

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

As Engrossed: H2/2/04
A Bill

Call Item 6

HOUSE BILL 1166

5 By: Representatives Hickinbotham, Jackson
6
7

For An Act To Be Entitled

9 AN ACT TO INCREASE THE TOP CORPORATE INCOME TAX
10 RATE TO SEVEN PERCENT (7%); TO INCREASE THE
11 SEVERANCE TAX ON NATURAL GAS BY FIFTEEN CENTS
12 (15¢) PER ONE THOUSAND CUBIC FEET (1,000 CU.
13 FT.); TO INCREASE THE CORPORATE FRANCHISE TAX;
14 AND FOR OTHER PURPOSES.

Subtitle

16 INCREASES TOP CORPORATE INCOME TAX RATE
17 TO SEVEN PERCENT (7%), INCREASES
18 SEVERANCE TAX ON NATURAL GAS BY FIFTEEN
19 CENTS (15¢) PER ONE THOUSAND CUBIC FEET
20 (1,000 CU. FT.), AND INCREASES THE
21 CORPORATE FRANCHISE TAX.
22

23
24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 26-51-205(a)(2), concerning corporate
28 income tax on domestic corporations, is amended to read as follows:

29 (2) ~~On net income exceeding \$100,000, a flat rate of six and~~
30 ~~one-half (6 1/2 %) percent shall be applied to net income~~ Tax at the rate of
31 seven percent (7%) shall be applied to net income exceeding one hundred
32 thousand dollars (\$100,000) for tax years beginning on or after January 1,
33 2004.
34

35 SECTION 2. Arkansas Code § 26-51-205(b)(2), concerning corporate
36 income tax on foreign corporations, is amended to read as follows:



1 (2) ~~On net income exceeding \$100,000, a flat rate of six and~~
2 ~~one half percent (6 1/2%) shall be applied to the entire net income~~ Tax at the
3 rate of seven percent (7%) shall be applied to net income exceeding one
4 hundred thousand dollars (\$100,000) for tax years beginning on or after
5 January 1, 2004.

6
7 SECTION 3. Arkansas Code § 26-51-205(c), concerning the distribution
8 of corporate income tax, is amended to read as follows:

9 (c)(1) There is hereby created on the books of the Treasurer of State,
10 the Auditor of State, and the Chief Fiscal Officer of the State a fund to be
11 known as the "Work Force 2000 Development Fund." This fund shall consist of
12 those special revenues as specified in § ~~26-51-205(e)(2)~~ 26-51-
13 205(c)(2)(B)(iii) and all other revenues as may be authorized by law.

14 (2)(A) The Revenue Services Division of the Department of
15 Finance and Administration shall deposit the funds collected under the
16 provisions of this section for corporate income tax into the State Treasury,
17 there to be credited to the Revenue Holding Fund Account of the State
18 Apportionment Fund.

19 (B)(i) For each of the state's fiscal years, the Chief
20 Fiscal Officer of the State shall determine as an annual allocation available
21 under the provisions of this section an amount based on the total net
22 revenues, as enumerated in § 26-51-205(a) and (b), which were collected in
23 the immediate past year, multiplied by a factor of six hundred seventy-eight
24 ten thousandths (.0678). On the last day of each month of the respective
25 fiscal year, the Chief Fiscal Officer of the State shall certify to the
26 Treasurer of State an amount based on one-twelfth (1/12) of the annual
27 allocation provided in this section for transfer as specified in § 26-51-
28 205(c)(2)(B)(ii).

29 (ii) The Treasurer of State shall then transfer the
30 amount so certified to the Special Revenue Fund Account as part of the gross
31 special revenues.

32 (iii) After the deductions as set out in § 19-5-203
33 have been made, the remaining amount shall be credited to the "Work Force
34 2000 Development Fund."

35 ~~(iv) The remaining corporate income tax collections~~
36 ~~remaining in the Revenue Holding Fund Account shall be credited to the~~

1 ~~General Revenue Fund Account of the State Apportionment Fund, there to be~~
2 ~~distributed with the other gross general revenue collections for that month~~
3 ~~in accordance with the provisions of § 19-5-201 et seq.~~

4 (C)(i) For the fiscal year beginning July 1, 2004, the
5 Chief Fiscal Officer of the State shall determine as an annual allocation
6 available under the provisions of this section an amount equal to the total
7 net revenues collected under § 26-51-205(a) and (b) in the immediate past
8 year, multiplied by a factor of forty-nine thousandths (0.049).

9 (ii) On the last day of each month of the fiscal
10 year, the Chief Fiscal Officer of the State shall certify to the Treasurer of
11 State an amount equal to one-twelfth (1/12) of the annual allocation
12 calculated in subdivision (c)(2)(C)(i) of this section.

