

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

Call Item 6

# A Bill

SENATE BILL 62

5 By: Senator Wooldridge  
6  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE ADDITIONAL REVENUE TO FUND THE  
10 STATE EDUCATION SYSTEM; TO LEVY AN ADDITIONAL  
11 FIVE-EIGHTHS OF ONE PERCENT (0.625%); TO  
12 ELIMINATE THE REQUIREMENT THAT PROPERTY "COME TO  
13 REST" IN THE STATE OR "BECOME COMMINGLED" WITH  
14 PROPERTY IN THE STATE IN ORDER TO BE SUBJECT TO  
15 USE TAX; TO IMPOSE A GROSS RECEIPTS TAX ON  
16 CERTAIN SERVICES; TO REPEAL THE INDIVIDUAL INCOME  
17 TAX EXEMPTION FOR CAPITAL GAINS; TO INCREASE THE  
18 TAX ON LIQUOR; TO INCREASE THE TAX ON WINE; TO  
19 INCREASE THE WHOLESALE VENDING TAX; TO REQUIRE  
20 THAT ALL VENDING MACHINE OPERATORS OBTAIN BOTH A  
21 SALES TAX PERMIT AND A DECAL; TO CREATE THE  
22 EDUCATIONAL ADEQUACY TRUST FUND; AND FOR OTHER  
23 PURPOSES.  
24

## Subtitle

25  
26 TO PROVIDE ADDITIONAL REVENUE TO FUND  
27 THE EDUCATIONAL SYSTEM.  
28  
29

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
31

32 SECTION 1. Arkansas Code § 26-52-302 is amended to read as follows:  
33 26-52-302. Additional taxes levied.

34 (a) In addition to the excise tax levied upon the gross proceeds or  
35 gross receipts derived from all sales by the Arkansas Gross Receipts Act, §  
36 26-52-101 et seq., there is levied an excise tax of one percent (1%) upon all



1 taxable sales of property and services subject to the tax levied in that act.  
 2 This tax shall be collected, reported, and paid in the same manner and at the  
 3 same time as is prescribed by law for the collection, reporting, and payment  
 4 of all other Arkansas gross receipts taxes. In computing gross receipts or  
 5 gross proceeds as defined in § 26-52-103(a)(4), a deduction shall be allowed  
 6 for bad debts resulting from the sale of tangible personal property.

7 (b) In addition to the excise tax levied upon the gross proceeds or  
 8 gross receipts derived from all sales by the Arkansas Gross Receipts Act, §  
 9 26-52-101 et seq., there is hereby levied an excise tax of one-half of one  
 10 percent (0.5%) upon all taxable sales of property and services subject to the  
 11 tax levied in that act, and such tax shall be collected, reported, and paid  
 12 in the same manner and at the same time as is prescribed by law for the  
 13 collection, reporting, and payment of all other Arkansas gross receipts  
 14 taxes. Provided that, in computing gross receipts or gross proceeds as  
 15 defined in § 26-52-103(a)(4), a deduction shall be allowed for bad debts  
 16 resulting from the sale of tangible personal property.

17 (c)(1) Beginning January 1, 2001, there is hereby levied an additional  
 18 excise tax of one-half of one percent (0.5%) upon all taxable sales of  
 19 property and services subject to the tax levied by the Arkansas Gross  
 20 Receipts Act of 1941, § 26-52-101 et seq.

21 (2) The tax shall be collected, reported, and paid in the same  
 22 manner and at the same time as is prescribed by the Arkansas Gross Receipts  
 23 Act of 1941, § 26-52-101 et seq., for the collection, reporting, and payment  
 24 of Arkansas gross receipts taxes.

25 (d)(1) Beginning March 1, 2004, there is levied an additional excise  
 26 tax of five-eighths of one percent (0.625%) upon all taxable sales of  
 27 property and services subject to the tax levied by the Arkansas Gross  
 28 Receipts Act of 1941, § 26-52-101 et seq.

29 (2) The tax shall be collected, reported, and paid in the same  
 30 manner and at the same time as prescribed by the Arkansas Gross Receipts Act  
 31 of 1941, § 26-52-101 et seq., for the collection, reporting, and payment of  
 32 Arkansas gross receipts taxes.

33  
 34 SECTION 2. Arkansas Code § 26-52-311(b)(1), pertaining to the rental  
 35 vehicle tax, is amended to read as follows:

36 (b)(1) In addition to the rate in subsection (c) of this section, the

1 rental vehicle tax shall be levied at the ~~same rate as the combined gross~~  
 2 ~~receipts taxes levied by §§ 26-52-301 and 26-52-302 and any act supplemental~~  
 3 ~~thereto~~ rate of five percent (5%) and the rate of any applicable municipal or  
 4 county taxes.

5  
 6 SECTION 3. Arkansas Code § 26-53-107 is amended to read as follows:  
 7 26-53-107. Additional taxes levied. [Effective until contingency in Acts  
 8 2003, No. 1273, § 88 is met.]

9 (a) In addition to the excise tax levied upon the privilege of  
 10 storing, using, distributing, or consuming tangible personal property within  
 11 this state by the Arkansas Compensating Tax Act, § 26-53-101 et seq., there  
 12 is levied an excise tax of one percent (1%) upon all tangible personal  
 13 property subject to the tax levied in that act, and the tax shall be  
 14 collected, reported, and paid in the same manner and at the same time as is  
 15 prescribed by law for the collection, reporting, and payment of state  
 16 compensating taxes.

17 (b) In addition to the excise tax levied upon the privilege of  
 18 storing, using, distributing, or consuming tangible personal property within  
 19 the state by the Arkansas Compensating Tax Act, § 26-53-101 et seq., there is  
 20 hereby levied an excise tax of one-half of one percent (0.5%) upon all  
 21 tangible personal property subject to the tax levied in that act, and such  
 22 tax shall be collected, reported, and paid in the same manner and at the same  
 23 time as is prescribed by law for the collection, reporting, and payment of  
 24 Arkansas compensating taxes.

25 (c)(1) Beginning January 1, 2001, there is hereby levied an additional  
 26 excise tax of one-half of one percent (0.5%) upon all tangible personal  
 27 property subject to the tax levied by the Arkansas Compensating Tax Act of  
 28 1949, § 26-53-101 et seq.

29 (2) The tax shall be collected, reported, and paid in the same  
 30 manner and at the same time as is prescribed by the Arkansas Compensating Tax  
 31 Act of 1949, § 26-53-101 et seq., for the collection, reporting, and payment  
 32 of Arkansas compensating taxes.

33 (d)(1) Beginning March 1, 2004, there is levied an additional excise  
 34 tax of five-eighths of one percent (0.625%) upon all tangible personal  
 35 property subject to the tax levied by the Arkansas Compensating Tax Act of  
 36 1949, § 26-53-101 et seq.

1           (2) The tax shall be collected, reported, and paid in the same  
2 manner and at the same time as is prescribed by the Arkansas Compensating Tax  
3 Act of 1949, § 26-53-101 et seq., for the collection, reporting, and payment  
4 of Arkansas compensating taxes.

5  
6           SECTION 4. Arkansas Code § 26-53-107 is amended to read as follows:

7           26-53-107. Additional taxes levied. [Effective when contingency is  
8 Acts 2003, No. 1273, § 88 is met.]

9           (a) In addition to the excise tax levied upon the privilege of  
10 storing, using, distributing, or consuming tangible personal property and  
11 taxable services within this state by the Arkansas Compensating Tax Act of  
12 1949, § 26-53-101 et seq., there is levied an excise tax of one percent (1%)  
13 upon all tangible personal property and taxable services subject to the tax  
14 levied in that act, and the tax shall be collected, reported, and paid in the  
15 same manner and at the same time as is prescribed by law for the collection,  
16 reporting, and payment of state compensating taxes.

17           (b) In addition to the excise tax levied upon the privilege of  
18 storing, using, distributing, or consuming tangible personal property and  
19 taxable services within the state by the Arkansas Compensating Tax Act of  
20 1949, § 26-53-101 et seq., there is hereby levied an excise tax of one-half  
21 of one percent (0.5%) upon all tangible personal property and taxable  
22 services subject to the tax levied in that act, and the tax shall be  
23 collected, reported, and paid in the same manner and at the same time as is  
24 prescribed by law for the collection, reporting, and payment of Arkansas  
25 compensating taxes.

26           (c)(1) Beginning January 1, 2001, there is hereby levied an additional  
27 excise tax of one-half of one percent (0.5%) upon all tangible personal  
28 property and taxable services subject to the tax levied by the Arkansas  
29 Compensating Tax Act of 1949, § 26-53-101 et seq.

30           (2) The tax shall be collected, reported, and paid in the same  
31 manner and at the same time as is prescribed by the Arkansas Compensating Tax  
32 Act of 1949, § 26-53-101 et seq., for the collection, reporting, and payment  
33 of Arkansas compensating taxes.

34           (d)(1) Beginning March 1, 2004, there is levied an additional excise  
35 tax of five-eighths of one percent (5/8 of 1%) upon all tangible personal  
36 property and taxable services subject to the tax levied by the Arkansas

1 Compensating Tax Act of 1949, § 26-53-101 et seq.

2 (2) The tax shall be collected, reported, and paid in the same  
 3 manner and at the same time as is prescribed by the Arkansas Compensating Tax  
 4 Act of 1949, § 26-53-101 et seq., for the collection, reporting, and payment  
 5 of Arkansas compensating taxes.

6  
 7 SECTION 5. Arkansas Code § 26-53-106 is amended to read as follows:  
 8 26-53-106. Imposition and rate of tax generally - Presumption.

9 [Effective when contingency in Acts 2003, No. 1273, § 88 is met.]

