) Improve efficiency or extend the useful  
18 life of an entire machine as installed and utilized immediately before the  
19 replacements, additions or enhancements were made;

20 (b) Modernize old, inefficient, or  
21 technologically obsolete machinery or equipment; or

22 (c) Economically or physically expand existing  
23 manufacturing or processing facilities within this state.

24 (ii) As used in subdivision (a)(2)(C)(i) of this  
25 section, "partial replacements, additions, or enhancements" is intended to  
26 exclude routine repairs and maintenance of machinery or equipment and partial  
27 replacements that do not meet the requirements of subdivision (a)(2)(C)(i) of  
28 this section.

29 (D) It is the intent of this subdivision (a)(2) to provide  
30 the exemptions in subdivision (a)(1) of this section and this subdivision  
31 (a)(2) as incentives to encourage the location of new manufacturing plants in  
32 Arkansas, the expansion of existing manufacturing plants in Arkansas, and the  
33 modernization of existing manufacturing plants in Arkansas through the  
34 replacement of old, inefficient, or technologically obsolete machinery and  
35 equipment;

1 SECTION 2. Arkansas Code Section 26-53-114(a)(2), concerning the  
 2 compensating use taxation of manufacturing machinery and equipment, is  
 3 amended to read as follows:

4 (2)(A)(i) Machinery purchased to replace existing machinery ~~in~~  
 5 ~~its entirety~~ and used directly in producing, manufacturing, fabricating,  
 6 assembling, processing, finishing, or packaging of articles of commerce at  
 7 manufacturing or processing plants or facilities in this state will be exempt  
 8 under this section.

9 (ii) Machinery used to replace existing machinery  
 10 includes machinery and equipment described in either subdivision (a)(2)(B) or  
 11 (a)(2)(C) of this section.

12 (B)(i) As used in subdivision (a)(2)(A) of this section,  
 13 "machinery purchased to replace existing machinery" means that substantially  
 14 all of the machinery and equipment required to perform an essential function  
 15 is physically replaced with new machinery.

16 (ii) As used in subdivision (a)(2)(B)(i) of this  
 17 section "substantially" is intended to exclude routine repairs and  
 18 maintenance and partial replacements that do not improve efficiency or extend  
 19 the useful life of the entire machine, but it is not intended to mean that  
 20 foundations and minor components ~~which~~ that can be economically adapted,  
 21 rebuilt, or refurbished must be completely replaced when replacement would be  
 22 more expensive or impracticable than adapting, rebuilding, or refurbishing  
 23 the old foundation and minor components; ~~and.~~

24 (C)(i) As used in subdivision (a)(2)(A) of this section,  
 25 "machinery purchased to replace existing machinery" also means partial  
 26 replacements, additions, or enhancements of machinery or equipment that:

27 (a) Improve efficiency or extend the useful  
 28 life of an entire machine as installed and utilized immediately before the  
 29 replacements, additions or enhancements were made;

30 (b) Modernize old, inefficient, or  
 31 technologically obsolete machinery or equipment; or

32 (c) Economically or physically expand existing  
 33 manufacturing or processing facilities within this state.

34 (ii) As used in subdivision (a)(2)(C)(i) of this  
 35 section, "partial replacements, additions, or enhancements" is intended to  
 36 exclude routine repairs and maintenance of machinery or equipment and partial

1 replacements that do not meet the requirements of subdivision (a)(2)(C)(i) of  
2 this section.

3 (D) It is the intent of this subdivision (a)(2) to provide  
4 the exemptions in subdivision (a)(1) of this section and this subdivision  
5 (a)(2) as incentives to encourage the location of new manufacturing plants in  
6 Arkansas, expansion of existing manufacturing plants in Arkansas, and  
7 modernization of existing manufacturing plants in Arkansas through the  
8 replacement of old, inefficient, or technologically obsolete machinery and  
9 equipment; and

10 (3) Machinery and equipment required by state or federal law or  
11 regulations to be installed and utilized by manufacturing or processing  
12 plants or facilities or cities or towns in this state to prevent or reduce  
13 air or water pollution or contamination ~~which~~ that might otherwise result  
14 from the operation of the plants or facility or city or town.

15  
16 SECTION 3. Emergency Clause. It is found and determined by the General  
17 Assembly that differences of opinion have developed between the Department  
18 of Finance and Administration and Arkansas manufacturers concerning the  
19 meaning of important sections of the manufacturing machinery and equipment  
20 exemption, including particularly the exemption for the purchase and  
21 installation of machinery and equipment to modernize and improve the  
22 efficiency of existing machinery and equipment or to expand production or  
23 create new jobs that may not require the replacement of machines in their  
24 entirety; that it is critical to encourage manufacturers to modernize and  
25 retool their plants as economically as possible in order to remain  
26 competitive and preserve Arkansas jobs; and that clarifications to confirm  
27 the intent and purpose of the manufacturing machinery and equipment exemption  
28 are appropriate. Therefore, an emergency is declared to exist and this act  
29 being immediately necessary for the preservation of the public peace, health,  
30 and safety shall become effective on:

31 (1) The date of its approval by the Governor;

32 (2) If the bill is neither approved nor vetoed by the Governor,  
33 the expiration of the period of time during which the Governor may veto the  
34 bill; or

35 (3) If the bill is vetoed by the Governor and the veto is  
36 overridden, the date the last house overrides the veto.

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2 Referred by the Arkansas Senate  
3 Prepared by: MAG/VJF  
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INTERIM STUDY PROPOSAL 2011-084

State of Arkansas

*As Engrossed: S3/28/11*

88th General Assembly

# A Bill

Regular Session, 2011

SENATE BILL 551

By: Senator Salmon

Filed with: Interim Senate Committee on Revenue and Taxation

pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

AN ACT TO OBTAIN ACCURATE LEGAL DESCRIPTIONS OF TAX-DELINQUENT AND OTHER LANDS; TO REGULATE THE SALE AND REDEMPTION OF TAX-DELINQUENT LANDS; AND FOR OTHER PURPOSES.

### Subtitle

TO OBTAIN ACCURATE LEGAL DESCRIPTIONS OF TAX-DELINQUENT AND OTHER LANDS; AND TO REGULATE THE SALE AND REDEMPTION OF TAX-DELINQUENT LANDS.

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

SECTION 1. Arkansas Code § 26-26-717 is amended to read as follows:

26-26-717. Accurate description of all tracts required.

(a)(1)(A) ~~It shall be the duty of each A county assessor to make out, shall assemble from such all available sources of information as shall be in his power, a correct and pertinent description of each tract or lot of real property in his the county, so that it can be identified and distinguished sufficient to identify and distinguish the tract or lot from any other tracts, lots, or parts of tracts or lots.~~

(B) The county assessor shall place a value on each subdivision of a block, and the improvements ~~thereon~~ on each subdivision of a

1 block, in cities, and towns, ~~or~~ and additions thereto to cities and towns,  
 2 notwithstanding the fact that one (1) individual owns the whole block.

3 (2)(A) When the county assessor shall deem considers it  
 4 necessary to obtain an accurate description of any separate a tract or lot in  
 5 his the county, he may require the county assessor shall:

6 (i) Make written demand upon the owner or occupier  
 7 occupant of the tract or lot to furnish it the county assessor with any title  
 8 papers or surveys that he the owner or occupant may have has in his or her  
 9 possession; and

10 (ii) Include in the demand notice that the failure  
 11 of the owner or occupant to comply with the demand may result in the county  
 12 assessor's employment of the county surveyor or a licensed surveyor to  
 13 prepare a description of the tract or lot at the expense of the owner or  
 14 occupant, and the expense shall be added to the tax assessed upon the tract  
 15 or lot.

16 (B)(i) If the owner or occupier, upon demand made for it,  
 17 shall neglect or refuse to furnish a satisfactory description of the parcel  
 18 of real property to the assessor occupant fails or refuses to comply with  
 19 subdivision (a)(2) of this section, he the county assessor may employ the  
 20 county surveyor or a licensed surveyor to make out prepare a description of  
 21 the boundaries, and location thereof, and a statement of the quantity of land  
 22 therein within the tract or lot.

23 (ii) The expense of the survey under subdivision  
 24 (a)(2)(B)(i) of this section shall be returned by the county assessor to the  
 25 clerk of the county court, who shall add the expense of the survey to the tax  
 26 assessed upon the real property tract or lot, and it the expense of the  
 27 survey shall be collected by the county collector of the county with the tax.  
 28 When collected, it the expense of the survey shall be paid on demand to the  
 29 person to whom it is due.

30 (b)(1) The assessor shall, in all cases, from actual view or from the  
 31 best sources of information within his reach, determine, as near as  
 32 practicable, From an actual view of the tract or lot or from the best sources  
 33 available to the county assessor, the county assessor shall determine as near  
 34 as practicable the true value of each separate tract and or lot of real  
 35 property in his the county assessor's county, according to the rules  
 36 prescribed by this chapter for valuing property.

1           (2) ~~The assessor shall note in his plat book, separately, the~~  
2 ~~value of all houses, mills, and other buildings which shall be carried out as~~  
3 ~~a part of the value of the tracts. The county assessor shall note separately~~  
4 in his or her plat book the value of all houses, mills, and other buildings  
5 and shall include the value of a house, mill, or other building as a part of  
6 the value of the tract or lot upon which the house, mill, or other building  
7 sits.

8  
9           SECTION 2. Arkansas Code § 26-26-720 is amended to read as follows:  
10         26-26-720. Correcting descriptions already on books.

11         (a)(1) The Commissioner of State Lands with the approval of the  
12 ~~Attorney General is authorized to have corrected any part description of~~  
13 ~~lands on the books of the Commissioner of State Lands in the manner provided.~~  
14 ~~This authority shall be exercised upon the application of any applicant to~~  
15 ~~purchase or upon application by~~ may correct a partial or incomplete  
16 description of tax-delinquent land on the books of the Commissioner of State  
17 of Lands.

18           (2) Upon application by an applicant to purchase tax-delinquent  
19 land, the Department of Parks and Tourism, the Arkansas Forestry Commission,  
20 ~~or the Arkansas State Game & and Fish Commission, or the Attorney General,~~  
21 the Commissioner of State Lands shall correct a partial or incomplete  
22 description of tax-delinquent land on the books of the Commissioner of State  
23 Lands.

24         (b) The Commissioner of State Lands shall notify the owner of the tax-  
25 delinquent land and all interested parties as defined in § 26-37-301 of the  
26 correction of a description of tax-delinquent land before the sale of the  
27 tax-delinquent land.

28  
29           SECTION 3. Arkansas Code § 26-37-203 is amended to read as follows:  
30         26-37-203. Conveyance to purchaser – Contest.

31         (a)(1) ~~If the tax-delinquent land is not redeemed within the thirty-~~  
32 ~~day period provided by § 26-37-202, the Commissioner of State Lands shall~~  
33 ~~issue convey the tax-delinquent land by issuing a limited warranty deed to~~  
34 ~~the tax-delinquent land, subject to the right of cancellation under~~  
35 subdivision (e)(1) of this section.



1           (2)(A) To obtain the limited warranty deed from the Commissioner  
2 of State Lands, the successful bidder or the successful purchaser by  
3 negotiated sale under § 26-37-202 of tax-delinquent land shall provide the  
4 Commissioner of State Lands a sworn statement evidencing proof of service in  
5 the manner provided by Rule 4 of the Arkansas Rules of Civil Procedure  
6 reflecting that notice of the purchase by the successful bidder or successful  
7 purchaser has been given by:

8                   (i) Actual notice to each person or entity in  
9 possession of any part of the tax-delinquent land; and

10                   (ii) Any form of service to each owner or interested  
11 party as defined by § 26-37-301.

12           (B) Proof of compliance with subdivision (a)(2) of this  
13 section shall be by:

14                   (i) An affidavit of service evidencing compliance  
15 with Rule 4 of the Arkansas Rules of Civil Procedure for each party  
16 identified in subdivision (a)(2)(A) of this section; and

17                   (ii) For each person or entity provided actual  
18 notice under subdivision (a)(2)(A)(i) of this section, an additional sworn  
19 statement containing:

20                           (a) The name of the person or entity;

21                           (b) The resident or business address of the  
22 person or entity;

23                           (c) The address where notice was given;

24                           (d) To whom the notice was given; and

25                           (e) A description of the possessory interest  
26 of the person or entity in the tax-delinquent land.

27           (b)(1) Except as provided in ~~subdivisions~~ subdivision (b)(2) and (3)  
28 of this section, all ~~actions~~ an action to contest the validity of the a  
29 conveyance under this section or a negotiated sale under § 26-37-202 shall be  
30 brought is barred if not commenced within ~~one (1) year~~ fifteen (15) years  
31 after the date of the conveyance or negotiated sale thereafter be barred.

32           (2) A cause of action by a person suffering a disability due to  
33 mental incapacity, a minor, or a person serving in the United States armed  
34 forces during time of war in active duty during the ~~two-year~~ fifteen-year  
35 period under subdivision (b)(1) of this section shall be brought is barred if  
36 not commenced within two (2) years after the disability is removed, the

1 minor reaches majority, or the person is released from active duty with the  
2 United States armed forces.

3 ~~(3) An action to challenge the conveyance to a purchaser of land~~  
4 ~~that was sold at a negotiated sale under § 26-37-101 shall be brought within~~  
5 ~~ninety (90) days after the date of the conveyance or thereafter be barred.~~

6 (c)(1) No Except as provided in subdivision (c)(2) of this section, a  
7 deed issued after January 1, 1987, by the Commissioner of State Lands shall  
8 be is not void or voidable on the ground that the county did not strictly  
9 comply with the laws governing tax-delinquent land if prior to the issuance  
10 of before issuing the deed the Commissioner of State Lands complied with the  
11 laws governing the disposition of tax-delinquent land.

12 (2) A court may set aside a deed issued by the Commissioner of  
13 State Lands if the county assessor failed to strictly comply with §§ 26-26-  
14 717 and 26-26-719.

15 (d) ~~Nothing in this section shall~~ This section does not prevent any a  
16 taxpayer from attacking contesting the validity of a deed issued by the  
17 Commissioner of State Lands on the ground that taxes have actually been paid.

18 (e)(1) A taxpayer or interested party as defined in § 26-37-301 may  
19 obtain the cancellation of a limited warranty deed issued under this section  
20 by filing suit within the time specified in subsection (b) of this section  
21 and depositing into the registry of the court cash or a cashier's check in  
22 the sum determined by the court to equal:

23 (A) The full amount of the consideration paid for the tax-  
24 delinquent land with compound interest at the rate of six percent (6%) per  
25 annum; and

26 (B) A cancellation fee of twenty percent (20%) of the  
27 principal amount of the consideration paid by the purchaser of the tax-  
28 delinquent land.

29 (2) In an action under this subsection the:

30 (A) Actions of the Commissioner of State Lands are not  
31 relevant to the determination of the action; and

32 (B) Commissioner of State Lands:

33 (i) Is immune from liability or suit for his or her  
34 actions concerning the tax-delinquent lands; and

35 (ii) May not be made a party without his or her  
36 consent.

1           (3) The final order of the court cancelling the limited warranty  
2 deed shall direct the court clerk to pay all money deposited into the  
3 registry of the court under this subsection by the taxpayer or interested  
4 party as defined in § 26-37-301 to the purchaser of the tax-delinquent land.

5           (f)(1) Upon delivering a certified copy of the final order cancelling  
6 the limited warranty deed and paying a reasonable administrative fee not to  
7 exceed one hundred dollars (\$100) to the Commissioner of State Lands, the  
8 Commissioner of State Lands shall execute and deliver a redemption deed for  
9 the tax-delinquent land to the taxpayer or interested party as defined in §  
10 26-37-301.

