

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

As Engrossed: S1/20/04 S1/23/04 S1/26/04

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 SALES AND USE TAX OF SEVEN-EIGHTHS OF ONE PERCENT  
12 (0.875%); TO ELIMINATE THE REQUIREMENT THAT  
13 PROPERTY "COME TO REST" IN THE STATE OR "BECOME  
14 COMMINGLED" WITH PROPERTY IN THE STATE IN ORDER  
15 TO BE SUBJECT TO USE TAX; TO IMPOSE A GROSS  
16 RECEIPTS TAX ON CERTAIN SERVICES; TO REPEAL THE  
17 INDIVIDUAL INCOME TAX EXEMPTION FOR CAPITAL  
18 GAINS; TO INCREASE THE EXCISE TAX ON LIQUOR; TO  
19 INCREASE THE EXCISE TAX ON WINE; TO INCREASE THE  
20 EXCISE TAX ON BEER; TO INCREASE THE WHOLESALE  
21 VENDING TAX; TO REQUIRE THAT ALL VENDING MACHINE  
22 OPERATORS OBTAIN BOTH A SALES TAX PERMIT AND A  
23 DECAL; TO CREATE THE EDUCATIONAL ADEQUACY TRUST  
24 FUND; AND FOR OTHER PURPOSES.

## Subtitle

26 TO PROVIDE ADDITIONAL REVENUE TO FUND  
27 THE EDUCATIONAL SYSTEM.  
28  
29  
30

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
32

33 SECTION 1. Arkansas Code § 26-52-302, concerning levying additional  
34 sales taxes, is amended to add an additional subsection to read as follows:

35 (d)(1) Beginning March 1, 2004, there is levied an additional excise  
36 tax of seven-eighths of one percent (0.875%) upon all taxable sales of



1 property and services subject to the tax levied by the Arkansas Gross  
2 Receipts Act of 1941, § 26-52-101 et seq.

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

7  
8 SECTION 2. Arkansas Code § 26-52-311(b)(1), pertaining to the rental  
9 vehicle tax, is amended to read as follows:

10 (b)(1) In addition to the rate in subsection (c) of this section, the  
11 rental vehicle tax shall be levied at the ~~same rate as the combined gross~~  
12 ~~receipts taxes levied by §§ 26-52-301 and 26-52-302 and any act supplemental~~  
13 ~~thereto~~ rate of five percent (5%) and the rate of any applicable municipal or  
14 county taxes.

15  
16 SECTION 3. Arkansas Code § 26-53-107, effective until contingency in  
17 Acts 2003, No. 1273, § 88 is met, is amended to add an additional subsection  
18 to read as follows:

19 (d)(1) Beginning March 1, 2004, there is levied an additional excise  
20 tax of seven-eighths of one percent (0.875%) upon all tangible personal  
21 property subject to the tax levied by the Arkansas Compensating Tax Act of  
22 1949, § 26-53-101 et seq.

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

27  
28 SECTION 4. Arkansas Code § 26-53-107, effective when contingency in  
29 Acts 2003, No. 1273, § 88 is met, is amended to read as follows:

30 (d)(1) Beginning March 1, 2004, there is levied an additional excise  
31 tax of seven-eighths of one percent (0.875%) upon all tangible personal  
32 property and taxable services subject to the tax levied by the Arkansas  
33 Compensating Tax Act of 1949, § 26-53-101 et seq.

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

1 of Arkansas compensating taxes.

2  
3 SECTION 5. Arkansas Code § 26-53-106 is amended to read as follows:

4 26-53-106. Imposition and rate of tax generally - Presumption.

5 [Effective until contingency in Acts 2003, No. 1273, § 88 is met.]

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

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

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

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

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

36 (2) It is further presumed that tangible personal property

1 shipped, mailed, expressed, transported, or brought to this state by the  
2 purchaser was purchased from a vendor for storage, use, distribution, or  
3 consumption in this state.

4  
5 SECTION 6. Arkansas Code § 26-53-106 is amended to read as follows:

6 26-53-106. Imposition and rate of tax generally - Presumptions.

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

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

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

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

26 ~~(d)(1)(A)(c)(1)(A)~~ For the purpose of the proper administration of  
27 this subchapter and to prevent evasion of the tax and the duty to collect the  
28 tax imposed in this section, it shall be presumed that tangible personal  
29 property or taxable services sold by any vendor for delivery in this state or  
30 transportation to this state are sold for storage, use, distribution, or  
31 consumption in this state unless the vendor selling the tangible personal  
32 property or taxable services has taken from the purchaser a resale  
33 certificate signed by and bearing the name, address, and sales tax permit  
34 number of the purchaser certifying that the property was purchased for resale  
35 except that sales made electronically will not require the purchaser's  
36 signature.