10 (a) There is levied and there shall be collected from every person in  
 11 this state a tax or excise for the privilege of storing, using, distributing,  
 12 or consuming within this state any article of tangible personal property  
 13 purchased for storage, use, distribution, or consumption in this state at the  
 14 rate of three percent (3%) of the sales price of the property.

15 ~~(b) This tax will not apply with respect to the storage, use,~~  
 16 ~~distribution, or consumption of any article of tangible personal property~~  
 17 ~~purchased, produced, or manufactured outside this state until the~~  
 18 ~~transportation of the article has finally come to rest within this state or~~  
 19 ~~until the article has become commingled with the general mass of property of~~  
 20 ~~this state.~~

21 ~~(e)~~ (b) This tax shall apply to use, storage, distribution, or  
 22 consumption of every article of tangible personal property, except as  
 23 provided in this subchapter, irrespective of whether the article or similar  
 24 articles are manufactured within the State of Arkansas or are available for  
 25 purchase within the State of Arkansas and irrespective of any other  
 26 condition.

27 ~~(d)(1)(A)~~ (c)(1)(A) For the purpose of the proper administration of  
 28 this subchapter and to prevent evasion of the tax and the duty to collect the  
 29 tax imposed in this section, it shall be presumed that tangible personal  
 30 property sold by any vendor for delivery in this state or transportation to  
 31 this state is sold for storage, use, distribution, or consumption in this  
 32 state unless the vendor selling the tangible personal property has taken from  
 33 the purchaser a resale certificate signed by and bearing the name, address,  
 34 and sales tax permit number of the purchaser certifying that the property was  
 35 purchased for resale.

36 (B) The use by the purchaser of a resale certificate and

1 any resulting liability for, or exemption from, use tax in a transaction  
 2 involving a resale certificate shall be governed in all respects by the terms  
 3 of § 26-52-517.

4 (2) It is further presumed that tangible personal property  
 5 shipped, mailed, expressed, transported, or brought to this state by the  
 6 purchaser was purchased from a vendor for storage, use, distribution, or  
 7 consumption in this state.

8  
 9 SECTION 6. Arkansas Code § 26-53-106 is amended to read as follows:

10 26-53-106. Imposition and rate of tax generally - Presumptions.

11 [Effective when contingency in Acts 2003, No. 1273, § 88 is met.]  
 12

13 (a) There is levied and there shall be collected from every person in  
 14 this state a tax or excise for the privilege of storing, using, distributing,  
 15 or consuming within this state any article of tangible personal property or  
 16 taxable service purchased for storage, use, distribution, or consumption in  
 17 this state at the rate of three percent (3%) of the sales price of the  
 18 property.

19 ~~(b) This tax will not apply with respect to the storage, use,~~  
 20 ~~distribution, or consumption of any article of tangible personal property~~  
 21 ~~purchased, produced, or manufactured outside this state until the~~  
 22 ~~transportation of the article has finally come to rest within this state or~~  
 23 ~~until the article has become commingled with the general mass of property of~~  
 24 ~~this state.~~

25 ~~(e)~~ (b) This tax shall apply to use, storage, distribution, or  
 26 consumption of every article of tangible personal property or taxable service  
 27 except as provided in this subchapter irrespective of whether the article or  
 28 similar articles are manufactured within the State of Arkansas or are  
 29 available for purchase within the State of Arkansas and irrespective of any  
 30 other condition.

31 ~~(d)(1)(A)~~ (c)(1)(A) For the purpose of the proper administration of  
 32 this subchapter and to prevent evasion of the tax and the duty to collect the  
 33 tax imposed in this section, it shall be presumed that tangible personal  
 34 property or taxable services sold by any vendor for delivery in this state or  
 35 transportation to this state are sold for storage, use, distribution, or  
 36 consumption in this state unless the vendor selling the tangible personal

1 property or taxable services has taken from the purchaser a resale  
 2 certificate signed by and bearing the name, address, and sales tax permit  
 3 number of the purchaser certifying that the property was purchased for resale  
 4 except that sales made electronically will not require the purchaser's  
 5 signature.

6 (B) The use by the purchaser of a resale certificate and  
 7 any resulting liability for, or exemption from, use tax in a transaction  
 8 involving a resale certificate shall be governed in all respects by the terms  
 9 of § 26-52-517.

10 (2) It is further presumed that tangible personal property or  
 11 taxable services shipped, mailed, expressed, transported, or brought to this  
 12 state by the purchaser were purchased from a vendor for storage, use,  
 13 distribution, or consumption in this state.

14  
 15 SECTION 7. Arkansas Code § 26-52-301 is amended to read as follows:

16 26-52-301. Tax levied. [Effective until contingency in Acts 2003, No.  
 17 1273, § 88 is met.]

18 There is levied an excise tax of three percent (3%) upon the gross proceeds  
 19 or gross receipts derived from all sales to any person of the following:

20 (1) Tangible personal property;

21 (2) Natural or artificial gas, electricity, water, ice, steam,  
 22 or any other utility or public service, except transportation services, sewer  
 23 services, and sanitation or garbage collection services;

24 (3)(A)(i) Service by telephone, telecommunications, and  
 25 telegraph companies to subscribers or users, including transmission of  
 26 messages or images, whether local or long distance.

27 (ii) Taxable services shall include basic local  
 28 service and rental charges, including all installation and construction  
 29 charges and all service and rental charges having any connection with  
 30 transmission of any message or image.

31 (iii) Except as provided in subdivision (3)(A)(iv)  
 32 of this section, taxable long distance services shall include:

33 (a) Long distance messages that originate and terminate within this  
 34 state;

35 (b) Interstate long distance messages that originate within this state  
 36 and terminate outside this state and are billed to an Arkansas telephone

1 number or customer location;

2 (c) Interstate long distance messages that originate outside of this  
3 state and terminate within this state and are billed to an Arkansas telephone  
4 number or customer location; and

5 (d) Long distance messages which originate and terminate outside this  
6 state made by mobile telecommunications service which are charged to a  
7 customer who maintains a place of primary use in this state.

8 (iv) However, the following services shall not be  
9 subject to the tax:

10 (a) Any interstate private communications service that is not  
11 accessible by the public;

12 (b) Any interstate service that allows access to private telephone  
13 lines and that is not accessible by the public;

14 (c) Any interstate-wide area telecommunications service or other  
15 similar service that entitles the subscriber to make or receive an unlimited  
16 number of communications to or from persons having telecommunications service  
17 in a specified area that is outside the state in which the station provided  
18 with this service is located; or

19 (d) Any telephone or telecommunication services paid by utilizing a  
20 prepaid telephone calling card or prepaid authorization number as provided in  
21 § 26-52-314.

22 (v)(a) This tax shall apply to all customer access  
23 line charges billed to an Arkansas telephone number. Access line charges are  
24 those charges associated with or for access to the long distance network.

25 (b) However, access or other telecommunication services provided to  
26 telephone, telegraph, or telecommunications companies that will be used to  
27 provide telecommunications services shall not be subject to this tax.

28 (v)(i)(a) The Mobile Telecommunications Sourcing  
29 Act, Pub. L. 106-252, as in effect on January 1, 2001, is adopted in its  
30 entirety. All charges for mobile telecommunications services are deemed to  
31 be provided by the customer's home service provider and sourced to the  
32 customer's place of primary use and shall be subject to gross receipts tax  
33 based upon the customer's place of primary use as determined by the Mobile  
34 Telecommunications Sourcing Act, Pub. L. 106-252.

35 (b)(1) Any customer who alleges that an amount of tax, charge, or fee  
36 or that the assignment of the place of primary use or taxing jurisdiction

1 included on a billing is erroneous shall notify the home service provider in  
2 writing. The customer must include the street address for the customer's  
3 place of primary use, the account name and number for which the correction of  
4 tax assignment is sought, a description of the alleged error, and any other  
5 information requested by the home service provider necessary to process the  
6 request.

7 (2) The home service provider shall conduct a review of its  
8 records and the electronic database or enhanced zip code used to determine  
9 the place of primary use within sixty (60) days of receiving the notice from  
10 its customer. If it is determined that the amount of tax, charge, or fee or  
11 that the assignment of the place of primary use or taxing jurisdiction is in  
12 error, the home service provider shall correct the error and refund or credit  
13 the amount of tax, charge, or fee erroneously collected from the customer for  
14 a period of up to three (3) years. If it is determined that the amount of  
15 tax, charge, or fee or assignment of the place of primary use or taxing  
16 jurisdiction is correct, the home service provider shall provide a written  
17 explanation to the customer.

18 (3) A customer seeking correction of assignment of place of  
19 primary use or taxing jurisdiction or a refund or credit of taxes, charges,  
20 or fees erroneously collected by the home service provider must seek to have  
21 the error corrected pursuant to these provisions in this subdivision

22 (3)(A)(vi)(b) before any cause of action arises as a result of  
23 the error.

24 (vii)(a) Charges for nontaxable services that are  
25 aggregated with other charges for communications services that are taxable  
26 and are not separately stated on the bill or invoice shall not be subject to  
27 the gross receipts tax if the seller can reasonably identify the nontaxable  
28 charges on the seller's books and records kept in the regular course of  
29 business.

30 (b) If the nontaxable charges cannot reasonably be identified, the  
31 gross receipts from the sales of both taxable and nontaxable communications  
32 services billed on a combined basis shall be attributed to the taxable  
33 communications services.

34 (c) The burden of proving nontaxable receipts or charges shall be on  
35 the seller of the communications services;

36 (B)(i) Service of furnishing rooms, suites, condominiums,

1 townhouses, rental houses, or other accommodations by hotels, apartment  
2 hotels, lodging houses, tourist camps, tourist courts, property management  
3 companies, or any other provider of accommodations to transient guests.