11           (2) The Commissioner of State Lands shall establish the amount  
12 of the administrative fee under subdivision (f)(1) of this section.

13           (g) A right to redeem or to obtain the cancellation of a limited  
14 warranty deed granted by this section may be extinguished by a decree  
15 quieting title to the lands under § 26-38-201 et seq. or otherwise only after  
16 the time to exercise the right to redeem or to obtain the cancellation of a  
17 limited warranty deed granted by this section has expired.

18  
19           SECTION 4. Arkansas Code § 18-12-609 is amended to read as follows:  
20           18-12-609. Marketability of real property sold at tax sales.

21           (a) The title to any real property located within the State of  
22 Arkansas based upon a deed resulting from a delinquent tax sale is marketable  
23 if:

24           (1) The tax deed has been of record for more than fifteen (15)  
25 years;

26           (2) Any taxes due have been paid by the tax deed grantee or the  
27 heirs or successors of the tax deed grantee for more than fifteen (15) years;

28           (3) ~~No~~ A claim of adverse possession of the real property has  
29 not been asserted or filed of record since the recording of the tax deed; and

30           (4) The taxes for which the tax deed was issued had not been  
31 paid before the tax deed was executed and delivered to the tax deed grantee.

32           (b) This section ~~shall not be~~ is not subject to the additional time to  
33 challenge a tax deed given to minors, persons suffering a mental incapacity,  
34 or persons serving in the United States armed forces ~~during a time of war in~~  
35 active duty under § 26-37-203(b).

1           (c) ~~Nothing in this section shall~~ This section does not preclude a  
 2 judicial action to quiet the title to ~~any~~ real property located within this  
 3 state subject to the rights of an owner or interested party under § 26-37-203  
 4 after a forfeiture and conveyance of tax-delinquent real property prior to  
 5 before the time that the title to the real property is considered marketable  
 6 under subsection (a) of this section.

7           (d) This section shall not apply to a tax sale of a severed mineral  
 8 interest.

9  
 10           SECTION 5. Arkansas Code § 26-38-206 is amended to read as follows:  
 11           26-38-206. Effect of the decree of confirmation.

12           ~~(a)~~ Except as provided in § 26-37-203:

13           (1) The decree of the ~~chancery~~ circuit court confirming the  
 14 forfeiture and conveyance to the ~~state~~ plaintiff under § 26-38-202 ~~of real~~  
 15 ~~property shall operate, except only as expressly provided in this section;~~

16           (A) ~~as~~ As a complete bar, ~~both~~ at law and in equity,  
 17 ~~against any and of a claim or defense of~~ all persons, firms, corporations,  
 18 quasi-corporations, associations, trustees, and holders of beneficial  
 19 interests ~~who may hereafter assert or defend claims~~ to the title of the real  
 20 property; and

21           (B) ~~as a vesting of~~ To vest the complete and ~~indefensible~~  
 22 ~~indefeasible~~ title to the real property in the ~~state~~ plaintiff under § 26-38-  
 23 202 and ~~its~~ the plaintiff's grantees in fee simple, free and clear of all  
 24 ~~such claims.~~

25           ~~(b)~~ ~~It shall so operate, regardless of whether or not such the~~  
 26 ~~forfeiture and conveyance may have been~~ is void or voidable because of  
 27 ~~defects or irregularities occurring~~ a defect or irregularity in the  
 28 proceedings ~~therefor.~~ to forfeit and convey the real property; and

29           ~~(c)(1)~~ ~~All parties shall have the right to appeal any decree of~~  
 30 ~~confirmation pursuant to the Arkansas Rules of Civil Procedure.~~

31           (2)~~(A)~~ ~~Any~~ The claim of a person, firm, corporation, quasi-  
 32 corporation, association, trustee, or holder of a beneficial interest ~~whose~~  
 33 with a properly recorded interest in the real property ~~is properly recorded~~  
 34 ~~but who~~ that is not properly served notice of the confirmation proceedings  
 35 ~~shall have~~ under this subchapter is barred if not commenced within one (1)

1 year from ~~and after rendition to attack~~ the date the decree ~~insofar as it~~  
2 ~~relates to his real property~~ is entered.

3 ~~(B) All attacks upon the decree made after the one (1)~~  
4 ~~year period shall be taken to be collateral attacks and shall be wholly~~  
5 ~~ineffectual.~~

6  
7 SECTION 6. Arkansas Code § 26-38-209 is amended to read as follows:  
8 26-38-209. Application.

9 ~~The provisions of this subchapter are applicable to~~ This subchapter:

10 (1) Applies to all forfeitures and conveyances to the state or  
11 from the state whether such or not the forfeiture or conveyance occurred  
12 before or after March 23, 1993; and

13 (2) Is subject to the right to redeem or to obtain the  
14 cancellation of a limited warranty deed granted by § 26-37-203.

15  
16 */s/Salmon*  
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33 Referred by the Arkansas Senate

34 Prepared by: DLP/VJF  
35  
36

INTERIM STUDY PROPOSAL 2011-090

State of Arkansas  
88th General Assembly  
Regular Session, 2011

*As Engrossed: H3/8/11 H3/9/11*

**A Bill**

HOUSE BILL 1495

By: Representative Nickels

Filed with: Interim House Committee on Revenue and Taxation  
pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

AN ACT TO CREATE THE ARKANSAS SMALL BUSINESS TAX  
FAIRNESS ACT; TO REQUIRE COMBINED REPORTING FOR  
INCOME TAX PURPOSES; AND FOR OTHER PURPOSES.

**Subtitle**

TO CREATE THE ARKANSAS SMALL BUSINESS TAX  
FAIRNESS ACT AND TO REQUIRE COMBINED  
REPORTING FOR INCOME TAX PURPOSES.

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

SECTION 1. Arkansas Code Title 26, Chapter 51, is amended to add an  
additional subchapter to read as follows:

Subchapter 24 -- Arkansas Small Business Tax Fairness Act

26-51-2401. Title.

This subchapter shall be known as the "Arkansas Small Business Tax  
Fairness Act".

26-51-2402. Definitions.

As used in this subchapter:

(1) "Combined group" means the group of persons whose income and  
apportionment factors are required to be taken into account under § 26-51-  
2403 in determining the taxpayer member's share of the net business income or  
loss to be apportioned to the state;

1           (2)(A) "Corporation" means an organization of any kind treated  
2 as a corporation for tax purposes under this chapter, wherever located, that  
3 if it were doing business in this state, would be a taxpayer.

4           (B) "Corporation" includes the business conducted by a  
5 partnership that is directly or indirectly held by a corporation to the  
6 extent of the corporation's distributive share of the partnership income,  
7 inclusive of guaranteed payments to the extent prescribed by law;

8           (3) "Doing business in a tax haven" means being engaged in  
9 activity sufficient for the tax haven jurisdiction to impose a tax under  
10 United States constitutional standards;

11           (4) "Partnership" means a general partnership, a limited  
12 partnership, or an organization of any kind that is treated as a partnership  
13 for tax purposes under this chapter;

14           (5) "Person" means:

15           (A) An individual;

16           (B) A firm;

17           (C) A partnership or a general partner of a partnership;

18           (D) A limited liability company;

19           (E) A registered limited liability partnership;

20           (F) A foreign limited liability partnership;

21           (G) An association;

22           (H) A corporation regardless of whether the corporation is  
23 or would be, if doing business in this state, subject to the Income Tax Act  
24 of 1929, § 26-51-101 et seq.;

25           (I) A company;

26           (J) A syndicate;

27           (K) An estate;

28           (L) A trust or trustee;

29           (M) A trustee in bankruptcy;

30           (N) A receiver;

31           (O) An executor or administrator; and

32           (P) An organization of any kind;

33           (6) "Tax haven" means a jurisdiction that, during the tax year,  
34 exhibits the following characteristics:

35           (A) Has no tax or a nominal effective tax on the relevant  
36 income;

1                   (B) Has laws or practices that prevent effective exchange  
2 of information for tax purposes with other governments on taxpayers  
3 benefiting from the tax regime;

4                   (C)(i) Has a tax regime that lacks transparency.

5                               (ii) A tax regime lacks transparency if:

6                                       (a) The details of legislative, legal, or  
7 administrative provisions are not open and apparent or are not consistently  
8 applied among similarly situated taxpayers; or

9                                       (b) The information needed by tax authorities  
10 to determine a taxpayer's correct tax liability, such as accounting records  
11 and underlying documentation, is not adequately available;

12                   (D) Facilitates the establishment of foreign-owned  
13 entities without the need for a local and substantive presence or prohibits  
14 foreign-owned entities from having a commercial impact on the local economy;

15                   (E) Explicitly or implicitly excludes the jurisdiction's  
16 resident taxpayers from taking advantage of the tax regime's benefits or  
17 prohibits enterprises that benefit from the regime from operating in the  
18 jurisdiction's domestic market; or

19                   (F) Has a tax regime that is favorable for tax avoidance  
20 based upon an overall assessment of relevant factors, including without  
21 limitation whether the jurisdiction has a significant untaxed offshore  
22 financial sector or other services sector relative to its overall economy;

23                   (7) "Unitary business" means a single economic enterprise that  
24 is made up of either separate parts of a single business entity or a commonly  
25 controlled group of business entities that are sufficiently interdependent,  
26 integrated, and interrelated through their activities so as to provide a  
27 synergy and mutual benefit that produces a sharing or exchange of value among  
28 them and a significant flow of value to the separate parts; and

29                   (8) "United States" means the fifty (50) states of the United  
30 States, the District of Columbia, and the territories and possessions of the  
31 United States.

32  
33                   26-51-2403. Combined reporting required – Discretion of director

34                   (a)(1) A combined report shall be filed by one (1) of the following  
35 taxpayers engaged in a unitary business with one (1) or more other  
36 corporations:



1                   (A) The federal consolidated parent corporation; or

2                   (B) A subsidiary with a nexus to Arkansas, if the federal  
3 consolidated parent is not a member of the combined group.

4                   (2) The combined report required under subdivision (a)(1) of  
5 this section shall include the following information for all corporations  
6 that are members of the unitary business:

7                   (A) The income determined under § 26-51-2406;

8                   (B) The apportionment factors determined under:

9                                 (i) The Uniform Division of Income for Tax Purposes  
10 Act, § 26-51-701 et seq.;

11                                (ii) The apportionment and allocation requirements  
12 under §§ 26-51-1401-26-51-1405; and

13                                (iii) The combined reporting requirements under §  
14 26-51-2405; and

15                   (3) Any other information required by the Director of the  
16 Department of Finance and Administration.

17                   (b)(1) To reflect proper apportionment of income of entire unitary  
18 businesses, the combined report shall include the income and apportionment  
19 factors of any person not included under subsection (a) of this section who  
20 is a member of a unitary business.

21                   (2) The director may require the filing of a combined report by  
22 persons that are not or would not be, if doing business in this state,  
23 subject to the Income Tax Act of 1929, § 26-51-101 et seq.

24                   (3) If the director determines that the reported income or loss  
25 of a taxpayer engaged in a unitary business with any person not included  
26 under subsection (a) of this section represents an avoidance or evasion of  
27 tax by the taxpayer, all or part of the income and apportionment factors of  
28 the person shall be included in the taxpayer's combined report.

29                   (4) With respect to inclusion of apportionment factors under  
30 this subsection (b), the director may require:

31                                 (A) The exclusion of any one (1) or more of the factors;

32                                 (B) The inclusion of one (1) or more additional factors  
33 that will fairly represent the taxpayer's business activity in the state; or

34                                 (C) The employment of any other method to properly  
35 reflect:

36                                         (i) The total amount of income subject to

1 apportionment; and

2 (ii) An equitable allocation and apportionment of  
3 the taxpayer's income.

4  
5 26-51-2404. Determination of taxable income using combined report.

6 (a) The use of a combined report does not affect the separate  
7 identities of the taxpayer members of the combined group.

8 (b)(1) Each taxpayer member is responsible for tax based on the  
9 taxpayer member's taxable income or loss apportioned or allocated to  
10 Arkansas, including without limitation the taxpayer member's apportioned  
11 share of business income of the combined group.

12 (2) Business income of the combined group is calculated as a  
13 summation of the individual net business incomes of all members of the  
14 combined group.

15 (3) A member's net business income is determined by removing all  
16 but business income, expense, and loss from that member's total income under  
17 this subchapter and multiplying the remainder by the combined apportionment  
18 factors of all members of the combined group.

19  
20 26-51-2405. Income subject to tax - Application of tax credits -  
21 Deductions after apportionment.

22 (a) Each taxpayer member is responsible for tax based on the taxpayer  
23 member's taxable income or loss apportioned or allocated to Arkansas,  
24 including without limitation the taxpayer member's:

25 (1) Share of business income that is apportioned to Arkansas of  
26 each of the combined groups of which it is a member, as determined under §  
27 26-51-2406;

28 (2) Share of business income that is apportioned to Arkansas of  
29 a distinct business activity conducted within and without Arkansas wholly by  
30 the taxpayer member, as determined under the Uniform Division of Income for  
31 Tax Purposes Act, § 26-51-701 et seq., and the apportionment and allocation  
32 requirements under §§ 26-51-1401-26-51-1405;

33 (3) Income from a business conducted wholly by the taxpayer  
34 member entirely within Arkansas;

35 (4) Income sourced to Arkansas from the sale or exchange of  
36 capital or assets;

1           (5) Nonbusiness income or loss allocable to Arkansas, as  
2 determined under the Uniform Division of Income for Tax Purposes Act, § 26-  
3 51-701 et seq., and the apportionment and allocation requirements under §§  
4 26-51-1401-26-51-1405; and

5           (6)(A) Net operating loss carryover.

6           (B)(i) If the taxable income computed under this  
7 subchapter results in a loss for a combined group, the combined group has an  
8 Arkansas net operating loss.

9           (ii) A net operating loss of the combined group is  
10 applied as a deduction in a subsequent year only to the extent that the  
11 combined group has Arkansas source positive net income.

12           (C)(i) Only a taxpayer member that joins a combined group  
13 and has a net operating loss from a tax year before the taxpayer member  
14 joined the combined group is subject to the carryover provisions of § 26-51-  
15 427, the net operating loss limitations, and the separate return limitation  
16 year restriction.

17           (ii) Separate return limitation year restrictions  
18 allow the net operating loss of a member that joins a combined return to  
19 offset the combined income of all corporations that were members of the same  
20 federal consolidated group when the net operating loss was created or that  
21 were members of the same Arkansas combined group when the net operating loss  
22 was created.

23           (b)(1) A tax credit earned by a member may be applied against the  
24 total tax liability of the combined group.

25           (2)(A) A charitable contribution made by a taxpayer member of  
26 the combined group is available as a deduction of the combined group subject  
27 to the limitations of 26 U.S.C. § 170, as it existed on January 1, 2011.

28           (B) A charitable contribution under subdivision (b)(2)(A)  
29 of this section is subtracted from the business income of the combined group  
30 before apportionment, and the remaining balance is treated as a nonbusiness  
31 expense allocable to the nonbusiness income of the combined group subject to  
32 the income limitations of 26 U.S.C. § 170, as it existed on January 1, 2011.

33           (C) A charitable contribution under subdivision (b)(2)(A)  
34 of this section that is disallowed under the income limitations of this  
35 subsection is allowed as a carryover deduction for up to five (5) years in  
36 accordance with 26 U.S.C. § 170, as it existed on January 1, 2011.