13 (iii) The Treasurer of State shall transfer the
14 amount certified in subdivision (c)(2)(C)(ii) of this section from the
15 Revenue Holding Fund Account of the State Apportionment Fund to the Special
16 Revenue Fund Account of the State Apportionment Fund as part of the gross
17 special revenues.

18 (iv) After the deductions under § 19-5-203 have been
19 made, the remaining amount shall be credited to the Educational Adequacy
20 Trust Fund.

21 (D)(i) For the fiscal year beginning July 1, 2005, the
22 fiscal years thereafter, the Chief Fiscal Officer of the State shall
23 determine as an annual allocation available under the provisions of this
24 section an amount equal to the total net revenues collected under § 26-51-
25 205(a) and (b) in the immediate past year, multiplied by a factor of seventy-
26 four thousandths (0.074).

27 (ii) On the last day of each month of the fiscal
28 year, the Chief Fiscal Officer of the State shall certify to the Treasurer of
29 State an amount equal to one-twelfth (1/12) of the annual allocation
30 calculated in subdivision (c)(2)(D)(i) of this section.

31 (iii) The Treasurer of State shall transfer the
32 amount certified in subdivision (c)(2)(D)(i) of this section from the Revenue
33 Holding Fund Account of the State Apportionment Fund to the Special Revenue
34 Fund Account of the State Apportionment Fund as part of the gross special
35 revenues.

36 (iv) After the deductions under § 19-5-203 have been

1 made, the remaining amount shall be credited to the Educational Adequacy
 2 Trust Fund.

3 (E) The corporate income tax collections remaining in the
 4 Revenue Holding Fund Account of the State Apportionment Fund after the
 5 transfers required under subdivisions (c)(2)(B) - (D) of this section shall
 6 be credited to the General Revenue Fund Account of the State Apportionment
 7 Fund, there to be distributed with the other gross general revenue
 8 collections for that month in accordance with the provisions of § 19-5-201
 9 et. seq.

10
 11 SECTION 4. Arkansas Code § 26-51-205(d)(1), concerning the Work Force
 12 2000 Development Fund, is amended to read as follows:

13 (d)(1) All proceeds ~~derived from the additional tax levied by this~~
 14 ~~section~~ credited to the Work Force 2000 Development Fund as provided by § 26-
 15 51-205(c)(2)(B)(iii) shall be used exclusively for the authorized educational
 16 activities of:

17 (A) Any postsecondary vocational-technical school,
 18 technical institute, comprehensive lifelong learning center, technical
 19 college, community college; or

20 (B) Any postsecondary vocational-technical school,
 21 technical institute, comprehensive lifelong learning center, or technical
 22 college that merges with a two-year branch of a four-year institution, a
 23 four-year institution, a technical college, or a community college.

24
 25 SECTION 5. Arkansas Code § 26-54-104 is amended to read as follows:
 26 26-54-104. Annual franchise tax.

27 ~~(a)~~ Every corporation shall file an annual franchise tax report and
 28 pay an annual franchise tax, unless exempted under § 26-54-105, as follows:

29 (1) Each life, fire, accident, surety, liability, steam boiler,
 30 tornado, health, or other kind of insurance company of whatever nature,
 31 having an outstanding capital stock of less than five hundred thousand
 32 dollars (\$500,000) shall pay ~~one hundred dollars (\$100)~~ three hundred dollars
 33 (\$300). Each such company having an outstanding capital stock of five
 34 hundred thousand dollars (\$500,000) or more shall pay ~~two hundred dollars~~
 35 ~~(\$200)~~ four hundred dollars (\$400);

36 (2) Each legal reserve mutual insurance corporation having

1 assets of less than one hundred million dollars (\$100,000,000) shall pay ~~one~~
2 ~~hundred dollars (\$100)~~ three hundred dollars (\$300). Each such corporation
3 having assets of one hundred million dollars (\$100,000,000) or more shall pay
4 ~~two hundred dollars (\$200)~~ four hundred dollars (\$400);

5 (3) Each mutual assessment insurance corporation shall pay ~~one~~
6 ~~hundred dollars (\$100)~~ three hundred dollars (\$300);

7 (4) Each mortgage loan corporation shall pay an amount
8 equivalent to ~~twenty-seven one-hundredths of one percent (0.27%)~~ three-tenths
9 of one percent (0.3%) of that proportion of the par value of its outstanding
10 capital stock that its aggregate outstanding loans made in the State of
11 Arkansas bears to the total aggregate outstanding loans made in all states.
12 No corporation shall pay an annual tax of less than ~~one hundred dollars~~
13 ~~(\$100)~~ three hundred dollars (\$300) ~~nor more than one million seventy-five~~
14 ~~thousand dollars (\$1,075,000)~~;