4 (ii) The term "transient guests" is defined for the  
5 purpose of subdivision (3)(B) of this section as those who rent  
6 accommodations other than their regular place of abode on less than a month-  
7 to-month basis;

8 (C)(i) Service of initial installation, alteration,  
9 addition, cleaning, refinishing, replacement, and repair of motor vehicles,  
10 aircraft, farm machinery and implements, motors of all kinds, tires and  
11 batteries, boats, electrical appliances and devices, furniture, rugs,  
12 flooring, upholstery, household appliances, televisions and radios, jewelry,  
13 watches and clocks, engineering instruments, medical and surgical  
14 instruments, machinery of all kinds, bicycles, office machines and equipment,  
15 shoes, tin and sheetmetal, mechanical tools, and shop equipment.

16 (ii) However, the provisions of this section shall  
17 not apply to coin-operated car washes. For the purposes of this section, a  
18 coin-operated car wash shall be defined as one wherein the car washing  
19 equipment is activated by the insertion of coins into a slot or receptacle  
20 and where the labor of washing the exterior of the car or motor vehicle is  
21 performed solely by the customer or by mechanical equipment.

22 (iii) Additionally, the gross receipts tax levied in  
23 this section shall not apply to the repair or maintenance of railroad parts,  
24 railroad cars, and equipment brought into the State of Arkansas solely and  
25 exclusively for the purpose of being repaired, refurbished, modified, or  
26 converted within this state.

27 (iv) The General Assembly determines and affirms  
28 that the original intent of subdivision (3) of this section which provides  
29 that gross receipts derived from certain services would be subject to the  
30 gross receipts tax was not intended to be applicable, nor shall Arkansas  
31 gross receipts taxes be collected, with respect to services performed on  
32 watches and clocks which are received by mail or common carrier from outside  
33 this state and which, after the service is performed, are returned by mail or  
34 common carrier or in the repairman's own conveyance to points outside this  
35 state.

36 (v) Additionally, the gross receipts tax levied in

1 this section shall not apply to the repair or remanufacture of industrial  
 2 metal rollers or platens that have a remanufactured, nonmetallic material  
 3 covering on all or part of the roller or platen surface which are brought  
 4 into the State of Arkansas solely and exclusively for the purpose of being  
 5 repaired or remanufactured in this state and are then shipped back to the  
 6 state of origin.

7 (vi) The gross receipts tax levied in this section  
 8 shall not apply to the service of alteration, addition, cleaning,  
 9 refinishing, replacement, or repair of commercial jet aircraft, commercial  
 10 jet aircraft components, or commercial jet aircraft subcomponents. The term  
 11 "commercial jet aircraft" shall mean any commercial, military, private, or  
 12 other turbine or turbo jet aircraft having a certified maximum take-off  
 13 weight of more than twelve thousand five hundred (12,500) pounds;

14 (vii) The provisions of subdivision (3)(C)(i) of this section shall not  
 15 apply to the services performed by a temporary or leased employee or other  
 16 contract laborer on items owned or leased by the employer. The following  
 17 criteria must be met for a person to be a temporary or leased employee:

18 (a) There must be a written contract with the temporary employment  
 19 agency, employee leasing company, or other contractor providing the services;

20 (b) The employee, temporary employment agency, employee leasing  
 21 company, or other contractor must not bear the risk of loss for damages  
 22 caused during the performance of the contract. The person for whom the  
 23 services are performed must bear the risk of loss; and

24 (c) The temporary or leased employee or contract laborer is controlled  
 25 by the employer as if he were a full-time permanent employee. "Control"  
 26 includes, but is not limited to, scheduling work hours, designating work  
 27 duties, and directing work performance.

28 (viii)(a) Additionally, the gross receipts tax  
 29 levied in this section shall not apply to the initial installation,  
 30 alteration, addition, cleaning, refinishing, replacement, or repair of  
 31 nonmechanical, passive, or manually operated components of buildings or other  
 32 improvements or structures affixed to real estate, including, but not limited  
 33 to, the following:

34 (1) Walls;

35 ~~(2) Floors;~~

36 ~~(3) Ceilings;~~

1 (43) Doors;  
 2 (54) Locks;  
 3 (65) Windows;  
 4 (76) Glass;  
 5 (87) Heat and air ducts;  
 6 (98) Roofs;  
 7 (109) Wiring;  
 8 (110) Breakers;  
 9 (121) Breaker boxes;  
 10 (1312) Electrical switches and receptacles;  
 11 (1413) Light fixtures;  
 12 (1514) Pipes;  
 13 (1615) Plumbing fixtures;  
 14 (1716) Fire and security alarms;  
 15 (1817) Intercoms;  
 16 (1918) Sprinkler systems;  
 17 (2019) Parking lots;  
 18 (2120) Fences;  
 19 (2221) Gates;  
 20 (2322) Fireplaces; and  
 21 (2423) Similar components which become a part  
 22 of real estate after installation, except flooring.

23 (b) Contractors are deemed to be consumers or users of all tangible  
 24 personal property used or consumed by them in providing such nontaxable  
 25 services, in the same manner as when performing any other contract.

26 (c) Subdivision (3)(C)(viii) of this section shall not apply to any  
 27 services subject to tax pursuant to the terms of ~~subdivision (3)(E)~~  
 28 subdivisions (3)(C)(i) and (3)(E) of this section.

29 (D)(i) Service of cable television, community antenna  
 30 television, and any and all other distribution of television, video, or radio  
 31 services with or without the use of wires provided to subscribers or paying  
 32 customers or users, including all service charges and rental charges, whether  
 33 for basic service, premium channels, or other special service, and including  
 34 installation and repair service charges and any other charges having any  
 35 connection with the providing of the said services.

36 (ii) The tax levied by this section does not apply

1 to services purchased by radio or television companies for use in providing  
2 their services; and

3 (E)(i) Service of providing transportation or delivery of  
4 money, property, or valuables by armored car; service of providing cleaning  
5 or janitorial work; service of pool cleaning and servicing; pager services;  
6 telephone answering services; lawn care and landscaping services; service of  
7 parking a motor vehicle or allowing the motor vehicle to be parked; service  
8 of storing a motor vehicle; service of storing furs; service of providing  
9 indoor tanning at a tanning salon.

10 (ii) [Repealed].

11 (iii) For purposes of this section:

12 (a) "Landscaping" means the installation, preservation, or enhancement  
13 of ground covering by planting trees, bushes and shrubbery, grass, flowers,  
14 and other types of decorative plants; and

15 (b) "Lawn care" means the maintenance, preservation, or enhancement of  
16 ground covering of nonresidential property and does not include planting  
17 trees, bushes and shrubbery, grass, flowers, and other types of decorative  
18 plants.

19 (c) "Residential" means a single family residence used solely as the  
20 principal place of residence of the owner;

21 (4) Printing of all kinds, types, and characters, including the  
22 service of overprinting, and photography of all kinds;

23 (5) Tickets or admissions to places of amusement; to athletic,  
24 entertainment, or recreational events; or fees for the privilege of having  
25 access to or the use of amusement, entertainment, athletic, or recreational  
26 facilities including free or complimentary passes and tickets, admissions,  
27 dues, or fees, with such free or complimentary passes, tickets, dues, or fees  
28 being declared to have a value equivalent to the sale price of tickets,  
29 passes, admissions, fees, or dues of like kind or character;

30 (6)(A) Dues and membership fees to:

31 (i) Health spas, health clubs, and fitness clubs;  
32 and

33 (ii) Private clubs within the meaning of § 3-9-  
34 202(10) which hold any permit from the Alcoholic Beverage Control Board  
35 allowing the sale, dispensing, or serving of alcoholic beverages of any kind  
36 on the premises.

1 (B)(i) Except as provided in subdivision (B)(ii) of this  
 2 section, the gross receipts derived from services provided by or through a  
 3 health spa, health club, fitness club, or private club shall not be subject  
 4 to gross receipts tax unless the service is specifically enumerated as a  
 5 taxable service under this chapter.

6 (ii) The gross receipts derived by a private club  
 7 from the charges to members for the preparation and serving of mixed drinks  
 8 or for the cooling and serving of beer and wine shall be subject to gross  
 9 receipts tax as well as any supplemental taxes as provided by law.

10 (7) Contracts, including service contracts, maintenance  
 11 agreements and extended warranties, which in whole or in part provide for the  
 12 future performance of or payment for services which are subject to gross  
 13 receipts tax. The seller of the contract must collect and remit the tax due  
 14 on the sale of the contract except when the contract is sold simultaneously  
 15 with a motor vehicle in which case the purchaser of the vehicle shall pay  
 16 gross receipts tax on the purchase of the contract at the time of vehicle  
 17 registration; and

18 (8) The total gross receipts derived from the retail sale of any  
 19 device used in playing bingo and any charge for admittance to facilities or  
 20 for the right to play bingo or other games of chance regardless of whether  
 21 such activity might otherwise be prohibited by law.

22 Services, including:

23 (A) Wrecker and towing services;

24 (B) Collection and disposal of solid wastes;

25 (C) Cleaning parking lots and gutters;

26 (D) Dry cleaning and laundry services;

27 (E) Industrial laundry services;

28 (F) Mini warehouse and self storage rental services;

29 (G) Body piercing, tattooing, and electrolysis services;

30 (H) Pest control services;

31 (I) Security and alarm monitoring services;

32 (J) Boat storage and docking fees;

33 (K) Furnishing camping spaces or trailer spaces at public  
 34 or privately-owned campgrounds, except for federal campgrounds, on less than  
 35 a month-to-month basis;

36 (L)(i) Furnishing computer software or programs, and

1 software licensing fees;

2 (ii) "Computer software or programs" means a series  
3 of instructions sold as a completed program which are coded for acceptance or  
4 use by a computer system and which are designed to permit the computer system  
5 to process data and provide results and information. The series of  
6 instructions may be contained in or on magnetic tapes, semiconductor chips,  
7 punched cards, printed instructions, or other tangible or electronic media.  
8 This definition includes computer game cartridges which allow certain games  
9 to be played on a television set through interaction with a computer or on  
10 home computers. The combining of several existing program modules into a new  
11 program will be considered the sale of a completed program. A completed  
12 program includes any modification, installation, or maintenance charges made  
13 in connection with the sale of the program;

14 (1) Tax is due on the sale, lease or license of a computer  
15 program. Charges for the installation of the program are taxable whether or  
16 not separately stated;

17 (2) Tax is due on the sale, lease or license of all computer  
18 software, including software that is not contained on any tangible medium but  
19 is transmitted from one computer or system to another computer or system,  
20 electronically or otherwise.