1  
2 26-51-2406. Determination of share of business income of a combined  
3 group.

4 The taxpayer's share of the business income to be apportioned to  
5 Arkansas of each combined group of which it is a member is the product of:

6 (1) The business income of the combined group, as determined  
7 under § 26-51-2407; and

8 (2)(A) The taxpayer member's apportionment percentage, as  
9 determined under the Uniform Division of Income for Tax Purposes Act, § 26-  
10 51-701 et seq., and the apportionment and allocation requirements under §§  
11 26-51-1401-26-51-1405, including:

12 (i) In each numerator, the taxpayer's property,  
13 payroll, or sales factor associated with the combined group's unitary  
14 business in this state; and

15 (ii) In the denominator, the property, payroll, or  
16 sales factor of all members of the combined group, including the taxpayer,  
17 that are associated with the combined group's unitary business wherever  
18 located.

19 (B) The property, payroll, and sales factors of a  
20 partnership are included in the determination of the partner's apportionment  
21 percentage in proportion to a ratio the numerator of which is the amount of  
22 the partner's distributive share of partnership's unitary income included in  
23 the income of the combined group under § 26-51-2407 and the denominator of  
24 which is the amount of the partnership's total unitary income.

25  
26 26-51-2407. Determination of business income of the combined group.

27 (a) The business income of a combined group is determined under this  
28 section.

29 (b) To determine the business income of the combined group, subtract  
30 any income and add any expense or loss other than the business income,  
31 expense, or loss of the combined group from the total income of the combined  
32 group, as determined under subsection (c) of this section.

33 (c)(1) Except as otherwise provided in this section, the total income  
34 of the combined group is the sum of the income of each member of the combined  
35 group, as determined under the Internal Revenue Code of 1986, 26 U.S.C. § 1  
36 et seq., as it existed on January 1, 2011, as if the member were not

1 consolidated for federal purposes.

2 (2) The income of each member of the combined group is  
3 determined as follows:

4 (A) For a member incorporated in the United States or  
5 included in a consolidated federal corporate income tax return, the income to  
6 be included in the total income of the combined group is the taxable income  
7 for the corporation after making appropriate adjustments under the Income Tax  
8 Act of 1929, § 26-51-101 et seq.; and

9 (B)(i) For a member not included in subdivision (c)(2)(A)  
10 of this section, the income to be included in the total income of the  
11 combined group is determined as follows:

12 (a) A profit and loss statement shall be  
13 prepared for each foreign branch or corporation in the currency in which the  
14 books of account of the branch or corporation are regularly maintained;

15 (b) Adjustments shall be made to the profit  
16 and loss statement to conform it to the accounting principles generally  
17 accepted in the United States for the preparation of profit and loss  
18 statements except as modified by this subchapter;

19 (c) Except as otherwise provided in this  
20 subchapter, the profit and loss statement of each member of the combined  
21 group and the related apportionment factors shall be expressed in United  
22 States dollars.

23 (d) Income apportioned to Arkansas shall be  
24 expressed in United States dollars.

25 (ii)(a) In lieu of the procedures in subdivision  
26 (c)(2)(B)(i) of this section and subject to the determination of the Director  
27 of the Department of Finance and Administration that it reasonably  
28 approximates income as determined under the Income Tax Act of 1929, § 26-51-  
29 101 et seq., a member not included in subdivision (c)(2)(A) of this section  
30 may determine its income on the basis of the consolidated profit and loss  
31 statement that includes the member and that is prepared for filing with the  
32 United States Securities and Exchange Commission by related corporations.

33 (b) If the member is not required to file with  
34 the United States Securities and Exchange Commission, the director may allow  
35 the use of a consolidated profit and loss statement prepared for reporting to  
36 shareholders and subject to review by an independent auditor.

1                   (c) If the profit and loss statements in this  
2 subdivision (c)(2)(B)(ii) of this section do not reasonably approximate  
3 income as determined under this chapter, the director may accept profit and  
4 loss statements with appropriate adjustments to approximate the income as  
5 determined under this chapter.

6                   (d) If a unitary business includes income from a partnership, the  
7 income included in the total income of the combined group is the member of  
8 the combined group's direct and indirect distributive share of the  
9 partnership's unitary business income.

10                  (e)(1) Dividends paid by a member of the combined group to another  
11 member of the combined group shall be eliminated from the income of the  
12 recipient to the extent the dividends are paid out of the earnings and  
13 profits of the unitary business included in the combined report, in the  
14 current or a prior year.

15                  (2) Subdivision (e)(1) of this section does not apply to  
16 dividends received from members of the unitary business that are not a part  
17 of the combined group.

18                  (f)(1) Except as otherwise provided in this subchapter, business  
19 income from an intercompany transaction between members of the same combined  
20 group is deferred in the same manner as in 26 CFR § 1.1502-13, as it existed  
21 on January 1, 2011.

22                  (2) Deferred business income resulting from an intercompany  
23 transaction between members of a combined group is restored to the income of  
24 the seller and is apportioned as business income earned immediately before  
25 the event if any of the following events occur:

26                    (A) The object of a deferred intercompany transaction is:

27                      (i) Resold by the buyer to an entity that is not a  
28 member of the combined group;

29                      (ii) Resold by the buyer to an entity that is a  
30 member of the combined group for use outside the unitary business in which  
31 the buyer and seller are engaged; or

32                      (iii) Converted by the buyer to a use outside the  
33 unitary business in which the buyer and seller are engaged; or

34                    (B) The buyer and seller are no longer members of the same  
35 combined group regardless of whether the members remain unitary.

36                  (g) An expense of a member of the unitary group that is directly or

1 indirectly attributable to the nonbusiness or exempt income of another member  
2 of the unitary group is allocated to the other member as corresponding  
3 nonbusiness or exempt expense as appropriate.

4  
5 26-51-2408. Designation of surety.

6 (a)(1)(A)(i) Members of a combined reporting group shall annually  
7 designate one (1) taxpayer member of the combined group to file a single  
8 return in the form and manner prescribed by the Director of the Department of  
9 Finance and Administration, in lieu of each member filing its own respective  
10 return.

11 (ii) The surety designated under this section shall  
12 be either:

13 (a) The federal consolidated parent  
14 corporation; or

15 (b) A subsidiary with a nexus to Arkansas, if  
16 the federal consolidated parent is not a member of the combined group.

17 (B) The taxpayer designated to file the single return  
18 under subdivision (a)(1)(A) of this section:

19 (i) Consents to act as surety with respect to the  
20 tax liability of all other taxpayers properly included in the combined  
21 report; and

22 (ii) Agrees to act as agent on behalf of those  
23 taxpayers for the year of the election for tax matters relating to the  
24 combined report for that year.

25 (2) The designation of a surety under subdivision (a)(1) of this  
26 section does not change the respective liability of the group members.

27 (b) If for any reason the taxpayer designated as a surety under  
28 subsection (a) of this section is unwilling or unable to perform the surety's  
29 responsibilities, tax liability shall be assessed against all of the taxpayer  
30 members.

31  
32 26-51-2409. Water's-edge election.

33 (a) Taxpayer members of a unitary group that meet the requirements of  
34 § 26-51-2410 may elect to determine each member's apportioned share of the  
35 net business income or loss of the combined group under a water's-edge  
36 election.

1        (b) Under the water's-edge election, taxpayer members shall take into  
2 account the income and apportionment factors of only the following members of  
3 the combined group:

4            (1) The entire income and apportionment factors of any member  
5 incorporated in the United States or formed under the laws of the United  
6 States;

7            (2) The entire income and apportionment factors of any member,  
8 regardless of the place incorporated or formed, if the average of its  
9 property, payroll, and sales factors within the United States is twenty  
10 percent (20%) or more;

11           (3) The entire income and apportionment factors of any member  
12 that is a domestic international sales corporation as described in 26 U.S.C.  
13 §§ 991-994, as they existed on January 1, 2011;

14           (4) The portion of the income of a member not described in  
15 subdivisions (b)(1)-(3) of this section that is derived from or attributable  
16 to sources within the United States, as determined under the Internal Revenue  
17 Code of 1986, 26 U.S.C. § 1 et seq., as it existed on January 1, 2011, and  
18 the related apportionment factors;

19           (5)(A) The income of a member that is a controlled foreign  
20 corporation, as defined under 26 U.S.C. § 957, as it existed on January 1,  
21 2011, to the extent the income is described under 26 U.S.C. § 952, as it  
22 existed on January 1, 2011, not excluding lower-tier subsidiaries'  
23 distributions of income that were previously taxed and the apportionment  
24 factors related to the income.

25           (B) An item of income received by a controlled foreign  
26 corporation is excluded if the income was subject to an effective rate of  
27 income tax imposed by a foreign country greater than ninety percent (90%) of  
28 the maximum rate of tax specified in 26 U.S.C. § 11, as it existed on January  
29 1, 2011;

30           (6) The income and apportionment factors of a member that earns  
31 income, directly or indirectly, from intangible property or service-related  
32 activities that are deductible against the business income of other members  
33 of the combined group; and

34           (7)(A) The entire income and apportionment factors of any member  
35 that is doing business in a tax haven.

36           (B) If the member's business activity within a tax haven



1 is entirely outside the scope of the laws, provisions, and practices that  
2 cause the jurisdiction to be a tax haven under § 26-51-2402, the activity of  
3 the member shall be treated as not having been conducted in a tax haven.  
4

5 26-51-2410. Initiation and withdrawal of water's-edge election.

6 (a)(1) A water's-edge election is effective only if made on a timely  
7 filed, original return for the tax year by each member of the unitary  
8 business subject to tax under the Income Tax Act of 1929, § 26-51-101 et seq.

9 (2) The Director of the Department of Finance and Administration  
10 shall develop rules governing the impact, if any, on the scope or application  
11 of a water's-edge election, including without limitation termination or  
12 deemed election resulting from a change in the composition of the unitary  
13 group, the combined group, the taxpayer members, and any other similar  
14 change.

15 (b) In the discretion of the director, a water's-edge election may be  
16 disregarded in whole or in part, and the income and apportionment factors of  
17 any member of the taxpayer's unitary group may be included in the combined  
18 report without regard to the provisions of this section if:

19 (1) A member of the unitary group fails to comply with this  
20 subchapter; or

21 (2) A person otherwise not included in the water's-edge combined  
22 group was designated with the substantial objective of avoiding state income  
23 tax.

24 (c)(1) A water's-edge election is binding for and applicable to the  
25 tax year in which it is made and all tax years thereafter for a period of ten  
26 (10) years.

27 (2)(A) A water's-edge election may be withdrawn or reinstated  
28 after withdrawal before the expiration of the ten-year period only upon  
29 written request for reasonable cause based on extraordinary hardship due to  
30 unforeseen changes in state tax statutes, law, or policy, and only with the  
31 written permission of the director.

32 (B) If the director grants a withdrawal of election, the  
33 director shall impose reasonable conditions to prevent the evasion of tax or  
34 to clearly reflect income for the election period before or after the  
35 withdrawal.

36 (3)(A) Upon the expiration of the ten-year period, a taxpayer

1 may withdraw from the water's edge election.

2 (B) Withdrawal under this section shall be made in writing  
3 within one (1) year of the expiration of the election.

4 (C) Withdrawal under this section is binding for a period  
5 of ten (10) years subject to the conditions that applied to the original  
6 election under this section.

7 (D) If no withdrawal is properly made, the water's edge  
8 election shall be in place for an additional ten-year period subject to the  
9 conditions that applied to the original election under this section.

10  
11 24-51-2411. Rules.

12 The Director of the Department of Finance and Administration shall  
13 promulgate rules to implement this subchapter.

14  
15 *SECTION 2. Arkansas Code § 26-51-419(b), concerning deductions for*  
16 *charitable contributions, is amended to read as follows:*

17 *(b) ~~The provisions of subsection Subsection (a) of this section shall apply applies to a corporation that files~~*  
18 *~~an Arkansas consolidated corporation combined income tax return pursuant to § 26-51-805, provided that each~~*  
19 *~~member of the affiliated group shall follow the provisions of § 26-51-805(f) and calculate its contribution limits~~*  
20 *~~separately under the Arkansas Small Business Tax Fairness Act, § 26-51-2401 et seq., in accordance with § 26-51-~~*  
21 *~~2405.~~*

22  
23 *SECTION 3. Arkansas Code § 26-51-804(a), concerning income tax returns*  
24 *for corporations, is amended to read as follows:*

25 *(a)(1) Every corporation subject to taxation under this act shall make*  
26 *a return stating specifically the items of its gross income and the*  
27 *deductions and credits allowed by this act.*

28 *(2) Corporations that are members of a unitary business under*  
29 *the Arkansas Small Business Tax Fairness Act, § 26-51-2401 et seq., shall*  
30 *file a combined return.*

31 *(3) Corporations that are not members of a unitary business*  
32 *under the Arkansas Small Business Tax Fairness Act, § 26-51-2401 et seq.,*  
33 *shall file returns on either a consolidated basis or a separate entity basis.*

34  
35 *SECTION 4. Arkansas Code § 26-51-805(a), concerning consolidated*  
36 *income tax returns for corporations, is amended to read as follows:*

1           (a)(1)(A) All corporations ~~which that~~ are eligible members of an  
2 affiliated group, as ~~that term is~~ defined in 26 U.S.C. § 1504(a) and (b), as  
3 ~~of it existed on~~ January 1, 1989, ~~which affiliated group files a federal~~  
4 ~~consolidated corporate income tax return pursuant to 26 U.S.C. §§ 1501-1505~~  
5 ~~as of January 1, 1989, may elect to~~ shall file a consolidated combined  
6 Arkansas corporate income tax return under the Arkansas Small Business Tax  
7 Fairness Act, § 26-51-2401 et seq., if the affiliated group files a federal  
8 consolidated corporate income tax return under 26 U.S.C. §§ 1501-1505, as  
9 they existed on January 1, 1989.

10                       (B) Corporations that are not members of a unitary  
11 business under the Arkansas Small Business Tax Fairness Act, § 26-51-2401 et  
12 seq., shall file returns on either a consolidated basis or a separate entity  
13 basis.

14           (2) However, only corporations in the affiliated group that have  
15 gross income from sources within ~~the State of~~ Arkansas that is subject to  
16 taxation under ~~the provisions of the~~ Arkansas Income Tax Act of 1929, as  
17 ~~amended,~~ § 26-51-101 et seq., shall be eligible to file consolidated  
18 corporate income tax returns in Arkansas.

19  
20           SECTION 5. EFFECTIVE DATE. This act is effective for tax years  
21 beginning on or after January 1, 2012.

22  
23                                       /s/Nickels

24  
25 Referred by the Arkansas House of Representatives  
26 Prepared by: JLL/VJF

INTERIM STUDY PROPOSAL 2011-091

1  
2 State of Arkansas  
3 88th General Assembly  
4 Regular Session, 2011

**A Bill**

HOUSE BILL 1761

5  
6 By: Representative Summers

7 Filed with: Interim House Committee on Revenue and Taxation  
8 pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

9  
10 AN ACT TO EXEMPT A HEARING INSTRUMENT RECOMMENDED BY  
11 AN AUDIOLOGIST FROM THE SALES AND USE TAX; AND FOR  
12 OTHER PURPOSES.

13  
14  
15 **Subtitle**

16 TO EXEMPT A HEARING INSTRUMENT  
17 RECOMMENDED BY AN AUDIOLOGIST FROM THE  
18 SALES AND USE 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 4 is amended  
24 to add an additional section to read as follows:

25 26-52-444. Hearing instrument recommended by audiologist.