15 (5) Each corporation, other than those in subdivisions (2)-(4)
16 of this section, without authorized capital stock shall pay ~~one hundred~~
17 ~~dollars (\$100)~~ three hundred dollars (\$300);

18 (6) Each corporation, other than those in subdivisions (1)-(5)
19 of this section, shall pay an amount equivalent to ~~twenty-seven one-~~
20 ~~hundredths of one percent (0.27%)~~ three-tenths of one percent (0.3%) of that
21 *proportion of the par value of its outstanding capital stock that the value*
22 *of its real and personal property in the State of Arkansas bears to the total*
23 *value of the real and personal property of the corporation.* No corporation
24 shall pay an annual tax of less than ~~fifty dollars (\$50.00)~~ two hundred fifty
25 dollars (\$250) ~~nor more than one million seventy-five thousand dollars~~
26 ~~(\$1,075,000)~~;

27 (7) Each corporation, actually and actively in the process of
28 liquidation and which does not rent or lease its property but which retains
29 its corporate charter or authority for the sole purpose of winding up its
30 affairs, shall pay an annual tax as provided in subdivision (6) of this
31 section or an amount equivalent to ~~twenty-seven one-hundredths of one percent~~
32 ~~(0.27%)~~ three-tenths of one percent (0.3%) of the value of its real and
33 tangible personal property in Arkansas, whichever is smaller, but in no
34 instance shall the tax be less than ~~fifty dollars (\$50.00)~~ two hundred fifty
35 dollars (\$250) ~~nor more than one million seventy-five thousand dollars~~
36 ~~(\$1,075,000)~~;

1 (8) Organizations formed pursuant to the Small Business Entity
2 Tax Pass Through Act, § 4-32-101 et seq., shall pay the minimum franchise
3 tax.

4 ~~(b)(1) In addition to the annual franchise taxes levied in subsection~~
5 ~~(a) of this section, there is hereby levied a franchise tax of three dollars~~
6 ~~(\$3.00) per year on each corporation required to report and remit franchise~~
7 ~~taxes under that subsection. All revenues derived from the additional~~
8 ~~franchise tax levied in subsection (a) of this section shall be deposited in~~
9 ~~the State Treasury as special revenues and shall be credited to the Voter~~
10 ~~Registration Signature Imaging System Fund and shall be used exclusively for~~
11 ~~acquiring and operating a voter registration signature imaging system in the~~
12 ~~office of the Secretary of State.~~

13 ~~(2) There is hereby created on the books of the Treasurer of~~
14 ~~State, the Auditor of State, and the Chief Fiscal Officer of the State a fund~~
15 ~~to be known as the "Voter Registration Signature Imaging System Fund".~~

16
17 SECTION 6. The increased rate of franchise tax provided in Section 5
18 of this act shall be effective for calendar years beginning January 1, 2004.
19 Taxes due for calendar years prior to 2004 shall remain due and payable at
20 the rates in existence prior to the effective date of this act.

21
22 SECTION 7. Arkansas Code § 26-54-105(c), concerning the filing of
23 franchise tax reports, is amended to read as follows:

24 (c)(1) Each corporation subject to the requirements of this chapter
25 shall file a franchise tax report with the Secretary of State which shows its
26 condition and status as of the close of business on December 31, ~~last~~
27 ~~preceding, of the preceding calendar year,~~ and other information required by
28 the Secretary of State.

29 (2)(A) The franchise tax as computed on the report shall be
30 remitted with the franchise tax report on or before June 1 of the reporting
31 year for franchise tax due for calendar year 2003 and years prior to 2003.

32 (B) The franchise tax as computed on the report shall be
33 remitted with the franchise tax report on or before May 1 of the reporting
34 year for franchise tax due for calendar year 2004 and subsequent years.

35
36 SECTION 8. Effective July 1, 2004, Arkansas Code § 26-54-113 is

1 amended to read as follows:

2 26-54-113. Disposition of funds.

3 (a) All taxes and penalties collected under the provisions of this
4 chapter each month shall be ~~general revenues and shall be~~ deposited in the
5 State Treasury to the credit of the Revenue Holding Fund Account of the State
6 Apportionment Fund.

7 (b)(1) The State Treasurer, on or before the fifth day of the
8 following month, shall allocate and transfer the taxes and penalties
9 collected ~~to the various State Treasury funds participating in general~~
10 ~~revenues in the respective proportions to each as provided by, and to be used~~
11 ~~for the respective purposes set forth in the Revenue Stabilization Law of~~
12 ~~Arkansas, § 19-5-101 et seq~~ to the General Revenue Fund Account of the State
13 Apportionment Fund until a total of eight million dollars (\$8,000,000) has
14 been transferred during a fiscal year.

