

FIN SUMMARY  
OF ACTION BY THE  
SECOND EXTRAORDINARY SESSION  
OF THE  
SEVENTY-SIXTH GENERAL ASSEMBLY  
OF THE  
STATE OF ARKANSAS

1987

Tuesday-Friday  
October 6-9, 1987

Prepared by:  
The Bureau of Legislative Research  
Arkansas General Assembly

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**BUREAU OF LEGISLATIVE RESEARCH**  
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Little Rock, Arkansas 72201

The Second Extraordinary Session of the 76th General Assembly convened at 5:00 p.m. on Tuesday, October 6, 1987 and adjourned on the morning of Friday, October 9, 1987 after being in session four days.

The Session was convened for the purpose of enacting a weight-distance tax on motor vehicles having a declared gross weight in excess of 73,280 pounds, to replace the Highway Use Equalization Tax levied by Act 685 of 1983.

The U. S. Supreme Court's decision in ATA v. Scheiner declared unconstitutional the flat axle tax levied in Pennsylvania on large trucks. As a result of this decision, the U. S. Supreme Court entered an order mandating the Arkansas Supreme Court to review its previous decision upholding the constitutionality of the Highway Use Equalization Tax (Act 685 of 1983). Subsequent to the issuance of this mandate, Justice Blackmon entered an order requiring the Arkansas Highway and Transportation Department to place in escrow the Highway Use Equalization Taxes collected subsequent to the date of such order, until the Arkansas Supreme Court reviewed its earlier decision.

Concern that the escrow of all Highway Use Equalization Tax funds might void or delay, for several years, the ability of the Highway Department to use such funds for needed construction prompted the calling of the Second Extraordinary Session.

Upon convening of the General Assembly, two approaches at solving the heavy truck taxation problem were presented:

S. B. 2 (same as H. B. 1002), the State Highway and Transportation Department plan, proposed a 3-cent per-mile weight-distance tax on all heavy trucks permitted to carry in excess of 73,280 pounds in this State, based upon the trucker's estimate of mileage of "laden miles" to be traveled in Arkansas during each fiscal year, to be paid in either an advance lump sum or by equal (or adjusted) quarterly payments during the year.

S. B. 3 (same as H. B. 1003), a plan proposed by the Arkansas Poultry Federation and a group of industry supporters, proposed a weight-distance tax of 2 cents per mile on heavy trucks permitted to carry in excess of 73,280 pounds, at a rate of 2 cents per mile for each mile of travel in which the gross loaded weight of trucks exceeds 73,280 pounds, to be paid through an initial payment of \$175 at the commencement of each fiscal year, with overpayment or underpayment adjustments to be made at the end of the year. The proposed plan would have broadened the exemption of natural resource vehicles from payment of the tax.

During the course of debate on these proposals, the State Highway and Transportation Department's proposal was amended to reduce the proposed weight-distance tax from 3 cents per mile to 2-1/2 cents per laden mile, and was the proposal that passed both houses and was signed by the Governor. It is now Act 3 of the Second Extraordinary Session of 1987.

The basic provisions of, and differences between, the two proposals considered by the General Assembly, as compared with the provisions of Act 685 of 1983 (the Highway Use Equalization Tax) are attached.

COMPARISON OF CURRENT ARKANSAS HIGHWAY USE EQUALIZATION TAX  
WITH SENATE BILL 3 AND HOUSE BILL 1003; SENATE BILL 2 AND HOUSE BILL 1002

