

State of Arkansas

77th General Assembly

Third Extraordinary Session, 1989

H.R.

1011

By: Representatives Hutchinson and Barclay

HOUSE RESOLUTION

URGING THE DEPARTMENT OF FINANCE AND ADMINISTRATION NOT TO
APPEAL ANY ADVERSE RULING BY THE CHANCELLOR HEARING THE
BOSNICK V. PLEDGER CASE.

WHEREAS, the United States Supreme Court in Davis v. Michigan, 109 S.Ct. 1500 (1989), held that a state tax scheme favoring retired state and local government employees over retired federal employees violated principles of intergovernmental tax immunity; and

WHEREAS, Arkansas law provides that retirement benefits received from the Arkansas Public Employees' Retirement System, the Arkansas Teachers' Retirement System, the Arkansas State Highway Police Retirement System or the Arkansas State Highway Employees' Retirement System are exempt from the Arkansas income tax while retirement benefits received from all other sources are exempt only to the extent of the first \$6,000.00; and

WHEREAS, federal retirees in the State of Arkansas filed suit in Pulaski County Chancery Court challenging Arkansas's tax scheme; and

WHEREAS, it is anticipated that the chancellor's ruling in this case will be unfavorable to the State of Arkansas and that the chancellor will order the amount of the income taxes collected under Arkansas's tax scheme to be refunded to the retirees' who brought this suit and on whose behalf this suit was brought; and

WHEREAS, in light of the Davis decision, any appeal by the Department of Finance and Administration would seem futile;

NOW THEREFORE,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE SEVENTY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

THAT the Department of Finance and Administration is urged not to appeal any adverse decision reached by the chancellor hearing the Bosnick v. Pledger case.

BE IT FURTHER RESOLVED that the Department of Finance and Administration is urged to begin refunding any amounts ordered by the chancellor as soon as it is practicable.

BE IT FURTHER RESOLVED that upon adoption of this resolution, the Chief Clerk of the House of Representatives transmit a copy of this resolution to the Commissioner of Revenues.