15 (2) After the transfers required by subdivision (b)(1) of this
16 section have been made, the taxes and penalties collected under this
17 subchapter during the remainder of the fiscal year shall be special revenues
18 and the Treasurer of State shall transfer the taxes and penalties collected
19 to the Educational Adequacy Trust Fund after making the deductions required
20 by § 19-5-203(b)(2).

21

22 SECTION 9. Arkansas Code Title 26, Chapter 58, Subchapter 1 is amended
23 to add a new section to read as follows:

24 26-58-127. Additional severance tax on natural gas.

25 (a) Except as provided in subsections (b)--(d) of this section, in
26 addition to the tax levied by § 26-58-111(5), there is levied an additional
27 severance tax on natural gas at the rate of fifteen cents (15¢) per one
28 thousand cubic feet (1,000 cu. ft.).

29 (b)(1) The additional severance tax on natural gas shall be at the
30 rate of three cents (3¢) per one thousand cubic feet (1,000 cu. ft.) on gas:

31 (A) Produced from a well that has been designated as an
32 oil well by the Director of the Arkansas Oil and Gas Commission and
33 determined by the Commissioner of Revenues to have a wellhead pressure of
34 fifty pounds (50 lbs.) per square inch gauge or less under operating
35 conditions; or

36 (B) That has risen in a vaporous state through the annular

1 space between the casing and tubing of the oil well and has been released
2 through lines connected with the casing head if the gas has been determined
3 by the Commissioner of Revenues to have a casing head pressure of fifty
4 pounds (50 lbs.) per square inch gauge or less under operating conditions.

5 (2) For purposes of applying the reduced tax rate provided in
6 this subsection (b), an oil well being produced by the method commonly known
7 as gas lift shall be presumed, in the absence of a determination to the
8 contrary by the Commissioner of Revenues, to have a wellhead pressure of
9 fifty pounds (50 lbs.) per square inch or less under operating conditions.

10 (3) To qualify for the reduced tax rate provided in this
11 subsection (b), an oil well must have a casing head pressure of fifty pounds
12 (50 lbs.) per square inch or less for the entire taxable month.

13 (c)(1) The additional severance tax on natural gas shall be at the
14 rate of one and three-tenths cents (1 3/10¢) per one thousand cubic feet
15 (1,000 cu. ft.) on gas produced from a well that has been designated as a gas
16 well by the Director of the Arkansas Oil and Gas Commission and determined by
17 the Commissioner of Revenues to be incapable of producing an average of five
18 hundred thousand cubic feet (500,000 cu. ft.) of gas per day.

19 (2) To qualify for the reduced tax rate provided in this
20 subsection (c), a gas well must be incapable of producing five hundred
21 thousand cubic feet (500,000 cu. ft.) of gas per day during the entire
22 taxable month.

23 (d) The additional severance tax on natural gas shall be at the rate
24 of seven cents (7¢) per one thousand cubic feet (1,000 cu. ft.) on gas that
25 is produced from a natural gas well that has an approved contract price of
26 less than fifty-two cents (52¢) per one thousand cubic feet (1,000 cu. ft.).

27 (e) The additional severance tax levied under this section shall begin
28 on March 1, 2004.

29
30 SECTION 10. (a) There is created on the books of the Treasurer of
31 State, the Auditor of State, and Chief Fiscal Officer of the State a special
32 revenue fund to be known as the "Educational Adequacy Trust Fund."

33 (b) The fund shall consist of the revenues generated by Arkansas Code
34 §§ 26-51-205(c)(2)(C) and (D), 26-58-127, and other revenues provided by law.

35 (c) On the last day of the month, the Treasurer of State shall
36 transfer amounts available in the Educational Adequacy Trust Fund to the

1 Department of Education Public School Fund Account established in Arkansas
 2 Code § 19-5-305, to be used for the purposes as provided by law. The
 3 Treasurer of State shall make the transfer after making the deductions
 4 required from the net special revenues as set out in Arkansas Code § 19-5-
 5 203(b)(2)(A).

6
 7 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the
 8 General Assembly, that the provision of an equal opportunity for an adequate
 9 education to all the citizens of the state is imperative; that additional
 10 funds are immediately needed to provide an equal opportunity for an adequate
 11 education; that this act is designed to provide the additional revenues
 12 needed to provide this equal opportunity to all citizens; and that a delay in
 13 the effective date of this act will cause irreparable harm upon the provision
 14 of essential education opportunities and the proper administration of
 15 educational programs. Therefore, an emergency is declared to exist and this
 16 act being immediately necessary for the preservation of the public peace,
 17 health and safety shall be in full force and effect from and after the date
 18 of March 1, 2004.

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 20 */s/ Hickinbotham, et al*
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