21 (M)(i) Locksmith services;

22 (ii) "Locksmith services" means repairing,  
23 servicing, or installing locks and locking devices, whether the locks and  
24 locking devices are:

25 (1) Incorporated into real property;

26 (2) Incorporated into tangible personal property; or

27 (3) Locks separate and apart from other property.

28 (iii) "Locksmith services" also includes unlocking  
29 locks or locking devices for another person.

30 (N)(i) Personal instruction services;

31 (ii) "Personal instruction services" includes  
32 teaching an individual or group of individuals:

33 (1) To play a musical instrument or to dance;

34 (2) To paint, sculpt, draw, make pottery or jewelry, or otherwise  
35 engage in artistic or creative activities;

36 (3) To mime, act, or otherwise engage in dramatic activities;

- 1           (4) Tae kwon do, tae bo, kung fu, karate, or other martial arts;  
 2           (5) To play or improve skills in baseball, football, basketball,  
 3 soccer, volleyball, golf, tennis, or other sports;  
 4           (6) To drive a motor vehicle;  
 5           (7) To fly an airplane, glider, or other aircraft; or  
 6           (8) To operate a boat, jet ski, or other watercraft;  
 7           (9) Pet grooming and kennel services.

8  
 9           SECTION 8. Arkansas Code § 26-52-301 is amended to read as follows:

10           26-52-301. Tax levied. [Effective when contingency in Acts 2003, No.  
 11 1273, § 88 is met.]

12           There is levied an excise tax of three percent (3%) upon the gross proceeds  
 13 or gross receipts derived from all sales to any person of the following:

- 14           (1) Tangible personal property;  
 15           (2) Natural or artificial gas, electricity, water, ice, steam,  
 16 or any other utility or public service, except transportation services, sewer  
 17 services, and sanitation or garbage collection services;

18           (3)(A) [Repealed].

19           (B)(i) Service of furnishing rooms, suites, condominiums,  
 20 townhouses, rental houses, or other accommodations by hotels, apartment  
 21 hotels, lodging houses, tourist camps, tourist courts, property management  
 22 companies, or any other provider of accommodations to transient guests.

23           (ii) The term "transient guests" is defined for the  
 24 purpose of subdivision (3)(B) of this section as those who rent  
 25 accommodations other than their regular place of abode on less than a month-  
 26 to-month basis;

27           (C)(i) Service of initial installation, alteration,  
 28 addition, cleaning, refinishing, replacement, and repair of motor vehicles,  
 29 aircraft, farm machinery and implements, motors of all kinds, tires and  
 30 batteries, boats, electrical appliances and devices, furniture, rugs,  
 31 flooring, upholstery, household appliances, televisions and radios, jewelry,  
 32 watches and clocks, engineering instruments, medical and surgical  
 33 instruments, machinery of all kinds, bicycles, office machines and equipment,  
 34 shoes, tin and sheetmetal, mechanical tools, and shop equipment.

35           (ii) However, the provisions of this section shall  
 36 not apply to coin-operated car washes. For the purposes of this section, a

1 coin-operated car wash shall be defined as one wherein the car washing  
2 equipment is activated by the insertion of coins into a slot or receptacle  
3 and where the labor of washing the exterior of the car or motor vehicle is  
4 performed solely by the customer or by mechanical equipment.

5 (iii) Additionally, the gross receipts tax levied in  
6 this section shall not apply to the repair or maintenance of railroad parts,  
7 railroad cars, and equipment brought into the State of Arkansas solely and  
8 exclusively for the purpose of being repaired, refurbished, modified, or  
9 converted within this state.

10 (iv) The General Assembly determines and affirms  
11 that the original intent of subdivision (3) of this section which provides  
12 that gross receipts derived from certain services would be subject to the  
13 gross receipts tax was not intended to be applicable, nor shall Arkansas  
14 gross receipts taxes be collected, with respect to services performed on  
15 watches and clocks which are received by mail or common carrier from outside  
16 this state and which, after the service is performed, are returned by mail or  
17 common carrier or in the repairman's own conveyance to points outside this  
18 state.

19 (v) Additionally, the gross receipts tax levied in  
20 this section shall not apply to the repair or remanufacture of industrial  
21 metal rollers or platens that have a remanufactured, nonmetallic material  
22 covering on all or part of the roller or platen surface which are brought  
23 into the State of Arkansas solely and exclusively for the purpose of being  
24 repaired or remanufactured in this state and are then shipped back to the  
25 state of origin.

26 (vi) The gross receipts tax levied in this section  
27 shall not apply to the service of alteration, addition, cleaning,  
28 refinishing, replacement, or repair of commercial jet aircraft, commercial  
29 jet aircraft components, or commercial jet aircraft subcomponents. The term  
30 "commercial jet aircraft" shall mean any commercial, military, private, or  
31 other turbine or turbo jet aircraft having a certified maximum take-off  
32 weight of more than twelve thousand five hundred (12,500) pounds;

33 (vii) The provisions of subdivision (3)(C)(i) of  
34 this section shall not apply to the services performed by a temporary or  
35 leased employee or other contract laborer on items owned or leased by the  
36 employer. The following criteria must be met for a person to be a temporary

1 or leased employee:

2 (a) There must be a written contract with the temporary employment  
3 agency, employee leasing company, or other contractor providing the services;

4 (b) The employee, temporary employment agency, employee leasing  
5 company, or other contractor must not bear the risk of loss for damages  
6 caused during the performance of the contract. The person for whom the  
7 services are performed must bear the risk of loss; and

8 (c) The temporary or leased employee or contract laborer is controlled  
9 by the employer as if he were a full-time permanent employee. "Control"  
10 includes, but is not limited to, scheduling work hours, designating work  
11 duties, and directing work performance.

12 (viii)(a) Additionally, the gross receipts tax  
13 levied in this section shall not apply to the initial installation,  
14 alteration, addition, cleaning, refinishing, replacement, or repair of  
15 nonmechanical, passive, or manually operated components of buildings or other  
16 improvements or structures affixed to real estate, including, but not limited  
17 to, the following:

- 18 (1) Walls;
- 19 ~~(2) Floors;~~
- 20 (3) Ceilings;
- 21 (4) Doors;
- 22 (5) Locks;
- 23 (6) Windows;
- 24 (7) Glass;
- 25 (8) Heat and air ducts;
- 26 (9) Roofs;
- 27 (10) Wiring;
- 28 (11) Breakers;
- 29 (12) Breaker boxes;
- 30 (13) Electrical switches and receptacles;
- 31 (14) Light fixtures;
- 32 (15) Pipes;
- 33 (16) Plumbing fixtures;
- 34 (17) Fire and security alarms;
- 35 (18) Intercoms;
- 36 (19) Sprinkler systems;

- 1           (2019) Parking lots;
- 2           (2120) Fences;
- 3           (2221) Gates;
- 4           (2322) Fireplaces; and
- 5           (2423) Similar components which become a part of real estate
- 6 after installation, except flooring.

7           (b) Contractors are deemed to be consumers or users of all tangible  
 8 personal property used or consumed by them in providing such nontaxable  
 9 services, in the same manner as when performing any other contract.

10           (c) Subdivision (3)(C)(viii) of this section shall not apply to any  
 11 services subject to tax pursuant to the terms of ~~subdivision (3)(E)~~  
 12 subdivisions (3)(C)(i) and (3)(E) of this section.

13                           (D)(i) Service of cable television, community antenna  
 14 television, and any and all other distribution of television, video, or radio  
 15 services with or without the use of wires provided to subscribers or paying  
 16 customers or users, including all service charges and rental charges, whether  
 17 for basic service, premium channels, or other special service, and including  
 18 installation and repair service charges and any other charges having any  
 19 connection with the providing of the said services.

20                           (ii) The tax levied by this section does not apply  
 21 to services purchased by radio or television companies for use in providing  
 22 their services; and

23                           (E)(i) Service of providing transportation or delivery of  
 24 money, property, or valuables by armored car; service of providing cleaning  
 25 or janitorial work; service of pool cleaning and servicing; pager services;  
 26 telephone answering services; lawn care and landscaping services; service of  
 27 parking a motor vehicle or allowing the motor vehicle to be parked; service  
 28 of storing a motor vehicle; service of storing furs; service of providing  
 29 indoor tanning at a tanning salon.

30                           (ii) [Repealed].

31                           (iii) For purposes of this section:

32           (a) "Landscaping" means the installation, preservation, or enhancement  
 33 of ground covering by planting trees, bushes and shrubbery, grass, flowers,  
 34 and other types of decorative plants; and

35           (b) "Lawn care" means the maintenance, preservation, or enhancement of  
 36 ground covering of nonresidential property and does not include planting

1 trees, bushes and shrubbery, grass, flowers, and other types of decorative  
2 plants.