26 The gross receipts or gross proceeds derived from the sale of a hearing  
27 instrument that is purchased for the purpose of correcting or aiding a  
28 hearing deficiency is exempt from the Arkansas gross receipts tax levied by  
29 this chapter and the Arkansas compensating use tax levied by the Arkansas  
30 Compensating Tax Act of 1949, § 26-53-101 et seq., if purchased under a  
31 prescription or written recommendation that is issued to the purchaser by:

32 (1) An audiologist;

33 (2) A physician; or

34 (3) A person licensed as a hearing instrument dispenser by the  
35 Arkansas Board of Hearing Instrument Dispensers.

1           SECTION 2. Effective date. Section 1 of this act becomes effective on  
2 the first day of the second calendar month following the effective date of  
3 this act.

4  
5 Referred by the Arkansas House of Representatives

6 Prepared by: DLP/VJF

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INTERIM STUDY PROPOSAL 2011-092

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

As Engrossed: H3/18/11 H3/29/11

**A Bill**

HOUSE BILL 1771

4 By: Representatives *Collins, D. Altes*

5  
6 Filed with: Interim House Committee on Revenue and Taxation  
7 pursuant to A.C.A. §10-3-217.  
8

9 **For An Act To Be Entitled**

10 *AN ACT TO PROVIDE KINDERGARTEN THROUGH TWELFTH GRADE*  
11 *(K-12) SCHOLARSHIPS TO ECONOMICALLY DISADVANTAGED*  
12 *CHILDREN BY PROVIDING A TAX CREDIT FOR CORPORATE OR*  
13 *INDIVIDUAL DONORS FOR CONTRIBUTIONS TO NONPROFIT*  
14 *SCHOLARSHIP-FUNDING ORGANIZATIONS; AND FOR OTHER*  
15 *PURPOSES.*

16  
17  
18 **Subtitle**

19 *TO PROVIDE K-12 SCHOLARSHIPS FOR*  
20 *ECONOMICALLY DISADVANTAGED CHILDREN*  
21 *THROUGH A CORPORATE INCOME TAX CREDIT.*

22  
23  
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25  
26 SECTION 1. Arkansas Code Title 26, Chapter 51, Subchapter 5 is amended  
27 to add a new section to read as follows:

28 26-51-515. Credits for contributions to nonprofit scholarship-funding  
29 organizations.

30 (a) The purpose of this section is to:

31 (1) Encourage private, voluntary contributions to eligible  
32 nonprofit scholarship-funding organizations;

33 (2) Expand educational opportunities for children of families  
34 that have limited financial resources; and

35 (3) Enable children in this state to achieve a greater level of  
36 excellence in their education.

1       (b) As used in this section:

2               (1)(A) "Eligible contribution" means a monetary contribution  
3 from an eligible taxpayer or corporation, subject to the restrictions  
4 provided in this section, to an eligible nonprofit scholarship-funding  
5 organization.

6               (B) The eligible taxpayer making the eligible contribution  
7 may not designate a specific child as the beneficiary of the contribution;

8               (2) "Eligible nonprofit scholarship-funding organization" means  
9 a charitable organization that:

10               (A) Is exempt from federal income tax under 26 U.S.C. §  
11 501(c)(3) of the Internal Revenue Code, as in effect on January 1, 2011;

12               (B) Is an Arkansas entity formed under § 4-28-101 et seq.  
13 and whose principal office is located in the state; and

14               (C) Complies with subsection (f) of this section;

15               (3) "Eligible private school" means a nonpublic school that:

16               (A) Provides education to elementary or secondary students  
17 and has notified the department of its intention to participate and comply  
18 with the program's requirements;

19               (B) Is located in Arkansas; and

20               (C) Is not a home school;

21               (4) "Eligible taxpayer" means a business or individual,  
22 including without limitation a corporation, partnership, limited liability  
23 company, sole proprietorship; and

24               (5) "Owner" or "operator" means:

25               (A) An owner, president, officer, or director of an  
26 eligible nonprofit scholarship-funding organization or a person with  
27 equivalent decision making authority over an eligible nonprofit scholarship-  
28 funding organization; or

29               (B) An owner, operator, superintendent, or principal of an  
30 eligible private school or a person with equivalent decision making authority  
31 over an eligible private school.

32               (c)(1) Except as limited in subsection (e) of this section, there is  
33 allowed an income tax credit against the income tax imposed by the Income Tax  
34 Act of 1929, § 26-51-101 et seq., the premium tax imposed by § 23-75-119, or  
35 the premium tax imposed by § 23-63-1614 for one hundred percent (100%) of an  
36 eligible contribution made by the eligible taxpayer for a tax year.

1           (2) An eligible student is a student who:

2                   (A) Is a member of a household whose total annual income  
3 the year before he or she receives an educational scholarship under this  
4 program does not exceed an amount equal to two hundred percent (200%) of the  
5 federal poverty level income standard;

6                   (B) Meets requirements to enroll in public school in  
7 Arkansas;

8                   (C) Received a scholarship from an eligible nonprofit  
9 scholarship-funding organization or from the state during the previous school  
10 year;

11                   (D) Is eligible to enter kindergarten; or

12                   (E) Is starting school in Arkansas for the first time.

13           (3) Once a student receives a scholarship under this program,  
14 the student will remain eligible regardless of household income until the  
15 student graduates from high school or reaches twenty-one (21) years of age.

16           (d) A student is not eligible for a scholarship while he or she is:

17                   (1) Receiving a scholarship from another eligible nonprofit  
18 scholarship-funding organization under this section;

19                   (2) Participating in a home education program as defined in § 6-  
20 15-501 et. seq.;

21                   (3) Participating in a virtual school, correspondence school, or  
22 distance learning program that receives state funding pursuant to the  
23 student's participation unless the participation is limited to no more than  
24 two courses per school year; or

25                   (4) Enrolled in the Arkansas School for the Deaf or the Arkansas  
26 School for the Blind.

27           (e)(1) An income tax credit under this section may not exceed fifty  
28 percent (50%) of the tax due under this chapter for the taxable year, after  
29 the application of any other allowable income tax credits by the eligible  
30 taxpayer.

31                   (2) An income tax credit under this section shall be reduced by  
32 the difference between the amount of federal corporate income tax taking into  
33 account the income tax credit under this section and the amount of federal  
34 corporate income tax without application of the income tax credit under this  
35 section.



1           (3) The total amount of income tax credits and carryforward of  
2 income tax credits under this section for each fiscal year under this section  
3 is limited to thirty million dollars (\$30,000,000) in tax year 2011 and may  
4 expand by no more than ten million dollars (\$10,000,000) each year until it  
5 reaches a cap of ninety million dollars (\$90,000,000). Expansion of credit  
6 is limited to the amount of revenue necessary to fulfill projected  
7 scholarship applications as determined by the eligible nonprofit scholarship-  
8 funding organization each year.

9           (4) An eligible taxpayer who files an Arkansas consolidated  
10 return as a member of an affiliated group under § 26-51-805 may be allowed  
11 the income tax credit under this section on a consolidated return basis  
12 subject to the limitation established under subdivisions (e)(1), (2), and (3)  
13 of this section.

14           (5)(A) An eligible taxpayer may rescind all or part of the  
15 eligible taxpayer's allocated income tax credit under this section.

16           (B) The amount rescinded shall become available for  
17 purposes of the cap for the state fiscal year under this section to an  
18 eligible taxpayer as approved by the Department of Finance and Administration  
19 if the eligible taxpayer receives notice from the Department of Finance and  
20 Administration that the rescission has been accepted by the Department of  
21 Finance and Administration and the eligible taxpayer has not previously  
22 rescinded any or all of the eligible taxpayer's allocated income tax credit  
23 under this section more than one (1) time in the previous three (3) tax  
24 years.

25           (C) Any amount rescinded under this subdivision (e)(3)  
26 shall become available to an eligible taxpayer on a first-come, first-served  
27 basis based on income tax credit applications received after the date the  
28 rescission is accepted by the Department of Finance and Administration.

29           (f) An eligible nonprofit scholarship-funding organization:

30           (1) Shall comply with the antidiscrimination provisions of 42  
31 U.S.C. § 2000d, as in effect on January 1, 2011;

32           (2) Shall comply with the following background check  
33 requirements:

34           (A)(i) All owners and operators are, upon employment or  
35 engagement to provide services, subject to fingerprinting and a background

1 check successfully completed through the Department of Arkansas State Police  
2 and the Federal Bureau of Investigation.

3 (ii) The results of the state and national criminal  
4 history check shall be provided to the Department of Education for screening.

5 (iii) The cost of the background check may be paid  
6 by the eligible nonprofit scholarship-funding organization or the owner or  
7 operator;

8 (B) Every five (5) years following employment or  
9 engagement to provide services or association with an eligible nonprofit  
10 scholarship-funding organization, each owner or operator must comply with  
11 another background check through the Department of Arkansas State Police and  
12 the Federal Bureau of Investigation;

13 (C)(i) All fingerprints submitted to the Department of  
14 Arkansas State Police as required by this subsection must be retained by the  
15 Department of Arkansas State Police in a manner approved by rule and entered  
16 in the statewide automated fingerprint identification system.

17 (ii) The fingerprints must be available for all  
18 purposes and uses authorized for arrest fingerprint cards entered in the  
19 statewide automated fingerprint identification system;

20 (D)(i) Beginning July 1, 2011, the Department of Arkansas  
21 State Police shall search all arrest fingerprint cards against the  
22 fingerprints retained in the statewide automated fingerprint identification  
23 system.

24 (ii) Any arrest record that is identified with an  
25 owner's or operator's fingerprints must be reported to the Department of  
26 Education.

27 (iii) The Department of Arkansas State Police may  
28 adopt a rule setting the amount of the annual fee to be imposed upon the  
29 Department of Education for performing the services under this subdivision  
30 (f)(2) and establishing the procedures for the retention of owner and  
31 operator fingerprints and the dissemination of search results.

32 (iv) The fee may be paid by the owner or operator of  
33 the eligible nonprofit scholarship-funding organization;

34 (E) An eligible nonprofit scholarship-funding organization  
35 whose owner or operator fails the background check shall not be eligible to  
36 provide scholarships under this section; and

1                   (F) An eligible nonprofit scholarship-funding organization  
2 whose owner or operator in the last seven (7) years has filed for personal  
3 bankruptcy or corporate bankruptcy in a corporation of which he or she owned  
4 more than twenty percent (20%) shall not be eligible to provide scholarships  
5 under this section;

6                   (3) Shall not have an owner or operator who owns or operates an  
7 eligible private school that is participating in a scholarship program  
8 operated by an eligible nonprofit scholarship-funding organization;

9                   (4)(A) Shall provide scholarships from eligible contributions to  
10 eligible students for tuition, textbook expenses, or transportation to an  
11 eligible private school.

12                   (B) At least ninety percent (90%) of the scholarship  
13 funding must be used to pay tuition expenses;

14                   (5) Shall give priority to eligible students who previously  
15 received a scholarship from an eligible nonprofit scholarship-funding  
16 organization;

17                   (6) Shall give priority to the sibling or siblings of a student  
18 who has received a scholarship under the tax credit program and is currently  
19 enrolled in a private school through the tax credit program;

20                   (7) Shall provide a scholarship to an eligible student through a  
21 random, anonymous student selection method unless the eligible student  
22 qualifies for priority under subdivision (f)(5) or subdivision (f)(6) of this  
23 section;

24                   (8) May not restrict or reserve scholarships for use at a  
25 particular private school or provide scholarships to a child of an owner or  
26 operator;

27                   (9) Shall allow an eligible student to attend any eligible  
28 private school and shall allow a parent of an eligible student to transfer a  
29 scholarship during a school year to any other eligible private school of the  
30 parent's choice provided that the eligible student was excused by the current  
31 private school for illness or other good cause;

32                   (10)(A) Except as provided in subdivision (f)(10)(B) of this  
33 section, shall obligate, in the same fiscal year in which the eligible  
34 contribution was received, one hundred percent (100%) of the eligible  
35 contribution to provide annual or partial-year scholarships to eligible  
36 private schools.

1                   (B) Up to twenty-five percent (25%) of the total eligible  
2 contribution may be carried forward for expenditure in the following state  
3 fiscal year.

4                   (C) An eligible nonprofit scholarship-funding  
5 organization, before granting a scholarship for an academic year, shall  
6 document each eligible student's scholarship eligibility for that academic  
7 year.

8                   (D) An eligible nonprofit scholarship-funding organization  
9 may not grant multiyear scholarships in one (1) approval process.

10                   (E) No more than nine and one-half percent (9 1/2%) of  
11 eligible contributions may be used for administrative expenses of the  
12 eligible nonprofit scholarship-funding organization.

13                   (F) All interest accrued from eligible contributions shall  
14 be used for scholarships;

15                   (11) Shall maintain separate accounts for scholarship funds and  
16 operating funds;

17                   (12)(A) With the prior approval of the Department of Finance and  
18 Administration, may transfer funds to another eligible nonprofit scholarship-  
19 funding organization if additional funds are required to meet scholarship  
20 demand at the receiving eligible nonprofit scholarship-funding organization.

21                   (B) A transfer shall be limited to the greater of five  
22 hundred thousand dollars (\$500,000) or twenty percent (20%) of the total  
23 eligible contributions received by the nonprofit scholarship-funding  
24 organization making the transfer.

25                   (C) All transferred funds must be deposited by the  
26 receiving eligible nonprofit scholarship-funding organization into its  
27 scholarship accounts.

28                   (D) All transferred amounts received by any eligible  
29 nonprofit scholarship-funding organization must be separately disclosed in  
30 the annual financial and compliance audit required in this section;

31                   (13)(A) Shall provide to the Department of Finance and  
32 Administration an annual financial and compliance audit of its accounts and  
33 records conducted by an independent certified public accountant.

34                   (B) The audit shall be conducted in compliance with  
35 generally accepted auditing standards and shall include a report on financial  
36 statements presented in accordance with generally accepted accounting

1 principles set forth by the American Institute of Certified Public  
2 Accountants for not-for-profit organizations and a determination of  
3 compliance with the statutory eligibility and expenditure requirements set  
4 forth in this section.

5 (C) Audits shall be provided to the Department of Finance  
6 and Administration within one hundred eighty (180) days after completion of  
7 the eligible nonprofit scholarship-funding organization's fiscal year; and

8 (14) Shall prepare and submit quarterly reports to the  
9 Department of Finance and Administration and shall submit in a timely manner  
10 any information requested by the Department of Education relating to the  
11 scholarship program. This information shall also be made available on the  
12 website prepared by the eligible nonprofit scholarship-funding organization.

13 (15) Require an annual notarized, sworn compliance statement by  
14 participating eligible private schools certifying compliance with state laws  
15 and shall retain such records;

16 (16) Cooperate with the Department of Education to cross-check  
17 the list of participating scholarship students with the public school  
18 enrollment lists to avoid duplication;

19 (17) Annually verify the eligibility of nonprofit scholarship-  
20 funding organizations;

21 (18) Annually verify the eligibility of private schools that  
22 meet the requirements of subsection (h) of this section;

23 (19) Establish a website that provides parents and private  
24 schools with information on participation in the scholarship program;

25 (20)(A) Establish a process by which individuals may notify the  
26 eligible nonprofit scholarship-funding organization of any violation by a  
27 parent, eligible private school, or school district of state laws relating to  
28 program participation.

29 (B)(i) The eligible nonprofit scholarship-funding  
30 organization shall conduct an inquiry of any written complaint of a violation  
31 of this section or make a referral to the appropriate agency for an  
32 investigation, if the complaint is signed by the complainant and is legally  
33 sufficient.