SUBJECT	ARK. HIGHWAY USE EQUALIZATION TAX (Act 685 of 1983)	SENATE BILL 3 HOUSE BILL 1003	SENATE BILL 2 HOUSE BILL 1002
Vehicles Impacted	Trucks having a gross loaded weight in excess of 73,280#.	Vehicles having gross loaded weight in excess of 73,280#.	Vehicles having gross loaded weight in excess of 73,280#.
Rate of Tax and Tax Basis	Weight-Distance Tax measured at 5¢ per mile traveled in Ark.; or a flat fee of \$175 in lieu of 5¢ per mile; or a trip permit at the rate of \$8 per 100 miles or fraction thereof.	Weight-Distance Tax to be computed at 2¢ per mile traveled in Ark. w/gross loaded weight in excess of 73,280#. Tax to be paid on initial advance payment of \$175 at beginning of each yr. w/adjustmts. to be made for overpaymt. or underpaymt. at end of yr. Special trip permits may be obtained at the rate of \$2 for each 100 miles or fraction thereof, of travel in Ark. and the Dept. may charge an administrative fee of \$2 per permit.	Weight-Distance Tax to be estimated at beginning of each yr. starting 7-1-88, with the tax to be computed at the rate of 3¢ per mile, on the annual laden weights to be hauled on Ark. highways during the yr. The estimated tax may be paid either as a lump sum at the beginning of each fiscal yr. or the hauler may elect to pay the tax in equal qrtly. installments during the fiscal year. No tax to be collected on unladen hauls. Adjustments in the amt. of tax to be paid may be made at the time of any quarterly payment. At the end of each fiscal yr., the tax due on mileage traveled in excess of the estimated mileage shall be paid or the hauler may obtain a rebate or credit for overpayment of tax during the year. In lieu of the above method of payment, special trip permits may be obtained at the rate of \$8 per 100 miles of travel, rounded to the nearest 100 miles.

*Note: This comparison was completed before SB 2 was amended to reduce the rate of tax from 3¢ per mile to 2.5¢ per mile.*

(continued)

(continued)

ARK. HIGHWAY USE  
EQUALIZATION TAX  
(Act 685 of 1983)

SENATE BILL 3  
HOUSE BILL 1003

SENATE BILL 2  
HOUSE BILL 1002

SUBJECT  
Rate of Tax and  
Tax Basis  
(continued)

NOTE: Vehicles which were qualified under Act 685 of 1983 nay continue to operate under existing permits through 6-30-88, and vehicles not qualified under Act 685 on the effective date of this Act shall pay the mileage tax for the remainder of fiscal yr. ending 6-30-88. Thereafter, the mileage tax will apply to all vehicles.

NOTE: Vehicles which were qualified under Act 685 of 1983 nay continue to operate under existing permits through 6-30-88, and vehicles not qualified under Act 685 on the effective date of this Act shall pay the mileage tax for the remainder of fiscal yr. ending 6-30-88. Thereafter, the mileage tax will apply to all vehicles, provided that no credit will be given for unladen hauls through 6-30-88.

Exemptions from  
Tax

Vehicles having Natural Resource tags and vehicles belonging to the U.S. Govt., the State of Ark. or political subdivisions thereof, or vehicles traveling in the State with origin or destination within 10 miles of the border.

Tax does not apply to:  
(i) any miles traveled other than taxable miles (miles in which the vehicle gross loaded weight does not exceed 73,280#);  
(ii) Natural Resource vehicles;  
(iii) Animal Feed vehicles;  
(iv) vehicles owned and operated by the U.S.A., State of Ark. or any of its political subdivisions;  
(v) motor vehicles used on an interstate trip with an origin or destination within 10 miles of the geographic boundary of this State, provided that one-way travel distance in this State is not over 10 miles.

(continued)

The following vehicles are exempt from the payment of the weight-distance tax:  
(1) vehicles licensed exclusively for hauling unfinished and unprocessed farm products, forest products, and clay minerals and ores, from the point of production, harvesting or severance to the point at which the same is first to undergo any processing, preparation for processing, conversion or transformation from the raw, natural or severed state, or any vehicle used exclusively for hauling animal feed by owners of livestock and poultry for consumption by livestock or poultry owned by them;  
(2) vehicles owned or

(continued)