3 (c) "Residential" means a single family residence used solely as the  
4 principal place of residence of the owner;

5 (4) Printing of all kinds, types, and characters, including the  
6 service of overprinting, and photography of all kinds;

7 (5) Tickets or admissions to places of amusement; to athletic,  
8 entertainment, or recreational events; or fees for the privilege of having  
9 access to or the use of amusement, entertainment, athletic, or recreational  
10 facilities including free or complimentary passes and tickets, admissions,  
11 dues, or fees, with such free or complimentary passes, tickets, dues, or fees  
12 being declared to have a value equivalent to the sale price of tickets,  
13 passes, admissions, fees, or dues of like kind or character;

14 (6)(A) Dues and membership fees to:

15 (i) Health spas, health clubs, and fitness clubs;  
16 and

17 (ii) Private clubs within the meaning of § 3-9-  
18 202(10) which hold any permit from the Alcoholic Beverage Control Board  
19 allowing the sale, dispensing, or serving of alcoholic beverages of any kind  
20 on the premises.

21 (B)(i) Except as provided in subdivision (B)(ii) of this  
22 section, the gross receipts derived from services provided by or through a  
23 health spa, health club, fitness club, or private club shall not be subject  
24 to gross receipts tax unless the service is specifically enumerated as a  
25 taxable service under this chapter.

26 (ii) The gross receipts derived by a private club  
27 from the charges to members for the preparation and serving of mixed drinks  
28 or for the cooling and serving of beer and wine shall be subject to gross  
29 receipts tax as well as any supplemental taxes as provided by law.

30 (7) Contracts, including service contracts, maintenance  
31 agreements and extended warranties, which in whole or in part provide for the  
32 future performance of or payment for services which are subject to gross  
33 receipts tax. The seller of the contract must collect and remit the tax due  
34 on the sale of the contract except when the contract is sold simultaneously  
35 with a motor vehicle in which case the purchaser of the vehicle shall pay  
36 gross receipts tax on the purchase of the contract at the time of vehicle

1 registration; and

2 (8) The total gross receipts derived from the retail sale of any device used  
3 in playing bingo and any charge for admittance to facilities or for the right  
4 to play bingo or other games of chance regardless of whether such activity  
5 might otherwise be prohibited

6 Services, including:

7 (A) Wrecker and towing services;

8 (B) Collection and disposal of solid wastes;

9 (C) Cleaning parking lots and gutters;

10 (D) Dry cleaning and laundry services;

11 (E) Industrial laundry services;

12 (F) Mini warehouse and self storage rental services;

13 (G) Body piercing, tattooing, and electrolysis services;

14 (H) Pest control services;

15 (I) Security and alarm monitoring services;

16 (J) Boat storage and docking fees;

17 (K) Furnishing camping spaces or trailer spaces at p0ublic  
18 or privately-owned campgrounds, except for federal campgrounds, on less than  
19 a month-to-month basis;

20 (L)(i) Furnishing computer software or programs, and  
21 software licensing fees;

22 (ii) "Computer software or programs" means a series  
23 of instructions sold as a completed program which are coded for acceptance or  
24 use by a computer system and which are designed to permit the computer system  
25 to process data and provide results and information. The series of  
26 instructions may be contained in or on magnetic tapes, semiconductor chips,  
27 punched cards, printed instructions, or other tangible or electronic media.  
28 This definition includes computer game cartridges which allow certain games  
29 to be played on a television set through interaction with a computer or on  
30 home computers. The combining of several existing program modules into a new  
31 program will be considered the sale of a completed program. A completed  
32 program includes any modification, installation, or maintenance charges made  
33 in connection with the sale of the program;

34 (l) Tax is due on the sale, lease or license of a computer  
35 program. Charges for the installation of the program are taxable whether or  
36 not separately stated;

1           (2) Tax is due on the sale, lease or license of all computer  
 2 software, including software that is not contained on any tangible medium but  
 3 is transmitted from one computer or system to another computer or system,  
 4 electronically or otherwise.

5           (M)(i) Locksmith services;

6                   (ii) "Locksmith services" means repairing,  
 7 servicing, or installing locks and locking devices, whether the locks and  
 8 locking devices are:

9                   (1) Incorporated into real property;

10                   (2) Incorporated into tangible personal property; or

11                   (3) Locks separate and apart from other property.

12                   (iii) "Locksmith services" also includes unlocking  
 13 locks or locking devices for another person.

14           (N)(i) Personal instruction services;

15                   (ii) "Personal instruction services" includes  
 16 teaching an individual or group of individuals:

17                   (1) To play a musical instrument or to dance;

18                   (2) To paint, sculpt, draw, make pottery or jewelry, or otherwise  
 19 engage in artistic or creative activities;

20                   (3) To mime, act, or otherwise engage in dramatic activities;

21                   (4) Tae kwon do, tae bo, kung fu, karate, or other martial arts;

22                   (5) To play or improve skills in baseball, football, basketball,  
 23 soccer, volleyball, golf, tennis, or other sports;

24                   (6) To drive a motor vehicle;

25                   (7) To fly an airplane, glider, or other aircraft; or

26                   (8) To operate a boat, jet ski, or other watercraft;

27                   (9) Pet grooming and kennel services.

28  
 29           SECTION 9. Arkansas Code § 26-51-815, regarding the computation of  
 30 capital gains and losses for income tax purposes, is amended to read as  
 31 follows:

32           26-51-815. Computing capital gains and losses.

33           (a) To the extent they apply to capital gains and losses realized or  
 34 incurred during income years beginning after December 31, 1996, 26 U.S.C. §§  
 35 1211-1237 and 1239-1257 as in effect on January 1, 1999, and the regulations  
 36 of the Secretary of the Treasury promulgated thereunder and in effect on

1 January 1, 1999, are adopted for the purpose of computing tax liability under  
 2 the Income Tax Act of 1929, as amended, § 26-51-101 et seq. However, the  
 3 provisions of this section shall not apply to C corporations as defined in 26  
 4 U.S.C. § 1361, as in effect on January 1, 1997. Furthermore, any other  
 5 provisions of the federal income tax law and regulations necessary for  
 6 interpreting and implementing 26 U.S.C. §§ 1211-1237 and 1239-1257 are  
 7 adopted to that extent and as in effect on January 1, 1999.

8 ~~(b) If a taxpayer has a net capital gain for tax years beginning on~~  
 9 ~~and after January 1, 1999, thirty percent (30%) of the gain shall be exempt~~  
 10 ~~from state income tax.~~

11 (e~~b~~) Section 1202 of the Internal Revenue Code of 1986, as in effect  
 12 on January 1, 1995, regarding the exclusion from gain of certain small  
 13 business stock, is adopted for the purpose of computing Arkansas income tax  
 14 liability.

15 (e~~c~~) (1) If a taxpayer has a net capital gain from a venture capital  
 16 investment, one hundred percent (100%) of the gain shall be exempt from the  
 17 Income Tax Act of 1929, § 26-51-101 et seq., if:

18 (A) The venture capital investment was initially made on  
 19 or after January 1, 2001; and

20 (B) The venture capital investment was held for at least  
 21 five (5) years prior to disposition.

22 (2)(A) "Venture capital" means equity financing, broadly  
 23 defined, including early stage research, development, commercialization, seed  
 24 capital for startup enterprises, and other risk capital for expansion of  
 25 entrepreneurial enterprises doing business in Arkansas that are qualified  
 26 technology-based enterprises doing business in Arkansas, qualified  
 27 biotechnology enterprises doing business in Arkansas, or qualified technology  
 28 incubator clients doing business in Arkansas.

29 (B) "Venture capital" does not include the purchase of a  
 30 share of stock in a company if, on the date on which the share of stock is  
 31 purchased, the company has securities outstanding that are:

32 (i) Registered on a national securities exchange  
 33 under Section 12(b) of Title I of the Securities Exchange Act of 1934 as it  
 34 exists on January 1, 2001;

35 (ii) Registered or required to be registered under  
 36 Section 12(g) of Title I of the Securities Exchange Act of 1934 as it exists

1 on January 1, 2001; or

2 (iii) Required to be registered except for the  
3 exemptions in Section 12(g)(2) of Title I of the Securities Exchange Act of  
4 1934 as it exists on January 1, 2001.

5 (C) "Qualified biotechnology enterprise" means a  
6 corporation, partnership, limited liability company, sole proprietorship, or  
7 other entity that is certified by the department pursuant to § 2-8-108.

8 (D) "Qualified technology incubator" means a business  
9 incubator certified by the Board of Directors of the Arkansas Science and  
10 Technology Authority as being a facility operated in cooperation with an  
11 Arkansas college or university to foster the growth of technology-based  
12 enterprises.

13 (E) "Qualified technology incubator client" means a  
14 corporation, partnership, limited liability company, sole proprietorship, or  
15 other entity that, as of the date of the venture capital investment, is  
16 certified by an Arkansas college or university as currently receiving, or  
17 having received within the previous three (3) years, the services of a  
18 qualified technology incubator.

19 (F) "Qualified technology-based enterprise" means a  
20 corporation, partnership, limited liability company, sole proprietorship, or  
21 other legal entity whose primary business directly involves commercializing  
22 the results of research in fields having long-term economic or commercial  
23 value to the state and having been identified in the research and development  
24 plan approved by the board.

25

26 SECTION 10. Arkansas Code § 3-7-104(1), concerning the rate of tax  
27 levied on each gallon of spirituous liquor sold or offered for sale, is  
28 amended to read as follows:

29 (1)(A)(i) A tax at the rate of two dollars and fifty cents  
30 (\$2.50) on each gallon of spirituous liquor sold or offered for sale in the  
31 State of Arkansas.

32 (ii) Beginning March 1, 2004, an additional tax at  
33 the rate of fifty cents (50¢) on each gallon of spirituous liquor sold or  
34 offered for sale in the State of Arkansas.

35 (B) "Spirituous liquor", as used in this section, means  
36 liquor distilled from the fermented juices of grain, fruits, or vegetables

1 and any mixture containing liquor distilled from the fermented juices of  
 2 grain, fruits, or vegetables, with an alcoholic content of twenty-one percent  
 3 (21%) or more alcohol by weight;

4  
 5 SECTION 11. Arkansas Code § 3-7-104(4), concerning the rate of tax  
 6 levied on each gallon of vinous liquor sold or offered for sale, is amended  
 7 to read as follows:

8 (4)(A)(i) A tax at the rate of seventy-five cents (75¢) on each  
 9 gallon of vinous liquor, except wines fermented and manufactured within the  
 10 State of Arkansas from grapes, berries, or other fruits grown in Arkansas, as  
 11 authorized by §§ 3-5-401 - 3-5-412, sold or offered for sale in the State of  
 12 Arkansas.