34 (ii) A complaint is legally sufficient if it  
35 contains ultimate facts that show a violation of this section.

1                   (iii) In order to determine legal sufficiency, the  
2 eligible nonprofit scholarship-funding organization may require supporting  
3 information or documentation from the complainant;

4                   (21)(A)(i) Conduct random site visits to eligible private  
5 schools participating in the corporate tax credit scholarship program.

6                   (ii) The purpose of the site visits is solely to  
7 verify the information reported by the eligible private schools concerning  
8 the enrollment and attendance of students, background screening of teachers,  
9 and teachers' fingerprinting results.

10                   (iii) The eligible nonprofit scholarship-funding  
11 organization may not make more than seven (7) random site visits each year  
12 and may not make more than one (1) random site visit each year to the same  
13 eligible private school.

14                   (B) Annually by December 15, report to the Governor, the  
15 President Pro Tempore of the Senate, and the Speaker of the House of  
16 Representatives the eligible nonprofit scholarship-funding organization's  
17 actions with respect to implementing accountability in the scholarship  
18 program under this section any substantiated allegations or violations of law  
19 or rule by an eligible private school under this program concerning the  
20 enrollment and attendance of students, background screening of teachers, and  
21 teachers' fingerprinting results, and the corrective action taken by the  
22 eligible nonprofit scholarship-funding organization;

23                   (22)(A)(i) The owner or operator shall deny, suspend, or revoke  
24 an eligible private school's participation in the scholarship program if it  
25 is determined that the eligible private school has failed to comply with this  
26 section.

27                   (ii) In instances in which the noncompliance is  
28 correctable within a reasonable amount of time and in which the health,  
29 safety, or welfare of the students is not threatened, the owner or operator  
30 may issue a notice of noncompliance that shall provide the eligible private  
31 school with a timeframe within which to provide evidence of compliance before  
32 taking action to suspend or revoke the eligible private school's  
33 participation in the scholarship program.

34                   (B) The owner's or operator's determination is subject to  
35 the following:

1                   (i) If the owner or operator intends to deny,  
2 suspend, or revoke an eligible private school's participation in the  
3 scholarship program, the eligible nonprofit scholarship-funding organization  
4 shall notify the eligible private school of such proposed action in writing  
5 by certified mail and regular mail to the eligible private school's address  
6 of record with the eligible nonprofit scholarship-funding organization. The  
7 notification shall include the reasons for the proposed action and notice of  
8 the timelines and procedures set forth in this subdivision (i)(2); and

9                   (ii) The eligible private school that is adversely  
10 affected by the proposed action shall have the right to appeal the decision  
11 to the Department of Finance and Administration.

12                   (C) The eligible nonprofit scholarship-funding  
13 organization may immediately suspend payment of scholarship funds if it is  
14 determined that there is probable cause to believe that there is:

15                   (i) An imminent threat to the health, safety, and  
16 welfare of the students; or

17                   (ii) Fraudulent activity on the part of the eligible  
18 private school.

19                   (D) In incidents of alleged fraudulent activity, the  
20 eligible nonprofit scholarship-funding organization may release personally  
21 identifiable records or reports of students to the following persons or  
22 organizations:

23                   (i) A court of competent jurisdiction in compliance  
24 with an order of that court or the attorney of record in accordance with a  
25 lawfully issued subpoena, consistent with the Family Educational Rights and  
26 Privacy Act, 20 U.S.C. § 1232(g), as in effect on January 1, 2011;

27                   (ii) A person or entity authorized by a court of  
28 competent jurisdiction in compliance with an order of that court or the  
29 attorney of record under a lawfully issued subpoena, consistent with the  
30 Family Educational Rights and Privacy Act, 20 U.S.C. § 1232(g), as in effect  
31 on January 1, 2011; and

32                   (iii) Any person, entity, or authority issuing a  
33 subpoena for law enforcement purposes when the court or other issuing agency  
34 has ordered that the existence or the contents of the subpoena or the  
35 information furnished in response to the subpoena not be disclosed,  
36 consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. §

1 1232(g), as in effect of January 1, 2011, and 34 C.F.R. § 99.31, as in effect  
2 January 1, 2011.

3 (E) The eligible nonprofit scholarship-funding  
4 organization order suspending payment under this subsection may be appealed  
5 to the Department of Finance and Administration;

6 (23) Identify and select the nationally norm-referenced tests  
7 that are comparable to the norm-referenced provisions of the Arkansas  
8 Comprehensive Testing, Assessment, and Accountability Program provided that  
9 the Arkansas Comprehensive Testing, Assessment, and Accountability Program  
10 assessments may be one (1) of the tests selected; and

11 (24)(A) Select an independent research organization, which may  
12 be a public or private entity or university, to which participating eligible  
13 private schools shall report the scores of participating students on the  
14 nationally norm-referenced tests administered by the eligible private school.

15 (B) The independent research organization shall report  
16 annually to the Department of Education on the year-to-year improvements of  
17 participating students.

18 (C) The independent research organization shall analyze  
19 and report student performance data in a manner that protects the rights of  
20 students and parents as mandated in the Family Educational Rights and Privacy  
21 Act, 20 U.S.C. § 1232(g), as in effect on January 1, 2011, and shall not  
22 disaggregate data to a level that will disclose the academic level of  
23 individual students or of individual schools.

24 (D) To the extent possible, the independent research  
25 organization shall accumulate historical performance data on students from  
26 the Department of Education and private schools to describe baseline  
27 performance and to conduct longitudinal studies.

28 (E) To minimize costs and reduce time required for third-  
29 party analysis and evaluation, the Department of Education shall conduct  
30 analyses of matched students from public school assessment data and calculate  
31 control group learning gains using an agreed-upon methodology outlined in the  
32 contract with the third-party evaluator.

33 (F) The sharing of student data shall be in accordance  
34 with requirements of the Family Educational Rights and Privacy Act, 20 U.S.C.  
35 § 1232(g), as in effect on January 1, 2011, and shall be for the sole purpose  
36 of conducting the evaluation.



1                   (G) All parties shall preserve the confidentiality of such  
2 information as required by law.

3                   (H) May solicit grants or donations to provide for any  
4 costs that may be associated for this evaluation.

5           (g)(1) To qualify his or her child for a scholarship from an eligible  
6 nonprofit scholarship-funding organization, a parent shall select an eligible  
7 private school and apply for the admission of his or her child.

8                   (2) The parent shall inform the child's school district when the  
9 parent withdraws his or her child to attend an eligible private school.

10                   (3) Any student participating in the scholarship program shall  
11 remain in attendance throughout the school year unless excused by the  
12 eligible private school for illness or other good cause.

13                   (4) Each parent and each eligible student has an obligation to  
14 the eligible private school to comply with the eligible private school's  
15 published policies.

16                   (5)(A) Upon receipt of a scholarship warrant from the eligible  
17 nonprofit scholarship-funding organization, the parent to whom the  
18 scholarship warrant is made must restrictively endorse the scholarship  
19 warrant to the eligible private school for deposit into the account of the  
20 eligible private school.

21                   (B) The parent may not designate any entity or individual  
22 associated with the participating eligible private school as the parent's  
23 attorney in fact to endorse a scholarship warrant.

24                   (C) A participant who fails to comply with this  
25 subdivision (g)(5) forfeits the scholarship.

26           (h) An eligible private school may be sectarian or nonsectarian and  
27 shall:

28                   (1) Comply with all requirements for private schools  
29 participating in state school choice scholarship programs;

30                   (2) Provide to the eligible nonprofit scholarship-funding  
31 organization, upon request, all documentation required for the student's  
32 participation, including the eligible private school's and student's fee  
33 schedules;

34                   (3) Be academically accountable to the parent for meeting the  
35 educational needs of the student by:

1                   (A) At a minimum, annually providing to the parent a  
 2 written explanation of the student's progress; and

3                   (B)(i) Annually administering or making provision for  
 4 students participating in the scholarship program to either take a nationally  
 5 norm-referenced test or take statewide assessments under Arkansas  
 6 Comprehensive Testing, Assessment, and Accountability Act.

7                   (ii) Students with disabilities for whom  
 8 standardized testing is not appropriate as stated in the students  
 9 individualized education plan are exempt from this requirement. However, the  
 10 participating eligible private school must prepare a portfolio that provides  
 11 information to the parent or parents of a student's progress each year.

12                   (iii) A participating eligible private school shall  
 13 report a student's scores to the parent and to the independent research  
 14 organization selected by the Department of Education as described in  
 15 subdivision (f)(21) of this section in accordance with the requirements of  
 16 the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g;

17                   (4) Comply with all requirements and laws for private schools in  
 18 Arkansas; and

19                   (5)(A) Meet the requirements of this subsection.

20                   (B) The inability of an eligible private school to meet  
 21 the requirements of this subsection shall constitute a basis for the  
 22 ineligibility of the private school to participate in the scholarship program  
 23 as determined by the Department of Education.

24                   (i) The Department of Finance and Administration shall:

25                   (1) By July 15, 2011, and by March 15 each year thereafter,  
 26 list the eligible nonprofit scholarship-funding organizations;

27                   (2) Annually verify the eligibility of nonprofit scholarship-  
 28 funding organizations;

29                   (3) Annually verify the eligibility of expenditures as provided  
 30 in subdivision (f)(4) of this section using the audit required by subdivision  
 31 (f)(13) of this section;

32                   (4) Notify an eligible nonprofit scholarship-funding  
 33 organization of any of the eligible nonprofit scholarship-funding  
 34 organization's identified students who are receiving corporate income tax  
 35 credit scholarships from other eligible nonprofit scholarship-funding  
 36 organizations; and

1           (5) Require quarterly reports by an eligible nonprofit  
2 scholarship-funding organization regarding the number of students  
3 participating in the scholarship program, the eligible private schools at  
4 which the students are enrolled, and other information deemed necessary by  
5 the Department of Finance and Administration.

6           (j)(1) The amount of a scholarship provided to any student for any  
7 single school year by an eligible nonprofit scholarship-funding organization  
8 from eligible contributions shall not exceed three thousand seven hundred  
9 fifty dollars (\$3,750) for a scholarship awarded to a student enrolled in an  
10 eligible private school.

11           (2)(A) Payment of the scholarship by the eligible nonprofit  
12 scholarship-funding organization shall be by individual warrant made payable  
13 to the student's parent.

14           (B) If the parent chooses that his or her child attend an  
15 eligible private school, the warrant must be delivered by the eligible  
16 nonprofit scholarship-funding organization to the eligible private school of  
17 the parent's choice, and the parent shall restrictively endorse the warrant  
18 to the eligible private school.

19           (C) An eligible nonprofit scholarship-funding organization  
20 shall ensure that the parent to whom the warrant is made restrictively  
21 endorsed the warrant to the eligible private school for deposit into the  
22 account of the eligible private school.

23           (3) An eligible nonprofit scholarship-funding organization shall  
24 obtain verification from the eligible private school of a student's continued  
25 attendance at the eligible private school before each scholarship payment.

26           (4) Payment of the scholarship shall be made by the eligible  
27 nonprofit scholarship-funding organization no less frequently than on a  
28 quarterly basis.

29           (k)(1)(A) If the income tax credit under this section is not fully  
30 used in any one (1) year because of insufficient tax liability on the part of  
31 the eligible taxpayer, the unused amount may be carried forward for a period  
32 not to exceed three (3) years.

33           (B) An eligible taxpayer that seeks to carry forward an  
34 unused amount of the income tax credit under this section must submit an  
35 application for allocation of tax credits or carryforward credits as required

1 in subsection (e) of this section in the year that the eligible taxpayer  
2 intends to use the carryforward.

3 (C) This carryforward applies to all approved eligible  
4 contributions made after January 1, 2011.

5 (D) An eligible taxpayer may not convey, assign, or  
6 transfer the income tax credit under this section to another entity unless  
7 all of the assets of the eligible taxpayer are conveyed, assigned, or  
8 transferred in the same transaction.

9 (2) An application for an income tax credit under this section  
10 shall be submitted to the Department of Finance and Administration on forms  
11 established by rule of the department.

12 (3) The Department of Finance and Administration and the  
13 Department of Education shall develop a cooperative agreement to assist in  
14 the administration of this section.

15 (4) The Department of Finance and Administration shall adopt  
16 rules necessary to administer this section, including rules establishing  
17 application forms and procedures and governing the allocation of tax credits  
18 and carryforward credits under this section on a first-come, first-served  
19 basis.

20 (5) An eligible taxpayer claiming a credit granted by this  
21 section shall not take a deduction under the Arkansas income tax law or the  
22 premium tax law for the same contribution.

23  
24 SECTION 2. Section 1 of this act is effective for tax years beginning  
25 on or after January 1, 2011.

26  
27 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
28 General Assembly of the State of Arkansas that attendance at a private school  
29 is often cost prohibitive for many Arkansas children; that these children  
30 should be allowed to attend a private school; that providing scholarships  
31 would allow many to attend private schools who are not currently financially  
32 able to do so; and that allowing an income tax credit would encourage  
33 donations that could be used for scholarships for these children. Therefore,  
34 an emergency is declared to exist and this act being immediately necessary  
35 for the preservation of the public peace, health, and safety shall become  
36 effective on:

1           (1) The date of its approval by the Governor;

2           (2) If the bill is neither approved nor vetoed by the Governor,  
3 the expiration of the period of time during which the Governor may veto the  
4 bill; or

5           (3) If the bill is vetoed by the Governor and the veto is  
6 overridden, the date the last house overrides the veto.

7  
8                                           /s/Collins

9 Referred by the Arkansas House of Representatives

10 Prepared by: MMC/VJF

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INTERIM STUDY PROPOSAL 2011-093

State of Arkansas  
88th General Assembly  
Regular Session, 2011

*As Engrossed: H3/17/11*  
**A Bill**

HOUSE BILL 1809

By: Representative Hyde

Filed with: Interim House Committee on Revenue and Taxation  
pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

AN ACT TO CREATE AN EXEMPTION FROM THE SALES AND USE  
TAX FOR ELECTRIC VEHICLES; AND FOR OTHER PURPOSES.

**Subtitle**

TO CREATE AN EXEMPTION FROM THE SALES AND  
USE TAX FOR ELECTRIC VEHICLES.

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

SECTION 1. TEMPORARY LANGUAGE. NOT TO BE CODIFIED.

Qualified plug-in electric drive vehicles.

(a) As used in this section, "qualified plug-in electric drive  
vehicle" means a four-wheeled motor vehicle that:

(1) Is made by a manufacturer;

(2) Is manufactured primarily for use on public streets, roads,  
and highways;

(3) Has not been modified from original manufacturer  
specifications except for minor cosmetic and equipment changes;

(4) Is acquired for use or lease by the taxpayer and not for  
resale;

(5) Is rated at not more than eight thousand five hundred pounds  
(8,500 lbs.) unloaded gross vehicle weight;

(6) Has a maximum speed capability of at least fifty-five miles  
per hour (55 m.p.h.);

1           (7) Is propelled to a significant extent by an electric motor  
2 that draws electricity from a battery that:

3                   (A) Has a capacity of not less than four kilowatt hours (4  
4 kWh); and

5                   (B) Is capable of being recharged from an external source  
6 of electricity; and

7                   (8) Is acquired by the taxpayer on or before December 31, 2013.