SUBJECT	ARK. HIGHWAY USE EQUALIZATION TAX (Act 685 of 1983)	SENATE BILL 3 HOUSE BILL 1003	SENATE BILL 2 HOUSE BILL 1002
Exemptions from Tax (continued)		<p>NOTE: Natural Resource vehicles are defined in subsection (10) of Sec. 2 of the Bill to mean any motor vehicle which is used exclusively in hauling unfinished agricultural products, poultry products, wood products, farm products, and clay minerals and ores, from the point of production, harvesting, to a point of processing. The present law restricts Natural Resource trucks to the hauling of natural resource products from the point of production or severance to the first point at which they undergo processing, preparation for processing, etc. Rock or stone or crushed rock or crushed stone, except rock or stone which is to undergo further processing into finished or semi-finished products other than crushed rock or crushed stone are not to be construed as clay minerals or ores under the provisions of this classification.</p> <p>Natural Resource vehicles as defined in subsection (10) of Sec. 2 are to be exempt from payment of the Weight-Distance Tax. In Sec. 7 of the bill, Natural Resource and Animal Feed trucks retain the same meaning as now provided by law for the purpose of obtaining a Natural Resource license tag and/or Animal Feed license tag for vehicles having five axles. The only change made in Sec. 7 to Natural Resource vehicles is the elimination of a requirement that the products hauled must be products "originating and produced in Arkansas".</p>	<p>or operated by the U.S.A. or State of Ark. or any political subdivision thereof;</p> <p>(3) vehicles used on an interstate trip with an origin or destination within 10 miles of the geographic boundary of this State, provided the one-way travel distance in this State is not over 10 miles.</p>

SUBJECT	ARK. HIGHWAY USE EQUALIZATION TAX (Act 685 of 1983)	SENATE BILL 3 HOUSE BILL 1003	SENATE BILL 2 HOUSE BILL 1002
Payment of Tax	The Weight-Distance Tax may be paid on the basis of 5¢ per mile traveled in Arkansas; or by payment of a flat annual fee of \$175 in lieu of 5¢ per mile; or a trip permit at the rate of \$8 per 100 miles traveled or fraction thereof.	An initial advance payment of \$175 is required at the beginning of each year, with adjustments to be made for overpaymt. or underpaymt. at the end of the year, computed at the rate of 2¢ per taxable mile traveled in Arkansas.	Weight-Distance Tax to be paid in a lump sum at beginning of the year, or by qrtly. payments of 1/4th of the annual estimated tax computed at 3¢ per mile for the annual estimated miles of laden weight to be hauled on Ark. highways during the year. No tax to be collected on unladen hauls. At the end of the tax year, adjustments for overpaymt. or underpaymt. of tax are to be made for taxable laden miles traveled in Ark. computed at the rate of 3¢ per mile.
Retaliatory Tax	Act 721 of 1985 provided for a refund of the amount of a retaliatory tax paid in another state, to be paid from monies collected under the Highway Use Equalization Tax.	Includes a retaliatory tax provision the same as Act 721 of 1985.	Includes a retaliatory tax provision the same as Act 721 of 1985.
Administration and Collection of Tax	Highway Use Equalization Tax to be collected by State Highway Department.	State Highway & Transportation Department.	State Highway & Transportation Department.
Classification and Distribution of Revenues	Revenues derived from the Arkansas Use Equalization Tax are defined to be "special revenues" and are distributed on the basis of 15% to the Mun. Aid Fund; 15% to the County Aid Fund for county roads; 70% to the State Highway & Transportation Dept.	Revenues distributed in the same manner as under Act 685 of 1983.	Revenues distributed in the same manner as under Act 685 of 1983.

SUBJECT	ARK. HIGHWAY USE EQUALIZATION TAX (Act 685 of 1983)	SENATE BILL 3 HOUSE BILL 1003	SENATE BILL 2 HOUSE BILL 1002
Penalties	<p>Operation of a vehicle in violation of the Highway Use Equalization Tax Law is a misdemeanor subject to a fine of not less than \$200 nor more than \$500 for first offense, and not less than \$500 nor more than \$1,000 for each subsequent offense. In addition, the legal overweight penalties established in Ark. Stats. 75-819(b) would be applicable.</p>	<p>Penalty provisions are the same as in the Arkansas Highway Use Equalization Tax Law.</p>	<p>Penalty provisions are the same as <i>in</i> the Arkansas Highway Use Equalization Tax Law.</p>