13 (ii) Beginning March 1, 2004, an additional tax at  
 14 the rate of twenty-five cents (25¢) on each gallon of vinous liquor, except  
 15 wines fermented and manufactured within the State of Arkansas from grapes,  
 16 berries, or other fruits grown in Arkansas, as authorized by §§ 3-5-401 - 3-  
 17 5-412, sold or offered for sale in the State of Arkansas.

18 (B) "Vinous liquor", as used in this section, means the  
 19 fermented juices of grapes, berries, or other fruits and any other mixture  
 20 containing the fermented juices of grapes, berries, or other fruits, having  
 21 an alcoholic content of more than five percent (5%) alcohol by weight;

22  
 23 SECTION 12. Arkansas Code § 3-5-409(a), concerning the rate of tax  
 24 levied on each gallon of native wine sold at a winery or in this state, is  
 25 amended to read as follows:

26 (a)(1)(i) Under the provisions of this subchapter, for the privilege  
 27 of manufacturing wine and for selling it at the winery or in this state,  
 28 there is imposed, assessed, and levied a tax of seventy-five cents (75¢) per  
 29 gallon upon all the wine manufactured and sold in this state under the  
 30 provisions of this subchapter.

31 (ii) Beginning March 1, 2004, for the privilege of  
 32 manufacturing wine and for selling it at the winery or in this state, there  
 33 is imposed, assessed, and levied an additional tax of twenty-five cents (25¢)  
 34 per gallon upon all the wine manufactured and sold in this state under the  
 35 provisions of this subchapter.

36 (2) For the privilege of manufacturing light wine under the

1 provisions of this subchapter, and for selling it at the winery or in this  
2 state, there is imposed, assessed, and levied a tax of twenty-five cents  
3 (25¢) per gallon upon all light wine manufactured and sold in this state  
4 under the provisions of this subchapter.

5  
6 SECTION 13. Arkansas Code § 3-5-605(c), concerning the tax levied on  
7 each gallon of imported wines or wines produced from fruits and vegetables  
8 not grown in this state, is amended to read as follows:

9 (c)(1)(i) An Arkansas winery importing fruits or vegetables grown  
10 outside the State of Arkansas for use in making wines in this state shall pay  
11 the seventy-five cents (75¢) per gallon tax levied on imported wines or wines  
12 produced from fruits and vegetables not grown in this state or on wine made  
13 from such juices extracted from fruits or vegetables brought into the state  
14 if the wine is sold in Arkansas.

15 (ii) Beginning March 1, 2004, an Arkansas winery  
16 importing fruits or vegetables grown outside the State of Arkansas for use in  
17 making wines in this state shall pay an additional twenty-five cents (25¢)  
18 per gallon tax levied on imported wines or wines produced from fruits and  
19 vegetables not grown in this state or on wine made from such juices extracted  
20 from fruits or vegetables brought into the state if the wine is sold in  
21 Arkansas.

22 (2) The tax shall be paid in the same manner as prescribed by  
23 law on the twentieth day of the month on sales in Arkansas for the month  
24 preceding.

25 (3) Records at the Arkansas winery required by federal law shall  
26 be maintained to reflect the ratio of blend of Arkansas-grown wine and the  
27 amount of wine in the blend made from the fruits or vegetables grown outside  
28 the State of Arkansas.

29 (4) The seventy-five cents (75¢) per gallon tax and the  
30 additional twenty-five cents (25¢) per gallon tax levied effective March 1,  
31 2004, shall be required to be paid only on the portion of the blend made from  
32 fruits or vegetables grown outside the State of Arkansas which are sold in  
33 Arkansas.

34 (5) The tax on the Arkansas-grown portion of the wine blend  
35 shall be the same as now required on wines produced from Arkansas-grown  
36 fruits and vegetables.

1  
2 SECTION 14. Arkansas Code § 3-5-606(b), concerning the tax levied on  
3 each gallon of imported wines for blending, is amended to read as follows:

4 (b)(1) The Arkansas winery shall pay a tax of seventy-five cents (75¢)  
5 per gallon on all wines imported into this state if the wines are sold in  
6 Arkansas. The seventy-five cents (75¢) per gallon tax shall be required to be  
7 paid only on the portion of the blend not grown and produced in Arkansas. The  
8 tax on the Arkansas-grown portion of the wine blend shall be the same as now  
9 required for wines produced from Arkansas-produced fruits and vegetables.

10 (2) Beginning March 1, 2004, the Arkansas winery shall pay an  
11 additional tax of twenty-five cents (25¢) per gallon on all wines imported  
12 into this state if the wines are sold in Arkansas. The additional twenty-five  
13 cents (25¢) per gallon tax shall be required to be paid only on the portion  
14 of the blend not grown and produced in Arkansas. The tax on the Arkansas-  
15 grown portion of the wine blend shall be the same as now required for wines  
16 produced from Arkansas-produced fruits and vegetables.

17  
18 SECTION 15. Arkansas Code §26-57-1002, pertaining to the wholesale  
19 vending tax, is amended to read as follows:

20 26-57-1002. Registration-Records-Amount of tax.

21 (a) Any person who sells tangible personal property through vending  
22 devices ~~may elect to~~ shall register with the director as a vending device  
23 operator and pay the ~~state and local sales and use~~ wholesale vending taxes as  
24 provided in this section.

25 (b) ~~Any person who elects to register as a vending device operator~~ All  
26 vending device operators shall obtain a gross receipts tax permit from the  
27 director as provided in § 26-52-201 et seq.

28 (c)(1) All tangible personal property purchased by a vending device  
29 operator for resale through a vending device shall be purchased exempt from  
30 the Arkansas gross receipts tax, § 26-52-101 et seq., the Arkansas  
31 compensating use tax, § 26-53-101 et seq., and any local sales and use taxes  
32 pursuant to the sale for resale exemption provided for in § 26-52-401(12).

33 (2) The vending device operator shall maintain suitable records  
34 reflecting all purchases of tangible personal property during each calendar  
35 month for resale through a vending device.

36 (d)(1)(A) ~~A tax of four and one half percent (4.5%)~~ A wholesale

1 vending tax at the rate of ten percent (10%) is hereby levied on the purchase  
 2 price of all tangible personal property purchased or withdrawn from inventory  
 3 during each calendar month by a vending device operator for resale through a  
 4 vending device.

5 (B) This tax shall be in lieu of any state gross receipts  
 6 tax on the gross receipts or gross proceeds derived from the sale of the  
 7 property by the vending device operator through a vending device.

8 (2)(A) An additional tax of ~~one percent (1%)~~ one and seventy-five  
 9 hundredths percent (1.75%) is hereby levied on the purchase price of all  
 10 tangible personal property purchased or withdrawn from inventory during each  
 11 calendar month for resale through a vending device.

12 (B) This tax shall be in lieu of any local gross receipts  
 13 taxes imposed by any city or county of this state on the gross receipts or  
 14 gross proceeds derived from the sale of the property by the vending device  
 15 operator through a vending device.

16 (e) The taxes levied by subsection (d) of this section shall be  
 17 reported and paid in the same manner and at the same time as prescribed by  
 18 law for the reporting and payment of the Arkansas gross receipts tax, § 26-  
 19 52-101 et seq.

20 (f) When calculating the taxes due under this section, a vending device  
 21 operator shall be allowed to deduct any manufacturer's rebates received which  
 22 lower the final purchase price paid by the vending device operator for  
 23 property sold through a vending device.

24 (g) Any vending device operator who manufactures the product which is  
 25 withdrawn from stock for sale through a vending device shall calculate the  
 26 tax due by multiplying the tax rate set out in subsection (d) of this section  
 27 by the selling price for which the person would sell the product to another  
 28 vending device operator for resale through a vending device.

29  
 30 SECTION 16. Arkansas Code §26-57-1003 is repealed:

31 ~~26-57-1003. Election not to register.~~

32 ~~(a) Any person selling tangible personal property through a vending~~  
 33 ~~device, and who elects not to register as a vending device operator, shall:~~

34 ~~(1) Surrender any gross receipts tax permits issued by the~~  
 35 ~~director, unless the permit is needed to report taxable sales other than~~  
 36 ~~sales through a vending device; and~~

1           ~~(2)(A) Pay the Arkansas gross receipts tax, § 26-52-101 et seq.,~~  
 2 ~~the Arkansas compensating use tax, § 26-53-101 et seq., and any applicable~~  
 3 ~~local sales and use taxes to their vendor on all purchases of tangible~~  
 4 ~~personal property purchased for resale through a vending device.~~

5           ~~(B)(i) The sale for resale exemption provided in § 26-52-~~  
 6 ~~401(12) shall not apply to purchases of tangible personal property for resale~~  
 7 ~~through vending devices unless the purchaser is registered with the director~~  
 8 ~~as a vending device operator.~~

9           ~~(ii) However, any person not registered as a vending~~  
 10 ~~device operator who maintains property in inventory for subsequent resale on~~  
 11 ~~which the state and local sales and use taxes have not been paid, and who~~  
 12 ~~subsequently withdraws that property from inventory for sale through a~~  
 13 ~~vending device, shall report and pay the state and local sales and use taxes~~  
 14 ~~on their purchase price of such property withdrawn from inventory.~~

15           ~~(b) Any person selling property through vending devices who has paid~~  
 16 ~~the state and local sales and use taxes in the manner provided by this~~  
 17 ~~section shall not be required to collect and remit state or local sales tax~~  
 18 ~~on sales of tangible personal property through the vending device.~~

19           ~~(c) Any person who elects to pay tax on tangible personal property sold~~  
 20 ~~through vending devices in accordance with the provisions of this section and~~  
 21 ~~who manufactures the product which is withdrawn from stock for resale through~~  
 22 ~~a vending device shall pay the taxes due under this section by multiplying~~  
 23 ~~the tax rate by the selling price for which the person would sell the product~~  
 24 ~~to another for resale through a vending device.~~

25  
 26           SECTION 17. Arkansas Code §26-57-1004 is amended to read as follows:

27           26-57-1004. Identification of taxpayer-Presumption of nonpayment.