8           (b) Except as otherwise provided in this section, the gross receipts  
9 or gross proceeds derived from the sale of a qualified plug-in electric drive  
10 vehicle are exempt from the gross receipts tax levied by the Arkansas Gross  
11 Receipts Act of 1941, § 26-52-101 et seq., and the compensating use tax  
12 levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

13           (c) The exemption provided under this section shall:

14                   (1) Not exceed five hundred dollars (\$500);

15                   (2) Be limited to the acquisition of:

16                           (A) One (1) qualified plug-in electric drive vehicle per  
17 individual taxpayer; and

18                           (B) Ten (10) qualified plug-in electric drive vehicles per  
19 business entity; and

20                   (3) Not be allowed if:

21                           (A) The qualified plug-in electric drive vehicle is not  
22 registered in the state; or

23                           (B) The owner of the qualified plug-in electric drive  
24 vehicle has not conformed to the state or federal laws or regulations that  
25 apply to the purchase of a clean-fuel vehicle or an electric vehicle during  
26 the calendar year in which the qualified plug-in electric drive vehicle is  
27 titled.

28           (d) The exemption provided under this section is allowed on a first-  
29 come, first-serve basis, and the total amount of exemptions provided under  
30 this section shall not exceed twenty-five thousand dollars (\$25,000).

31           (e) The Director of the Department of Finance and Administration shall  
32 promulgate rules to implement this section.

33  
34           SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective on the  
35 first day of the second calendar month following the effective date of this  
36 act.

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/s/Hyde

Referred by the Arkansas House of Representatives

Prepared by: JLL/VJF



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INTERIM STUDY PROPOSAL 2011-121

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

SENATE BILL 885

4 By: Senators Rapert, G. Jeffress  
5  
6 By: Representative Sanders

7 Filed with: Interim Senate Committee on Revenue and Taxation  
8 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

9 AN ACT TO PROVIDE ECONOMIC RELIEF TO CITIZENS OF THE  
10 STATE OF ARKANSAS IN ORDER TO ENSURE THAT ITS  
11 CITIZENS HAVE THE OPPORTUNITY TO SUCCEED BY AMENDING  
12 THE INCOME TAX ACT OF 1929 REGARDING THE INCOME TAX  
13 RATES FOR PERSONS LIVING IN CERTAIN COUNTIES; AND FOR  
14 OTHER PURPOSES.  
15  
16

## Subtitle

17 THE ARKANSAS ECONOMIC REHABILITATION,  
18 DEVELOPMENT, AND GROWTH ACT OF 2011.  
19

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

### 22 SECTION 1. Intent.

23 The General Assembly finds that:

24 (1) Arkansas as a whole falls into the top ten (10) states with  
25 the highest poverty rates and is currently ranked second in the nation for  
26 persons living below the poverty level;

27 (2) The most critical levels of poverty are occurring in the  
28 Delta Region and the southeast corner of the state;

29 (3) A large percentage of persons living in the southeast corner  
30 of the state and along the southern end of the state are unemployed and  
31 living in poverty;  
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1           (4) Persons living in poverty often times have to deal with a  
2 constant negative stigma attached to the area in which they live;

3           (5) The negative stigma causes businesses to be hesitant before  
4 investing in the area, causes families to migrate away from the area, and  
5 makes it an unattractive place to work for teachers and health care  
6 professionals;

7           (6) The negative stigma and poverty rates are increasing due to  
8 persons leaving the area as confirmed by the most recent census data;

9           (7) Persons working in these areas often do not earn enough  
10 money to provide for their families; and

11           (8) In order to help the citizens in these areas succeed, the  
12 state must work to encourage its residents to stay and to encourage  
13 businesses to continue to operate in these parts of Arkansas.

14  
15           SECTION 2 Arkansas Code § 26-51-201(a) concerning the imposition of  
16 income taxes, is amended to read as follows:

17           26-51-201. Individuals, trusts, and estates.

18           (a) A Except as provided in § 26-51-208, a tax is imposed upon, and  
19 with respect to, the entire income of every resident, individual, trust, or  
20 estate. The tax shall be levied, collected, and paid annually upon the entire  
21 net income as defined and computed in this chapter at the following rates,  
22 giving effect to the tax credits provided hereafter, in the manner set forth:

23           (1) On the first two thousand nine hundred ninety-nine dollars  
24 (\$2,999) of net income or any part thereof, one percent (1%);

25           (2) On the next three thousand dollars (\$3,000) of net income or  
26 any part thereof, two and one-half percent (2 1/2%);

27           (3) On the next three thousand dollars (\$3,000) of net income or  
28 any part thereof, three and one-half percent (3 1/2%);

29           (4) On the next six thousand dollars (\$6,000) of net income or  
30 any part thereof, four and one-half percent (4 1/2%);

31           (5) On the next ten thousand dollars (\$10,000) of net income or  
32 any part thereof, six percent (6%); and

33           (6) On net income of twenty-five thousand dollars (\$25,000) and  
34 above, seven percent (7%).

35

1 SECTION 3. Arkansas Code Title 26, Chapter 51, Subchapter 2 is amended  
2 to add a new section to read as follows:

3 26-51-208. Reduced income tax rates.

4 (a) Subsection (b) of this section establishes the tax rates imposed  
5 upon the entire net income of every resident, individual, trust, or estate  
6 located in a county in which:

7 (1) A net loss of ten percent (10%) of the population has  
8 occurred over the last ten-year census period as recorded in the most recent  
9 federal census;

10 (2) The poverty rate of the county as reported by the United  
11 States Department of Agriculture is at least fifty percent (50%) above the  
12 state average;

13 (3) The unemployment rate is equal to or in excess of one  
14 hundred thirty-five percent (135%) of the state's average unemployment rate  
15 for the preceding calendar year as specified by statewide annual labor force  
16 statistics compiled by the Department of Workforce Services; or

17 (4) The county currently qualifies as a "distressed county" as  
18 defined by the Economic Development Administration or the Delta Regional  
19 Authority.

20 (b)(1) The tax under this section shall be levied, collected, and paid  
21 annually upon the entire net income as defined and computed in this chapter  
22 at the following rates:

23 (A) On the first twenty-four thousand dollars (\$24,000) of  
24 net income, zero percent (0%);

25 (B) On net income of twenty-four thousand and one dollars  
26 (\$24,001) to fifty thousand dollars (\$50,000), five percent (5%);

27 (C) On net income of fifty thousand and one dollars  
28 (\$50,001) to seventy-five thousand dollars (\$75,000), five and one-half  
29 percent (5.5%); and

30 (D) On net income of seventy five thousand and one dollars  
31 (\$75,001) and above, six percent (6%).

32 (2) Subdivision (b)(1) of this section shall include tax rebates  
33 provided by this chapter.

34 (c) The status of the taxpayer under this section shall be established  
35 following each federal census and shall be effective for ten (10) years.

1 SECTION 4. Arkansas Code § 26-51-303(a)(9) and (10), concerning  
2 exemption from the Income Tax Act of 1929, § 26-51-101 et seq., are amended  
3 to read as follows:

4 (9) Corporations, trusts, and any community chest, fund, or  
5 foundation, organized and operated exclusively for religious, charitable,  
6 scientific, literary, or educational purposes, or for the prevention of  
7 cruelty to children or animals, no part of the net earnings of which inures  
8 to the benefit of any private shareholder or individual, no substantial part  
9 of the activities of which is carrying on propaganda or otherwise attempting  
10 to influence legislation, and which does not participate in, or intervene in,  
11 including the publishing or distributing of statements, any political  
12 campaign on behalf of or in opposition to any candidate for public office;  
13 and

14 (10) A political organization that does not have political  
15 organization taxable income for the tax year under 26 U.S.C. § 527, as in  
16 effect on January 1, 2009; and

17 (11)(A) A partnership, limited liability company, or corporation  
18 that that is located in a county in which:

19 (i) A net loss of ten percent (10%) of the  
20 population has occurred over the last ten-year census period as recorded in  
21 the most recent federal census;

22 (ii) The poverty rate of the county as reported by  
23 the United States Department of Agriculture is at least fifty percent (50%)  
24 above the state average;

25 (iii) The unemployment rate is equal to or in excess  
26 of one hundred thirty-five percent (135%) of the state's average unemployment  
27 rate for the preceding calendar year as specified by statewide annual labor  
28 force statistics compiled by the Department of Workforce Services; or

29 (iv) The county currently qualifies as a "distressed  
30 county" as defined by the Economic Development Administration or the Delta  
31 Regional Authority.

32 (B) A change in the population of the county shall not  
33 affect the exempt status of a partnership, limited liability company, or  
34 corporation in the future.

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1 SECTION 5. EFFECTIVE DATE. This act is effective beginning January 1,  
2 2012.

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Referred by the Arkansas Senate  
Prepared by: MAG/VJF



INTERIM STUDY PROPOSAL 2011-130

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

*As Engrossed: H3/16/11*

**A Bill**

HOUSE BILL 2064

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5  
6 By: Representatives L. Cowling, King, D. Altes, Barnett, Bell, Benedict, Branscum, J. Burris, Carnine,  
7 Collins, Dale, Deffenbaugh, Eubanks, Gillam, Harris, Hickerson, Hopper, Jean, Johnston, Kerr,  
8 Lampkin, Lea, Lenderman, Linck, Lindsey, S. Malone, Mauch, McCrary, S. Meeks, Rice, Shepherd,  
9 Stewart, Stubblefield, Summers, T. Thompson, Wardlaw, Wren  
10 By: Senators Files, Hendren, Holland, B. Sample, E. Williams

11 Filed with: Interim House Committee on Revenue and Taxation  
12 pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

13 AN ACT TO GRADUALLY REDUCE THE SALES AND USE TAX ON  
14 UTILITIES THAT ARE USED BY QUALIFYING AGRICULTURAL  
15 STRUCTURES AND QUALIFYING AGRICULTURE, HORTICULTURE,  
16 AND AQUACULTURE EQUIPMENT; AND FOR OTHER PURPOSES.  
17

**Subtitle**

18  
19  
20 TO GRADUALLY REDUCE THE SALES AND USE TAX  
21 ON UTILITIES THAT ARE USED BY QUALIFYING  
22 AGRICULTURAL STRUCTURES AND QUALIFYING  
23 AGRICULTURE, HORTICULTURE, AND  
24 AQUACULTURE EQUIPMENT.  
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27

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

30 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended  
31 to add an additional section to read as follows:

32 26-52-323. Reduced sales tax rate for utilities used by qualifying  
33 agricultural structures and by qualifying agriculture, horticulture, and  
34 aquaculture equipment.

35 (a) As used in this section:



1           (1) "Qualifying agriculture, horticulture, or aquaculture  
2 equipment" means:

3                   (A) A cooling unit, a collection unit, or irrigation  
4 equipment used in a commercial horticulture operation;

5                   (B) Equipment used to pump and aerate a pond used in a  
6 commercial aquaculture operation;

7                   (C) A holding and sorting tank used in a commercial  
8 aquaculture operation; and

9                   (D) An on-farm grain dryer and agricultural irrigation  
10 used for a commercial purpose;

11           (2) "Qualifying agricultural structure" means:

12                   (A) Confinement housing for poultry or livestock used for  
13 commercial production, including without limitation a broiler or turkey grow-  
14 out house, laying house, hatching unit, nursery unit, breeding house,  
15 farrowing unit, feed-out house, and the equipment and renovations necessary  
16 to utilize the confinement housing for the commercial production of poultry  
17 or livestock; and

18                   (B) A commercial milking facility, including without  
19 limitation a milking parlor, a milk collection unit, and a refrigeration  
20 unit; and

21           (3) "Utility" means:

22                   (A) Liquefied petroleum gas;

23                   (B) Natural gas; or

24                   (C) Electricity.

25           (b)(1) Beginning July 1, 2011, in lieu of the gross receipts or gross  
26 proceeds taxes levied in §§ 26-52-301 and 26-52-302, there is levied an  
27 excise tax on the gross receipts or gross proceeds derived from the sale of a  
28 utility used by a qualifying agricultural structure for a commercial purpose  
29 or qualifying agriculture, horticulture, or aquaculture equipment for a  
30 commercial purpose at the rate of four percent (4%).

31           (2) Beginning July 1, 2012, the excise tax rate levied in  
32 subdivision (b)(1) of this section shall be imposed at the rate of two and  
33 five-eighths percent (2.625%).

34           (c) The excise tax levied in subsection (b) of this section shall be  
35 distributed as follows:

1           (1) Seventy-six and six-tenths percent (76.6%) of the tax,  
2 interest, penalties, and costs received by the Director of the Department of  
3 Finance and Administration shall be deposited into the State Treasury as  
4 general revenues;

5           (2) Eight and five-tenths percent (8.5%) of the tax, interest,  
6 penalties, and costs received by the director shall be deposited into the  
7 Property Tax Relief Trust Fund; and

8           (3) Fourteen and nine-tenths percent (14.9%) of the tax,  
9 interest, penalties, and costs received by the director shall be deposited  
10 into the Educational Adequacy Fund.

11           (d) The excise tax levied in this section applies only to a utility  
12 sold for use by a qualifying agricultural structure for a commercial purpose  
13 or qualifying agriculture, horticulture, or aquaculture equipment operated  
14 for a commercial purpose.

15           (e) The excise tax levied in this section shall be collected,  
16 reported, and paid in the same manner and at the same time as is prescribed  
17 by law for the collection, reporting, and payment of all other Arkansas gross  
18 receipts taxes.

19           (f) A utility subject to the reduced excise tax rate levied in this  
20 section shall be separately metered from a utility used for any other purpose  
21 by the taxpayer, or as otherwise established by the rules issued under  
22 subsection (h) of this section.

23           (g) Before the purchase of a utility at the reduced excise tax rate  
24 levied in this section, the director may require a seller of a utility to  
25 obtain a certificate from the taxpayer in the form prescribed by the  
26 director, certifying that the taxpayer is eligible to purchase the utility at  
27 the reduced excise tax rate.

28           (h) The director shall promulgate rules for the proper administration  
29 of this section.

30           (i) The gross receipts or gross proceeds derived from the sale of a  
31 utility to a taxpayer for use by a qualifying agricultural structure for a  
32 commercial purpose or qualifying agriculture, horticulture, or aquaculture  
33 equipment operated for a commercial purpose shall continue to be subject to:

34           (1) The excise tax levied under Arkansas Constitution, Amendment  
35 75, § 2; and

36           (2) All municipal and county gross receipts taxes.

1  
2 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended  
3 to add an additional section to read as follows:

4 26-53-149. Reduced compensating use tax rate for utilities used by  
5 qualifying agricultural structures and by qualifying agriculture,  
6 horticulture, and aquaculture equipment.

7 (a) As used in this section:

8 (1) "Qualifying agriculture, horticulture, or aquaculture  
9 equipment" means:

10 (A) A cooling unit, a collection unit, or irrigation  
11 equipment used in a commercial horticulture operation;

12 (B) Equipment used to pump and aerate a pond used in a  
13 commercial aquaculture operation;

14 (C) A holding and sorting tank used in a commercial  
15 aquaculture operation; and

16 (D) An on-farm grain dryer and agricultural irrigation  
17 used for a commercial purpose;

18 (2) "Qualifying agricultural structure" means:

19 (A) Confinement housing for poultry or livestock used for  
20 commercial production, including without limitation a broiler or turkey grow-  
21 out house, laying house, hatching unit, nursery unit, breeding house,  
22 farrowing unit, feed-out house, and the equipment and renovations necessary  
23 to utilize the confinement housing for the commercial production of poultry  
24 or livestock; and

25 (B) A commercial milking facility, including without  
26 limitation a milking parlor, a milk collection unit, and a refrigeration  
27 unit; and

28 (3) "Utility" means:

29 (A) Liquefied petroleum gas;

30 (B) Natural gas; or

31 (C) Electricity.

