

**PROPERTY TAX PROPOSAL #10**  
*for consideration by the*  
**ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE**

**TOPIC:      Property Tax Relief Trust Fund**

**Summary of Proposal for Consideration**

This proposal would dedicate future excess funds in the Property Tax Relief Trust Fund from the one-half cent (0.5¢) sales tax under Arkansas Code §§ 26-52-302(c) and 26-53-107(c) that are not used to fund the homestead tax credit under Arkansas Constitution, Amendment 79, and Arkansas Code § 26-26-310 each year, to offset a reduction in the income tax, the sales tax, or the franchise tax. This proposal would also transfer the currently existing excess funds in the Property Tax Relief Trust Fund to the Public School Fund Account.

**Fiscal Analysis**

According to the Department of Finance and Administration (DFA), all revenue deposited into the Property Tax Relief Trust Fund consists of the special revenues derived from the five-tenths percent (0.5%) sales tax dedicated to that purpose. For 2017, there were approximately seven hundred twenty thousand (720,000) credits certified to DFA for a total reimbursement of two hundred thirty million one hundred thousand dollars (\$230,100,000) paid over the course of the entire year.

Each county collector must annually certify the total amount of real property tax reductions allowed within their county. DFA receives these certifications and determines each county's proportionate share of the total statewide reduction. DFA transmits this information to the State Treasurer who then makes distributions from the Property Tax Relief Trust Fund to each county treasurer in accordance with the counties proportionate share of the total statewide property tax reduction for that calendar year.

For 2017, after the payments were made for the entire year and the required disbursements of two million dollars (\$2,000,00) each to cities and counties, there was a balance of approximately seventy-eight million six hundred thousand dollars (\$78,600,000). In the past decade, the balance has fluctuated between approximately twenty-eight million eight hundred thousand dollars (\$28,800,000) in 2012 and ninety-four million three hundred thousand dollars (\$94,300,000) in 2008. According to DFA, any use of the fund balance of the Property Tax Relief Trust Fund must be done without depleting the Trust Fund and the ability to make monthly payments to cities and counties regardless of the revenue received in that specific month.

**Potential Legal Issues**

Under Arkansas Constitution, Amendment 79, the state is required to provide an annual state credit of at least three hundred dollars (\$300) against ad valorem property tax on a homestead. If the use of funds from the Property Tax Relief Trust Fund for additional tax relief depletes the

funds available from the Property Tax Relief Trust Fund to reimburse the county treasurers for the homestead tax credit, the state is still constitutionally required to provide the homestead tax credit.

Arkansas Constitution, Article 16, § 11 states that no funds arising from a tax levied for a particular purpose shall be used for any other purposes. Under Arkansas Code § 26-26-310(2)(C)(iv) excess funds from the Property Tax Relief Trust Fund may be used to provide additional tax relief or financial assistance to school districts that incur a reduction in revenue as a result of the homestead tax credit. Without a constitutional amendment, using the revenues already collected from the Property Tax Relief Trust Fund for purposes other than providing tax relief or financial assistance to school districts may violate the provisions of Arkansas Constitution, Article 16, § 11, because the tax revenues would not be used for the purpose stated in the law. However, amending § 26-26-310 to allow these funds to be used for another purpose would not violate the constitution if only the funds collected after the law is amended are used for the new purpose.

Under this proposal, the dedication of the future excess funds in the Property Tax Relief Trust Fund would not raise concerns under Arkansas Constitution, Article 16, § 11. With respect to the transfer of the existing excess funds in the Property Tax Relief Trust Fund to the Public School Fund Account, it is possible that such a transfer would not violate Arkansas Constitution, Article 16, § 11. Arkansas Code § 26-26-310(2)(C)(iv) allows excess funds in the Property Tax Relief Trust Fund to be used to provide financial assistance to certain school districts, and the Public School Fund Account is used to provide grants and aid to school districts, which could fall under the permitted uses of the excess funds in the Property Tax Relief Trust Fund. However, only a court could resolve the question of whether such a use would be permitted under Arkansas law.