28           (a) All persons who sell tangible personal property through vending  
 29 devices shall affix the name and identification number, if any, of the person  
 30 responsible for the payment of the taxes imposed by ~~§§ 26-57-1002 and 26-57-~~  
 31 ~~1003~~ § 26-57-1002.

32           (b)(1)(A) If any vending device does not have the information required  
 33 by subsection (a) of this section affixed thereto, there shall be a  
 34 presumption that the taxes imposed by this subchapter have not been paid.

35           (B) The director shall seal any vending device subject to  
 36 this presumption in such a manner as to prevent any further sales through the

1 device and shall assess and collect a penalty of fifty dollars (\$50.00) per  
 2 vending device against the person selling tangible personal property through  
 3 the device.

4 (2) The presumption in subdivision (b)(1) of this section shall  
 5 be overcome if the person selling property through the vending device affixes  
 6 the information required by this section to the device and proves that the  
 7 taxes imposed by ~~§§ 26-57-1002 and 26-57-1003~~ § 26-57-1002 have been paid.

8  
 9 SECTION 18. Arkansas Code §26-57-1204, pertaining to the issuance and  
 10 display of decals, is amended to read as follows:

11 26-57-1204. Application, issuance and display of decal.

12 (a) Any person who is the operator of a vending device in this state  
 13 that is made available for use and operation by the general public (whether  
 14 the operator is the owner of such vending device, or a lessee, renter,  
 15 bailee, etc. of the owner of such vending device) ~~may, in lieu of paying~~  
 16 ~~sales taxes under the provisions of § 26-52-101, et seq., or under the~~  
 17 ~~provisions of § 26-57-1001, et seq., elect to~~ shall obtain a decal and pay the  
 18 decal fees provided by § 26-57-1206. ~~If such election is not made by the~~  
 19 ~~operator, then the general or short term sales taxes that are otherwise~~  
 20 ~~applicable to the operation of these vending devices shall be imposed upon~~  
 21 ~~the sale of tangible personal property from such vending devices.~~

22 (b) ~~The~~ An operator of vending devices, ~~who makes the election to pay~~  
 23 ~~the decal fees provided by this subchapter,~~ shall be responsible for applying  
 24 to the Director of the Department of Finance and Administration for the  
 25 issuance of an annual or short-term special vending device decal for such  
 26 vending device and shall, at the same time, pay to the Director of the  
 27 Department of Finance and Administration the annual or short-term special  
 28 vending device decal fee provided for by this subchapter, before such vending  
 29 device is made available for use and operation by the general public.

30 (c) The Director of the Department of Finance and Administration, upon  
 31 receipt of full payment of the applicable decal fee, and upon approval of  
 32 such application, shall issue to the person making such application an annual  
 33 or short-term special vending device decal for the type of vending device or  
 34 devices covered by such application and payment.

35 (d)(1) The annual or short-term special vending device decals, and the  
 36 application provided for herein shall be in such form as prescribed by the

1 Director of the Department of Finance and Administration. These decals and  
 2 applications shall contain on their faces such information and descriptions  
 3 as shall be required by regulations adopted by the Director of the Department  
 4 of Finance and Administration to properly and reasonably implement the  
 5 provisions of this subchapter.

6 (2) Any number of vending devices may be included in one (1)  
 7 application, but all vending devices operated by the applying operator must  
 8 be made subject to this ~~alternative~~ decal fee. ~~Such operator may not choose~~  
 9 ~~to have part of his or her vending devices covered by the decal fee provided~~  
 10 ~~by this subchapter, while other vending devices operated by the same operator~~  
 11 ~~during the decal registration year would be subject to the general or short~~  
 12 ~~term sales taxes that would be otherwise applicable to the sale of tangible~~  
 13 ~~personal property from such vending devices.~~

14 (e) Before any vending device is put into operation or placed where the  
 15 same may be used or operated by any member of the general public, and at all  
 16 times when the vending device is being used or operated or made available to  
 17 members of the general public for use or operation, an annual or short-term  
 18 special vending device decal shall be firmly affixed to the vending device  
 19 covered thereby by the person who is the operator of the vending device, so  
 20 that such decal shall be plainly visible to, and readable by, the members of  
 21 the general public.

22  
 23 SECTION 19. Arkansas Code §26-57-1206 is amended to read as follows:

24 26-57-1206. Annual decal fee - ~~Short term decal~~ ~~In lieu of sales tax,~~  
 25 Short-term special decal.

26 (a)(1) Every person who is the operator of a vending device, ~~who elects~~  
 27 ~~to have the operation of such vending device covered by the provisions of~~  
 28 ~~this subchapter,~~ and who makes available to the general public for use and  
 29 operation vending devices described in this subchapter, shall pay to the  
 30 Director of the Department of Finance and Administration (for the benefit of  
 31 the state and its municipalities and counties) the following annual vending  
 32 device decal fee for each vending device before such vending device may be  
 33 placed in service within the state for use by members of the public:

34 (A) For each coin-operated vending device requiring a coin  
 35 or thing of value ~~of twenty five cents (25¢) or more for a sale, seventy~~  
 36 ~~dollars (\$70.00)~~ twenty dollars (\$20.00);

1                   ~~(B) For each coin-operated vending device requiring a coin~~  
 2 ~~or thing of value of less than twenty five cents (25¢) for a sale, fifteen~~  
 3 ~~dollars (\$15.00);~~

4                   ~~(C)~~ (B) For each coin-operated bulk vending device  
 5 requiring a coin or thing of value ~~of more than twenty five cents (25¢)~~ for a  
 6 sale, ~~seven dollars and fifty cents (\$7.50)~~ five dollars (\$5.00); and;

7                   ~~(D) For each coin-operated bulk vending device requiring a~~  
 8 ~~coin or thing of value of twenty five cents (25¢) or less for a sale, two~~  
 9 ~~dollars and fifty cents (\$2.50); and~~

10                   ~~(E)~~ (C) For each coin-operated manually powered vending  
 11 devices, coin-operated tabletop snack vending device, or other manually  
 12 powered coin-operated vending device requiring a coin or thing of value ~~of~~  
 13 ~~twenty five cents (25¢) or more~~ for a sale, ~~thirty dollars (\$30.00)~~ twenty  
 14 dollars (\$20.00).

15                   (2) The annual vending device decal issued by the Director of the  
 16 Department of Finance and Administration, after payment of the appropriate  
 17 annual vending device decal fee, shall bear on its face the year of its  
 18 issue, and such annual decal must be affixed to each vending device in a  
 19 place that is clearly visible to the user of such device before each such  
 20 vending device may be placed for public use or operation in this state by the  
 21 operator.

22                   (3) Such annual vending device decal shall not be transferred  
 23 from one (1) vending device to another, unless the person who is the operator  
 24 of such vending device shall establish to the satisfaction of the Director of  
 25 the Department of Finance and Administration that the vending device to which  
 26 the annual vending device decal is to be transferred is a vending device that  
 27 is replacing the vending device to which such annual decal was originally  
 28 affixed.

29                   (b) In those instances where it is shown to the satisfaction of the  
 30 Director of the Department of Finance and Administration that a vending  
 31 device upon which an annual vending device decal fee is otherwise due will be  
 32 placed in service for use by members of the general public for a definite,  
 33 but limited, period of time that is less than one (1) year, such as where the  
 34 vending device shall be placed for public use in connection with fairs,  
 35 carnivals, and places of amusement that operate only during certain seasons  
 36 of the year, the Director of the Department of Finance and Administration

1 shall issue a short-term special vending device decal and collect a short-  
 2 term special vending device decal fee for such vending devices as hereinafter  
 3 computed:

4 (1) Such short-term special decal may be issued for any number of  
 5 thirty-day periods, less than a full year, and such short-term special decal  
 6 shall indicate on its face that it is a short-term special decal, not an  
 7 annual decal, and such short-term special decal shall be for one (1) or more  
 8 thirty-day periods, but such short-term decal shall state on its face the  
 9 precise dates for which it has been issued and such short-term special decal  
 10 shall not be transferred from one (1) vending device to another.

11 (2) The short-term special vending device decal fee shall be  
 12 computed and paid by the person who is the operator of such vending device ~~on~~  
 13 ~~the basis of one fifth (1/5) of the annual vending device decal fee charged~~  
 14 ~~by this subchapter for the type of vending device operated, for each thirty-~~  
 15 ~~day period for which such short term decal is issue,~~ on the following basis:

16 (A) For each coin-operated or manually powered vending  
 17 device, the fee shall be five dollars (\$5.00) for each thirty-day period for  
 18 which the short term decal is issued, up to the annual rate of twenty dollars  
 19 (\$20.00); and

20 (B) For each coin-operated bulk vending device, the fee  
 21 shall be one dollar (\$1.00) for each thirty-day period for which the short  
 22 term decal is issued, up to the annual rate of five dollars (\$5.00).

23 (3) In the event the vending device is made available to the  
 24 public for a period beyond that for which the short term decal is issued,  
 25 then a full year's fee and penalty, as set out in § 26-57-1206, shall be due  
 26 on such vending device from the person who is the operator of such vending  
 27 device.