32 (b)(1) Beginning July 1, 2011, in lieu of the compensating use taxes  
33 levied in §§ 26-53-106 and 26-53-107, there is levied an excise tax on the  
34 sales price of a utility purchased for use by a qualifying agricultural  
35 structure for a commercial purpose or qualifying agriculture, horticulture,

1 or aquaculture equipment for a commercial purpose at the rate of four percent  
2 (4%).

3 (2) Beginning July 1, 2012, the excise tax rate levied in  
4 subdivision (b)(1) of this section shall be imposed at the rate of two and  
5 five-eighths percent (2.625%).

6 (c) The excise taxes levied in subsection (b) of this section shall be  
7 distributed as follows:

8 (1) Seventy-six and six-tenths percent (76.6%) of the tax,  
9 interest, penalties, and costs received by the Director of the Department of  
10 Finance and Administration shall be deposited into the State Treasury as  
11 general revenues;

12 (2) Eight and five-tenths percent (8.5%) of the tax, interest,  
13 penalties, and costs received by the director shall be deposited into the  
14 Property Tax Relief Trust Fund; and

15 (3) Fourteen and nine-tenths percent (14.9%) of the tax,  
16 interest, penalties, and costs received by the director shall be deposited  
17 into the Educational Adequacy Fund.

18 (d) The excise tax levied in this section applies only to a utility  
19 purchased for use by a qualifying agricultural structure for a commercial  
20 purpose or qualifying agriculture, horticulture, or aquaculture equipment  
21 operated for a commercial purpose.

22 (e) The excise tax levied in this section shall be collected,  
23 reported, and paid in the same manner and at the same time as is prescribed  
24 by law for the collection, reporting, and payment of all other Arkansas  
25 compensating use taxes.

26 (f) A utility subject to the reduced excise tax rate levied in this  
27 section shall be separately metered from a utility used for any other purpose  
28 by the taxpayer, or as otherwise established by the rules issued under  
29 subsection (h) of this section.

30 (g) Before the purchase of a utility at the reduced excise tax rate  
31 levied in this section, the director may require a seller of a utility to  
32 obtain a certificate from the consumer in the form prescribed by the  
33 director, certifying that the taxpayer is eligible to purchase the utility at  
34 the reduced excise tax rate.

35 (h) The director shall promulgate rules for the proper administration  
36 of this section.

1           (i) The purchase of a utility that qualifies for the reduced excise  
2 tax rate levied in this section shall continue to be subject to:

3                   (1) The excise tax levied under Arkansas Constitution, Amendment  
4 75, § 2; and

5                   (2) All municipal and county compensating use taxes.

6  
7           SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
8 General Assembly of the State of Arkansas that agricultural, horticultural,  
9 and aquacultural businesses in this state have suffered losses due to sharp  
10 increases in energy costs; that these businesses are unable to set the price  
11 for the products they produce and are particularly vulnerable to price  
12 volatility; that the current sales and use tax on utilities consumed by these  
13 businesses located within this state creates a competitive disadvantage; that  
14 this act is intended to address that problem by providing a reduced tax rate  
15 on utilities consumed by agricultural, horticultural, and aquacultural  
16 businesses located in this state; and that this act is necessary to prevent  
17 the loss of agricultural, horticultural, and aquacultural jobs. Therefore,  
18 an emergency is hereby declared to exist and this act being necessary for the  
19 preservation of public peace, health, and safety shall become effective on  
20 July 1, 2011.

21  
22                                   /s/L. Cowling  
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33 Referred by the Arkansas House of Representatives

34 Prepared by: JLL/VJF

INTERIM STUDY PROPOSAL 2011-129

1  
2 State of Arkansas  
3 88th General Assembly  
4 Regular Session, 2011

# A Bill

HOUSE BILL 1964

5  
6 By: Representative King

7 Filed with: Interim House Committee on Revenue and Taxation  
8 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

9  
10 AN ACT TO AMEND THE TAX ON DYED DISTILLATE SPECIAL  
11 FUELS USED FOR OFF-ROAD PURPOSES; AND FOR OTHER  
12 PURPOSES.

## Subtitle

13  
14  
15 TO AMEND THE TAX ON DYED DISTILLATE  
16 SPECIAL FUELS USED FOR OFF-ROAD PURPOSES.

17  
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19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21  
22 SECTION 1. The purpose of this act is to amend the tax on dyed  
23 distillate special fuels used for off-road purposes.

24  
25 Referred by the Arkansas House of Representatives

26 Prepared by: JLL/VJF  
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INTERIM STUDY PROPOSAL 2011-131

1  
2 State of Arkansas  
3 88th General Assembly  
4 Regular Session, 2011

As Engrossed: H3/23/11  
**A Bill**

HOUSE BILL 2069

5  
6 By: Representative L. Cowling

7 Filed with: Interim House Committee on Revenue and Taxation  
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT CONCERNING SALES AND USE TAX EXEMPTIONS FOR  
11 AGRICULTURAL EQUIPMENT, MACHINERY, AND SUPPLIES; AND  
12 FOR OTHER PURPOSES.

13  
14  
15 **Subtitle**

16 AN ACT CONCERNING SALES AND USE TAX  
17 EXEMPTIONS FOR AGRICULTURAL EQUIPMENT,  
18 MACHINERY, AND SUPPLIES.

19  
20  
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22  
23 *SECTION 1. Arkansas Code § 26-52-403(a)(1)(C), concerning the*  
24 *definition of "farm equipment and machinery" for sales and use tax exemption*  
25 *purposes, is amended to read as follows:*

26 *(C) However, "farm equipment and machinery" shall does not*  
27 *include implements used in the production and severance of timber, motor*  
28 *vehicles of a type subject to registration, airplanes, ~~or~~ hand tools, three-*  
29 *wheeled all-terrain vehicles, four-wheeled all-terrain vehicles, or six-*  
30 *wheeled all-terrain vehicles; and*

31  
32 *SECTION 2. Arkansas Code § 26-52-408, concerning the sales tax*  
33 *exemption for certain bagging, packaging, and tying materials, is amended to*  
34 *add an additional subsection to read as follows:*

35 *(c)(1) The gross receipts or gross proceeds derived from the sale of*  
36 *the following materials used for baling, packaging, tying, wrapping, storing,*

1 transporting, or sealing cotton or animal feed products are exempt from the  
2 gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, § 26-  
3 52-101 et seq., and the compensating use tax levied by the Arkansas  
4 Compensating Tax Act of 1949, § 26-53-101 et seq.:

- 5 (A) Baling twine or wire;
- 6 (B) Bale wrap;
- 7 (C) Net wrap;
- 8 (D) Plastic silage wrap; and
- 9 (E) Module covers.

10 (2) As used in this subsection, "animal feed products" means  
11 hay, straw, grass, fodder, silage, and similar products used for feeding  
12 animals.

13  
14 SECTION 3. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended  
15 to add an additional section to read as follows:

16 26-52-444. Fencing materials for livestock.

17 The gross receipts or gross proceeds derived from the sale of fencing  
18 materials, including without limitation posts, wire, and chargers, used for  
19 containing livestock are exempt from the gross receipts tax levied by the  
20 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the  
21 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §  
22 26-53-101 et seq.

23  
24 SECTION 4. EFFECTIVE DATE. Sections 1 through 3 of this act are  
25 effective on and after July 1, 2013.

26  
27 /s/L. Cowling  
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32

33 Referred by the Arkansas House of Representatives  
34 Prepared by: MMC/VJF  
35  
36



INTERIM STUDY PROPOSAL 2011-132

State of Arkansas  
88th General Assembly  
Regular Session, 2011

# A Bill

HOUSE BILL 2105

By: Representative Gillam  
By: Senator J. Dismang

Filed with: Interim House Committee on Revenue and Taxation  
pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR VOLUNTEER  
FIREFIGHTERS; AND FOR OTHER PURPOSES.

### Subtitle

TO PROVIDE AN INCOME TAX CREDIT FOR  
VOLUNTEER FIREFIGHTERS.

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

SECTION 1. Arkansas Code Title 26, Chapter 51, Subchapter 5 is amended  
to add an additional section to read as follows:

26-51-515. Volunteer firefighter tax credit.

(a) As used in this section, "volunteer firefighter" means any member of a fire department or fire fighting unit who actively engages in fire suppression, rescue, pump operation, or other firefighting activity and who receives less than five thousand dollars (\$5,000) in compensation during the taxable year from the fire department or fire fighting unit for which the volunteer firefighter performs services.

(b) In addition to any income tax credit for which a taxpayer qualifies for under this subchapter, the taxpayer is allowed an income tax credit of two hundred fifty dollars (\$250) against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., if the taxpayer meets the following requirements:

1           (1) The taxpayer has served as a volunteer firefighter for a  
2 minimum of one (1) year; and

3           (2) The taxpayer completes in the taxable year a minimum of  
4 sixteen (16) hours of training that has been certified by the Arkansas Fire  
5 Training Academy.

6           (c) The amount of the income tax credit under this section that may be  
7 claimed by the taxpayer in a tax year shall not exceed the amount of income  
8 tax due by the taxpayer.

9           (d) The Director of the Department of Finance and Administration shall  
10 promulgate rules to implement this section.

11  
12           SECTION 2. This act shall apply to tax years beginning on or after  
13 January 1, 2011.

14  
15 Referred by the Arkansas House of Representatives

16 Prepared by: JLL/VJF

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INTERIM STUDY PROPOSAL 2011-133

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

HOUSE BILL 2228

4 By: Representative L. Cowling

5  
6 Filed with: Interim House Committee on Revenue and Taxation  
7 pursuant to A.C.A. §10-3-217.  
8

## For An Act To Be Entitled

9 AN ACT TO GRADUALLY REDUCE THE SALES AND USE TAX  
10 LEVIED ON NATURAL GAS AND ELECTRICITY USED BY  
11 MANUFACTURERS; TO DECLARE AN EMERGENCY; AND FOR OTHER  
12 PURPOSES.  
13

## Subtitle

14 TO GRADUALLY REDUCE THE SALES AND USE TAX  
15 LEVIED ON NATURAL GAS AND ELECTRICITY  
16 USED BY MANUFACTURERS AND TO DECLARE AN  
17 EMERGENCY.  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20  
21  
22

23 SECTION 1. Arkansas Code § 26-52-319(a)-(b), concerning natural gas  
24 and electricity used by manufacturers, is amended to read as follows:

25 (a)(1) Beginning July 1, 2007, in lieu of the gross receipts or gross  
26 proceeds tax levied in §§ 26-52-301 and 26-52-302(a)-(d), there is levied an  
27 excise tax on the gross receipts or gross proceeds derived from the sale of  
28 natural gas and electricity to a manufacturer for use directly in the actual  
29 manufacturing process at the rate of four and three-eighths percent (4.375%).  
30

31 (2) Beginning July 1, 2008, the tax rate levied in subdivision  
32 (a)(1) of this section shall be imposed at the rate of three and seven-  
33 eighths percent (3.875%).  
34

1           (3)(A) Beginning July 1, 2009, the tax rate levied in  
2 subdivision (a)(1) of this section shall be imposed at the rate of three and  
3 one-eighth percent (3.125%).

4           (B)(i) The Director of the Department of Finance and  
5 Administration shall monitor the amount of tax savings received by all  
6 taxpayers as a result of the reduction in the tax rate from that levied in §§  
7 26-52-301 and 26-52-302 to that levied in subdivision (a)(3)(A) of this  
8 section.

9           (ii) When the director determines that the amount of  
10 tax savings resulting from the determination described in subdivision  
11 (a)(3)(B)(i) of this section plus any use tax savings described in § 26-53-  
12 148(a)(3)(B) would reach twenty-seven million dollars (\$27,000,000) during a  
13 fiscal year, the director shall not process any further refund claims through  
14 a refund process during the fiscal year for taxpayers seeking to claim the  
15 reduced tax rate provided by this section. The amount of twenty-seven million  
16 dollars (\$27,000,000) is intended to cover the accumulated but unclaimed  
17 reduction of sales and use tax on natural gas and electricity as provided by  
18 Acts 2007, No. 185, as well as the additional reduction provided by Acts  
19 2009, No. 695.

20           (iii) If the director determines that discontinuing  
21 refund payments as provided in subdivision (a)(3)(B)(ii) of this section is  
22 insufficient to prevent the amount of tax savings from exceeding twenty-seven  
23 million dollars (\$27,000,000) during a fiscal year, the director may decline  
24 to accept any amended return filed by a taxpayer to claim an overpayment  
25 resulting from the reduced tax rate provided by this section for a period  
26 other than the period for which a tax return is currently due.

27           (C)(i) Refund requests and amended returns filed with the  
28 director to claim the overpayment resulting from the reduced rate in  
29 subdivision (a)(3)(A) of this section shall be processed in the order they  
30 are received by the director. A taxpayer that does not receive a refund after  
31 the refund and amended return process has ceased under subdivision (a)(3)(B)  
32 of this section shall be given priority to receive a refund during the  
33 subsequent fiscal year. The unpaid refunds from the prior fiscal year shall  
34 be processed before any refund claims filed in the current fiscal year to  
35 claim the benefit of this section.

1 (ii) The statute of limitations for refunds and  
2 amended returns under § 26-18-306(i)(1)(A) is extended for one (1) year to  
3 allow the payment of a refund under the process provided in subdivision  
4 (a)(3)(C)(i) of this section.

5 (4)(A)(i) Beginning July 1, 2011, the tax rate levied in  
6 subdivision (a)(1) of this section shall be imposed at the rate of two and  
7 seven-eighths percent (2.875%).

8 (ii) Beginning July 1, 2012, the tax rate levied in  
9 subdivision (a)(1) of this section shall be imposed at the rate of two and  
10 five-eighths percent (2.625%).

11 (B)(i) The Director of the Department of Finance and  
12 Administration shall monitor the amount of tax savings received by all  
13 taxpayers as a result of the reduction in the tax rate from that levied in §§  
14 26-52-301 and 26-52-302 to that levied in subdivision (a)(4)(A) of this  
15 section.

16 (ii) When the director determines that the amount of  
17 tax savings resulting from the determination described in subdivision  
18 (a)(4)(B)(i) of this section plus any use tax savings described in § 26-53-  
19 148(a)(4)(B) would reach twenty-seven million dollars (\$27,000,000) during a  
20 fiscal year, the director shall not process any further refund claims through  
21 a refund process during the fiscal year for taxpayers seeking to claim the  
22 reduced tax rate provided by this section. The amount of twenty-seven million  
23 dollars (\$27,000,000) is intended to cover the accumulated but unclaimed  
24 reduction of sales and use tax on natural gas and electricity as provided by  
25 this section.

26 (iii) If the director determines that discontinuing  
27 refund payments as provided in subdivision (a)(4)(B)(ii) of this section is  
28 insufficient to prevent the amount of tax savings from exceeding twenty-seven  
29 million dollars (\$27,000,000) during a fiscal year, the director may decline  
30 to accept any amended return filed by a taxpayer to claim an overpayment  
31 resulting from the reduced tax rate provided by this section for a period  
32 other than the period for which a tax return is currently due.

33 (C)(i) Refund requests and amended returns filed with the  
34 director to claim the overpayment resulting from the reduced rate in  
35 subdivision (a)(4)(A) of this section shall be processed in the order they  
36 are received by the director. A taxpayer that does not receive a refund after

1 the refund and amended return process has ceased under subdivision (a)(4)(B)  
 2 of this section shall be given priority to receive a refund during the  
 3 subsequent fiscal year. The unpaid refunds from the prior fiscal year shall  
 4 be processed before any refund claims filed in the current fiscal year to  
 5 claim the benefit of this section.