28 (c) The annual or short-term special vending device decal fees required  
 29 to be paid by subsections (a) and (b) of this section shall be paid by the  
 30 person who is the operator of such vending device ~~in lieu of the requirement~~  
 31 ~~that such person collect and remit: (1) the state and local gross receipts~~  
 32 ~~(sales) taxes levied pursuant to the provisions of the Arkansas Gross~~  
 33 ~~Receipts Act of 1941, as amended, § 26-52-101 et. seq., or any provision of~~  
 34 ~~Chapters 74 and 75 of Title 26, or any other provision of this Code which~~  
 35 ~~provides for the levy of a local sales tax; or (2) in addition to the~~  
 36 special sales taxes levied pursuant to the provisions of the Vending Devices

1 Sales Tax Act of 1995, § 26-57-1001, et seq. ~~Where gross receipts or gross~~  
 2 ~~proceeds are received by a person who is the operator of a vending device~~  
 3 ~~from the sale of any item of tangible personal property, through the vending~~  
 4 ~~device, where the annual or short term vending device decal fee has been paid~~  
 5 ~~and such decal is affixed to the vending device, then it is the intent of the~~  
 6 ~~General Assembly that such gross proceeds or gross receipts shall not be~~  
 7 ~~subject to any state or local gross receipts (sales) taxes imposed in this~~  
 8 ~~state.~~

9 (d) Any sales made by the operator of a coin-operated vending device  
 10 that is made without the use of a vending device, e.g., office coffee  
 11 service, manual hot foods lines, catering events, etc., shall be subject to  
 12 the state and local gross (sales) taxes levied pursuant to the provisions of  
 13 the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101, et seq, or  
 14 any provision of Chapters 74 and 75 of Title 26, or any other provision of  
 15 the Code that provides for the levy of a local sales tax.

16 ~~(e) For all vending devices that the operator does not elect to have~~  
 17 ~~covered by the decal fee provided by this section, the operator of that~~  
 18 ~~vending device shall acquire from the Director of the Department of Finance~~  
 19 ~~and Administration an identifying decal that the operator shall affix to the~~  
 20 ~~vending device in a prominent place so as to establish to the consuming~~  
 21 ~~public that such vending device is not covered by the provisions of this~~  
 22 ~~subchapter. The Director of the Department of Finance and Administration~~  
 23 ~~shall establish, by reasonable regulations, the amount to be charged for such~~  
 24 ~~identifying decal, which amount shall not exceed the cost of producing such~~  
 25 ~~decal.~~

26 ~~(f) Operators who elect to pay tax at the wholesale level and which~~  
 27 ~~have been issued an identification number by the Department of Finance and~~  
 28 ~~Administration as of March 31, 1997, shall be entitled to utilize that~~  
 29 ~~identification number for all vending devices owned by that operator.~~

30  
 31 SECTION 20. Arkansas Code § 26-57-1208 is repealed.

32 ~~26-57-1208. Distribution of revenue.~~

33 ~~(a) It is hereby declared to be the purpose of this subchapter to~~  
 34 ~~provide revenues for general governmental functions of the state, and its~~  
 35 ~~counties and municipalities, in lieu of the state and local gross receipts~~  
 36 ~~(sales) taxes or vending devices sales taxes that would otherwise be due and~~

1 owing from the person who is the operator of such vending devices. For that  
 2 purpose and to that end, it is expressly provided that the revenue derived by  
 3 the Director of the Department of Finance and Administration from the sale of  
 4 annual or special vending device decal fees, including penalties, shall be  
 5 deposited by the director into the State Treasury and credited as follows.

6 (b) The vending device decal fees imposed by § 26-57-1206, or any  
 7 proportionate amount thereof, shall be divided.

8 (1) With eighty percent (80%) of such amount being deposited to  
 9 the credit of the General Revenue Fund Account of the State Apportionment  
 10 Fund provided by § 19-5-202; and

11 (2) With twenty percent (20%) of such amount being deposited by  
 12 the Treasurer of the State in the Identification Pending Trust Fund for Local  
 13 Sales and Use Taxes in accordance with the provisions of §§ 26-74-221 and 26-  
 14 75-223, and all revenues deposited into that fund shall be distributed to the  
 15 cities and counties of this state in accordance with the provisions of §§ 26-  
 16 74-221 (a)(2)(C)(ii) and 26-75-223 (a)(2)(C)(ii).

17  
 18 SECTION 21. Arkansas Code § 26-57-1217 is repealed.

19 ~~26-57-1217. Purpose.~~

20 The purpose for the enactment of this "Vending Devices Decal Act of 1997" is  
 21 to provide a simplified method for the operators of such vending devices to  
 22 be able to pay their proportionate amount of state and local taxes, without  
 23 being required to maintain complex financial records that would otherwise be  
 24 required of such operators (who are in the unique position among retailers in  
 25 this state of not being able to pass the cost of sales taxes directly on to  
 26 their customers), and to assure that the State of Arkansas and its cities and  
 27 counties collect their fair share of taxes from what is almost entirely a  
 28 cash business.

29  
 30 SECTION 22. Arkansas Code Title 26, Chapter 57, Subchapter 12 is  
 31 amended to add an additional section to read as follows:

32 26-57-1218. Renewal.

33 (a) All annual vending device decals issued by the Director of the  
 34 Department of Finance and Administration authorizing the use and operation of  
 35 vending devices are renewable by June 30 of each calendar year for the fiscal  
 36 year beginning July 1.

1 (b) Any person who renews an annual vending device decal after June 30  
2 shall pay a penalty. For each 60 day period or a portion thereof after June  
3 30 during which the renewal fee is paid, the penalty shall be one-half (1/2)  
4 of the yearly renewal fee.

5 (c) No annual vending device decal shall be renewed by the Department  
6 of Finance and Administration for a vending device decal holder who has  
7 failed to pay any wholesale vending tax, excise tax, or any other state and  
8 local taxes.

9  
10 SECTION 23. EDUCATIONAL ADEQUACY TRUST FUND.

11 (a) There is created on the books of the Treasurer of State, the  
12 Auditor of State, and the Chief Fiscal Officer of the State a special revenue  
13 fund to be known as the Educational Adequacy Trust Fund.

14 (b) The fund shall consist of the revenues generated by Arkansas Code  
15 §§ 3-5-409(a)(1)(ii), 3-5-605(c)(1)(ii), 3-5-606(b)(2), 3-7-104(1)(A)(ii), 3-  
16 7-104(4)(A)(ii), 26-52-302(d), 26-53-107(d), the repeal of the exemption for  
17 capital gain in § 26-51-815(b), and other revenues as provided by law.

18 (c) On the last day of the month, the Treasurer of State shall transfer  
19 amounts available in the Educational Adequacy Trust Fund to the Department of  
20 Education Public School Fund Account established in Arkansas Code §19-5-305,  
21 to be used for the purposes as provided by law. The Treasurer of State shall  
22 make the transfer after making the deductions required from the net special  
23 revenues as set out in Arkansas Code § 19-5-203(b)(2)(A).

24 (d)(1) Additionally, for each of the State's fiscal years the Chief  
25 Fiscal Officer of the State shall determine as an annual allocation amount  
26 for this fund an amount equivalent to the revenues generated by Arkansas Code  
27 § 26-52-301(9). The determination shall be based on the total net general  
28 revenues as enumerated in § 19-6-201(1) and (2), which were collected in the  
29 immediate past year, times a factor of 0.0109.

30 (2) Upon the determination, the Chief Fiscal Officer of the State  
31 shall certify to the Treasurer of State the amount determined in (d)(1) for  
32 transfer to the fund.

33 (3) The Treasurer of State shall make the transfer from general  
34 revenues after making the deductions required from the net general revenues  
35 as set out in Arkansas Code § 19-5-202(b)(2)(B)(i).

36 (e)(1) Additionally, for each of the State's fiscal years the Chief

1 Fiscal Officer of the State shall determine as an annual allocation amount  
2 for this fund an amount equivalent to the revenues generated by the increase  
3 in the wholesale vending tax in section 15 of this act. The determination  
4 shall be based on the total net general revenues as enumerated in § 19-6-  
5 201(1) and (2), which were collected in the immediate past year, times a  
6 factor of 0.0044.

7 (2) Upon the determination, the Chief Fiscal Officer of the State  
8 shall certify to the Treasurer of State the amount determined in subsection  
9 (d)(1) for transfer to the fund.

10 (3) The Treasurer of State shall make the transfer from general  
11 revenues after making the deductions required from the net general revenues  
12 as set out in Arkansas Code § 19-5-202(b)(2)(B)(i).

13  
14 SECTION 24. Sections 1, 2, 3, 4, 5, and 6 become effective on March 1,  
15 2004.

16  
17 SECTION 25. Section 7 becomes effective on July 1, 2004.

18  
19 SECTION 26. Section 9 applies to tax years beginning on or after  
20 January 1, 2004.

21  
22 SECTION 27: Sections 10, 11, 12, 13, 14, and 15 become effective on  
23 March 1, 2004.

24  
25 SECTION 28 Sections 15, 16, 17, 18, 19, 20, 21, 21 and 22 become  
26 effective on July 1, 2004.

27  
28 SECTION 29. EMERGENCY CLAUSE. It is found and determined by the  
29 General Assembly, that the provision of an equal opportunity for an adequate  
30 education to all the citizens of the state is imperative; that additional  
31 funds are immediately needed to provide an equal opportunity for an adequate  
32 education; that this act is designed to provide the additional revenues  
33 needed to provide this equal opportunity to all citizens; and that a delay in  
34 the effective date of this act will cause irreparable harm upon the provision  
35 of essential education opportunities and the proper administration of  
36 educational programs. Therefore, an emergency is hereby declared to exist and

1 this act being necessary for the immediate preservation of the public peace,  
2 health and safety shall be in full force and effect from and after the date  
3 of March 1, 2004.

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36