6 (ii) The statute of limitations for refunds and  
 7 amended returns under § 26-18-306(i)(1)(A) is extended for one (1) year to  
 8 allow the payment of a refund under the process provided in subdivision  
 9 (a)(4)(C)(i) of this section.

10 ~~(4)(5)~~ The taxes levied in this subsection ~~(a)~~ shall be  
 11 distributed as follows:

12 (A) Seventy-six and six-tenths percent (76.6%) of the tax,  
 13 interest, penalties, and costs received by the director shall be deposited as  
 14 general revenues;

15 (B) Eight and five-tenths percent (8.5%) of the tax,  
 16 interest, penalties, and costs received by the director shall be deposited  
 17 into the Property Tax Relief Trust Fund; and

18 (C) Fourteen and nine-tenths percent (14.9%) of the tax,  
 19 interest, penalties, and costs received by the director shall be deposited  
 20 into the Educational Adequacy Fund.

21 ~~(5)(A)~~(6)(A) The excise tax levied in this section applies only  
 22 to natural gas and electricity sold for use directly in the actual  
 23 manufacturing process.

24 (B) Natural gas and electricity sold for any other purpose  
 25 shall be subject to the full gross receipts or gross proceeds tax levied  
 26 under §§ 26-52-301 and 26-52-302~~(a)-(d)~~.

27 ~~(6)(7)~~ The excise tax levied in this section shall be collected,  
 28 reported, and paid in the same manner and at the same time as is prescribed  
 29 by law for the collection, reporting, and payment of all other Arkansas gross  
 30 receipts taxes.

31 (b) As used in this section, "manufacturer" means a manufacturer  
 32 classified within sectors 31 through 33 of the North American Industry  
 33 Classification System, as in effect on ~~January 1, 2007~~ January 1, 2011.

34  
 35 SECTION 2. Arkansas Code § 26-53-148(a)-(b), concerning natural gas  
 36 and electricity used by manufacturers, is amended to read as follows:

1 (a)(1) Beginning July 1, 2007, in lieu of the tax levied in §§ 26-53-  
2 106 and 26-53-107(a)-(d), there is levied an excise tax on the sales price of  
3 natural gas and electricity purchased by a manufacturer for use directly in  
4 the actual manufacturing process at the rate of four and three-eighths  
5 percent (4.375%).

6 (2) Beginning July 1, 2008, the tax rate levied in subdivision  
7 (a)(1) of this section shall be imposed at the rate of three and seven-  
8 eighths percent (3.875%).

9 (3)(A) Beginning July 1, 2009, the tax rate levied in  
10 subdivision (a)(1) of this section shall be imposed at the rate of three and  
11 one-eighth percent (3.125%).

12 (B)(i) The Director of the Department of Finance and  
13 Administration shall monitor the amount of tax savings received by all  
14 taxpayers as a result of the reduction in the tax rate from that levied in §§  
15 26-53-106 and 26-53-107 to that levied in subdivision (a)(3)(A) of this  
16 section.

17 (ii) When the director determines that the amount of  
18 tax savings resulting from the determination described in subdivision  
19 (a)(3)(B)(i) of this section plus any gross receipts tax savings described in  
20 § 26-52-319(a)(3)(B) would reach twenty-seven million dollars (\$27,000,000)  
21 during a fiscal year, the director shall not process any further refund  
22 claims through a refund process during the fiscal year for taxpayers seeking  
23 to claim the reduced tax rate provided by this section. The amount of twenty-  
24 seven million dollars (\$27,000,000) is intended to cover the accumulated but  
25 unclaimed reduction of sales and use tax on natural gas and electricity as  
26 provided by Acts 2007, No. 185, as well as the additional reduction provided  
27 by Acts 2009, No. 695.

28 (iii) If the director determines that discontinuing  
29 refund payments as provided in subdivision (a)(3)(B)(ii) of this section is  
30 insufficient to prevent the amount of tax savings from exceeding twenty-seven  
31 million dollars (\$27,000,000) during a fiscal year, the director may decline  
32 to accept any amended return filed by a taxpayer to claim an overpayment  
33 resulting from the reduced tax rate provided by this section for a period  
34 other than the period for which a tax return is currently due.

35 (C)(i) Refund requests and amended returns filed with the  
36 director to claim the overpayment resulting from the reduced rate in

1 subdivision (a)(3)(A) of this section will be processed in the order they are  
2 received by the director. A taxpayer that does not receive a refund after the  
3 refund and amended return process has ceased under subdivision (a)(3)(B) of  
4 this section shall be given priority to receive a refund during the  
5 subsequent fiscal year. The unpaid refunds from the prior fiscal year shall  
6 be processed before any refund claims filed in the current fiscal year to  
7 claim the benefit of this section.

8 (ii) The statute of limitations for refunds and  
9 amended returns under § 26-18-306(i)(1)(A) is extended for one (1) year to  
10 allow the payment of a refund under the process provided in subdivision  
11 (a)(3)(C)(i) of this section.

12 (4)(A)(i) Beginning July 1, 2011, the tax rate levied in  
13 subdivision (a)(1) of this section shall be imposed at the rate of two and  
14 seven-eighths percent (2.875%).

15 (ii) Beginning July 1, 2012, the tax rate levied in  
16 subdivision (a)(1) of this section shall be imposed at the rate of two and  
17 five-eighths percent (2.625%).

18 (B)(i) The Director of the Department of Finance and  
19 Administration shall monitor the amount of tax savings received by all  
20 taxpayers as a result of the reduction in the tax rate from that levied in §§  
21 26-53-106 and 26-53-107 to that levied in subdivision (a)(4)(A) of this  
22 section.

23 (ii) When the director determines that the amount of  
24 tax savings resulting from the determination described in subdivision  
25 (a)(4)(B)(i) of this section plus any gross receipts tax savings described in  
26 § 26-52-319(a)(4)(B) would reach twenty-seven million dollars (\$27,000,000)  
27 during a fiscal year, the director shall not process any further refund  
28 claims through a refund process during the fiscal year for taxpayers seeking  
29 to claim the reduced tax rate provided by this section. The amount of twenty-  
30 seven million dollars (\$27,000,000) is intended to cover the accumulated but  
31 unclaimed reduction of sales and use tax on natural gas and electricity as  
32 provided by this section.

33 (iii) If the director determines that discontinuing  
34 refund payments as provided in subdivision (a)(4)(B)(ii) of this section is  
35 insufficient to prevent the amount of tax savings from exceeding twenty-seven  
36 million dollars (\$27,000,000) during a fiscal year, the director may decline



1 to accept any amended return filed by a taxpayer to claim an overpayment  
2 resulting from the reduced tax rate provided by this section for a period  
3 other than the period for which a tax return is currently due.

4 (C)(i) Refund requests and amended returns filed with the  
5 director to claim the overpayment resulting from the reduced rate in  
6 subdivision (a)(4)(A) of this section will be processed in the order they are  
7 received by the director. A taxpayer that does not receive a refund after the  
8 refund and amended return process has ceased under subdivision (a)(4)(B) of  
9 this section shall be given priority to receive a refund during the  
10 subsequent fiscal year. The unpaid refunds from the prior fiscal year shall  
11 be processed before any refund claims filed in the current fiscal year to  
12 claim the benefit of this section.

13 (ii) The statute of limitations for refunds and  
14 amended returns under § 26-18-306(i)(1)(A) is extended for one (1) year to  
15 allow the payment of a refund under the process provided in subdivision  
16 (a)(4)(C)(i) of this section.

17 ~~(4)(5)~~ The taxes levied in this subsection ~~(a)~~ of ~~this section~~  
18 shall be distributed as follows:

19 (A) Seventy-six and six-tenths percent (76.6%) of the tax,  
20 interest, penalties, and costs received by the director shall be deposited as  
21 general revenues;

22 (B) Eight and five-tenths percent (8.5%) of the tax,  
23 interest, penalties, and costs received by the director shall be deposited  
24 into the Property Tax Relief Trust Fund; and

25 (C) Fourteen and nine-tenths percent (14.9%) of the tax,  
26 interest, penalties, and costs received by the director shall be deposited  
27 into the Educational Adequacy Fund.

28 ~~(5)(A)(6)(A)~~ The excise tax levied in this section applies only  
29 to natural gas and electricity purchased for use directly in the actual  
30 manufacturing process.

31 (B) Natural gas and electricity purchased for any other  
32 purpose shall be subject to the full compensating use tax levied under §§ 26-  
33 53-106 and 26-53-107~~(a)-(d)~~.

34 ~~(6)(7)~~ The excise tax levied in this section shall be collected,  
35 reported, and paid in the same manner and at the same time as is prescribed

1 by law for the collection, reporting, and payment of all other Arkansas  
2 compensating use taxes.

3 (b) As used in this section, "manufacturer" means a manufacturer  
4 classified within sectors 31 through 33 of the North American Industry  
5 Classification System, as in effect on ~~January 1, 2007~~ January 1, 2011.

6  
7 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
8 General Assembly of the State of Arkansas that the cost of manufacturing  
9 continues to climb; that Arkansas' unemployment rate is extremely high; that  
10 the economy has dramatically affected manufacturers and resulted in lay-offs;  
11 that decreasing the sales and use tax on natural gas and electricity used by  
12 manufacturers would provide manufacturers with a way to increase the number  
13 of employees; and that this, in turn, would increase production and provide  
14 lucrative employment for Arkansans. Therefore, an emergency is declared to  
15 exist and this act being necessary for the preservation of the public peace,  
16 health, and safety shall become effective on July 1, 2011.

17  
18 Referred by the Arkansas House of Representatives

19 Prepared by: JLL/VJF  
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INTERIM STUDY PROPOSAL 2011-157

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

As Engrossed: H3/17/11  
**A Bill**

HOUSE BILL 2051

4 By: Representative Biviano

5  
6 Filed with: Interim House Committee on Revenue and Taxation  
7 pursuant to A.C.A. §10-3-217.

8  
9 **For An Act To Be Entitled**

10 AN ACT TO INCREASE THE EQUITY INVESTMENT FUND TAX  
11 CREDIT; AND FOR OTHER PURPOSES.

12  
13  
14 **Subtitle**

15 TO INCREASE THE EQUITY INVESTMENT FUND  
16 TAX CREDIT.

17  
18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 *SECTION 1. Arkansas Code § 15-4-3302(c)(1), concerning equity*  
22 *investment incentives, is amended to read as follows:*

23 *(c)(1) An equity investment incentive tax credit is created that shall*  
24 *be equal to ~~thirty three and one third percent (33 1/3%)~~ a percentage, as*  
25 *provided in § 15-4-3305(b)(1), of the approved amount invested by an investor*  
26 *in an eligible business, as identified in § 15-4-3303(a).*

27  
28 *SECTION 2. Arkansas Code § 15-4-3305(b)(1), concerning the*  
29 *determination of an equity investment incentive tax credit, is amended to*  
30 *read as follows:*

31 *(b) The credit against state income tax liability shall be determined*  
32 *in the following manner:*

33 *(1)(A) The credit shall ~~not exceed thirty three and one third~~*  
34 *percent ~~(33 1/3%)~~ be a percentage of the actual purchase price paid for the*  
35 *equity interest to the business, less any fees or commissions to underwriters*  
36 *or sales agents paid by the business.*



INTERIM STUDY PROPOSAL 2011-163

State of Arkansas  
88th General Assembly  
Regular Session, 2011

**A Bill**

JLL/VJF  
SENATE BILL 270

By: Senator Madison

Filed with: Interim Senate Committee on Revenue and Taxation  
pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

AN ACT TO ACHIEVE FAIRNESS AMONG RETAILERS BY  
CLARIFYING THE APPLICATION OF THE GROSS RECEIPTS TAX  
AND COMPENSATING USE TAX TO CONSIGNMENT SALES; AND  
FOR OTHER PURPOSES.

**Subtitle**

TO ACHIEVE FAIRNESS AMONG RETAILERS BY  
CLARIFYING THE APPLICATION OF THE GROSS  
RECEIPTS TAX AND COMPENSATING USE TAX TO  
CONSIGNMENT SALES.

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

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

26-52-323. Consignment sales.

(a)(1) As used in this section, "consignment sale" means a transaction  
in which the owner of tangible personal property:

(A) Gives possession of the tangible personal property to  
another person for the purpose of selling the tangible personal property;

(B) Retains legal title to the property until it is sold;

and

(C) Receives a portion of the proceeds from the sale of  
the property.

(2) "Consignment sale" does not include:

1                   (A) An auction in which the principal is disclosed;

2                   (B) A residential garage sale or yard sale, or any  
3 similar sale of tangible personal property occurring at a location used  
4 primarily as a residence;

5                   (C) A sale by a church to the extent the sale is exempt  
6 under § 26-52-401(1); or

7                   (D) A sale by a charitable organization to the extent the  
8 sale is exempt under § 26-52-401(2).

9                   (b) The gross receipts or gross proceeds derived from a consignment  
10 sale are subject to the gross receipts tax levied by the Arkansas Gross  
11 Receipts Act of 1941, § 26-52-101 et seq., and the compensating use tax  
12 levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

13                   (c) The Director of the Department of Finance and Administration shall  
14 promulgate rules to implement this section.

15  
16                   SECTION 2. Arkansas Code § 26-52-401(17), concerning products and  
17 services exempt from gross receipts tax, is amended to read as follows:

18                   (17)(A) Gross receipts or gross proceeds derived from isolated  
19 sales not made by an established business~~+~~.

20                   (B) The exemption granted by this subdivision (17) does  
21 not apply to a consignment sale to the extent stated in § 26-52-323;

22  
23                   SECTION 3. Sections 1 and 2 of this act are effective on the first day  
24 of the calendar quarter following the effective date of this act.

25  
26 Referred by the Arkansas Senate

27 Prepared by: JLL/VJF

INTERIM STUDY PROPOSAL 2011-175

REQUESTING THE ARKANSAS LEGISLATIVE COUNCIL OF THE EIGHTY-EIGHTH GENERAL ASSEMBLY TO REFER TO THE APPROPRIATE INTERIM COMMITTEE A STUDY CONCERNING THE FILING OF LIENS AGAINST DELINQUENT TAXPAYERS BY THE DEPARTMENT OF FINANCE AND ADMINISTRATION.

BE IT RESOLVED BY THE ARKANSAS LEGISLATIVE COUNCIL OF THE EIGHTY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

WHEREAS, there is currently confusion regarding the procedures the Department of Finance and Administration uses when filing liens against delinquent taxpayers;

WHEREAS, liens have serious implications and carry certain stigmas against those individuals and entities against whom they are filed;

WHEREAS, liens can affect an individual's credit rating;

WHEREAS, the citizens of this state should be treated equally and fairly;

WHEREAS, there may be a need for the state to require uniformity in the filing of liens against delinquent taxpayers; and

WHEREAS, a study concerning the filing of liens against delinquent taxpayers by the Department of Finance and Administration would be beneficial in determining whether additional legislation is needed.

NOW THEREFORE,

BE IT PROPOSED BY THE LEGISLATIVE COUNCIL OF THE EIGHTY-EIGHTH GENERAL ASSEMBLY:

THAT the appropriate Senate interim committee study the filing of liens against delinquent taxpayers by the Department of Finance and Administration.

1 Respectfully submitted,

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5 Senator Jeremy Hutchinson

6 District 22

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11 By: MMC/MMC

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