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

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

9  
10                  SECTION 7. Arkansas Code § 26-52-301(3)(C), effective until  
11 contingency in Acts 2003, No. 1273, § 88 is met, is amended to read as  
12 follows:

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

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

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

32                   (iv) The General Assembly determines and affirms  
33 that the original intent of subdivision (3) of this section which provides  
34 that gross receipts derived from certain services would be subject to the  
35 gross receipts tax was not intended to be applicable, nor shall Arkansas  
36 gross receipts taxes be collected, with respect to services performed on

1 watches and clocks which are received by mail or common carrier from outside  
2 this state and which, after the service is performed, are returned by mail or  
3 common carrier or in the repairman's own conveyance to points outside this  
4 state.

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

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

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

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

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

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

35 (viii)(a) Additionally, the gross receipts tax  
36 levied in this section shall not apply to the initial installation,

1 alteration, addition, cleaning, refinishing, replacement, or repair of  
 2 nonmechanical, passive, or manually operated components of buildings or other  
 3 improvements or structures affixed to real estate, including, but not limited  
 4 to, the following:

5 (1) Walls;  
 6 ~~(2) Floors;~~  
 7 ~~(3)(2) Ceilings;~~  
 8 ~~(4)(3) Doors;~~  
 9 ~~(5)(4) Locks;~~  
 10 ~~(6)(5) Windows;~~  
 11 ~~(7)(6) Glass;~~  
 12 ~~(8)(7) Heat and air ducts;~~  
 13 ~~(9)(8) Roofs;~~  
 14 ~~(10)(9) Wiring;~~  
 15 ~~(11)(10) Breakers;~~  
 16 ~~(12)(11) Breaker boxes;~~  
 17 ~~(13)(12) Electrical switches and~~  
 18 receptacles;  
 19 ~~(14)(13) Light fixtures;~~  
 20 ~~(15)(14) Pipes;~~  
 21 ~~(16)(15) Plumbing fixtures;~~  
 22 ~~(17)(16) Fire and security alarms;~~  
 23 ~~(18)(17) Intercoms;~~  
 24 ~~(19)(18) Sprinkler systems;~~  
 25 ~~(20)(19) Parking lots;~~  
 26 ~~(21)(20) Fences;~~  
 27 ~~(22)(21) Gates;~~  
 28 ~~(23)(22) Fireplaces; and~~  
 29 ~~(24)(23) Similar components which become~~  
 30 a part of real estate after, installation, except flooring.

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

35 (c) Subdivision (3)(C)(viii) of this section shall  
 36 not apply to any services subject to tax pursuant to terms of subdivision

1 3(E) of this section.

2 (ix) The gross receipts tax levied in subdivision (3)(C)(i) of  
3 this section shall not apply to the service of initial installation of any  
4 property that is specifically exempted from the tax imposed by the Arkansas  
5 Gross Receipts Act of 1941, § 26-52-101 et seq.

6  
7 SECTION 8. Arkansas Code § 26-52-301(3)(C), effective when contingency  
8 in Acts 2003, No. 1273, § 88 is met, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

- 1 (1) Walls;
- 2 ~~(2) Floors;~~
- 3 ~~(3)(2) Ceilings;~~
- 4 ~~(4)(3) Doors;~~
- 5 ~~(5)(4) Locks;~~
- 6 ~~(6)(5) Windows;~~
- 7 ~~(7)(6) Glass;~~
- 8 ~~(8)(7) Heat and air ducts;~~
- 9 ~~(9)(8) Roofs;~~
- 10 ~~(10)(9) Wiring;~~
- 11 ~~(11)(10) Breakers;~~
- 12 ~~(12)(11) Breaker boxes;~~
- 13 ~~(13)(12) Electrical switches and~~
- 14 *receptacles;*
- 15 ~~(14)(13) Light fixtures;~~
- 16 ~~(15)(14) Pipes;~~
- 17 ~~(16)(15) Plumbing fixtures;~~
- 18 ~~(17)(16) Fire and security alarms;~~
- 19 ~~(18)(17) Intercoms;~~
- 20 ~~(19)(18) Sprinkler systems;~~
- 21 ~~(20)(19) Parking lots;~~
- 22 ~~(21)(20) Fences;~~
- 23 ~~(22)(21) Gates;~~
- 24 ~~(23)(22) Fireplaces; and~~
- 25 ~~(24)(23) Similar components which become~~
- 26 *a part of real estate after installation, except flooring.*

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

31 (c) Subdivision (3)(C)(viii) of this section  
 32 shall not apply to any services subject to tax pursuant to the terms of  
 33 subdivision (3)(E) of this section.

34 (ix) The gross receipts tax levied in subdivision (3)(C)(i) of  
 35 this section shall not apply to the service of initial installation of any  
 36 property that is specifically exempted from the tax imposed by the Arkansas

1 Gross Receipts Act of 1941, § 26-52-101 et seq.

2  
3 SECTION 9. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended  
4 to add an additional section to read as follows:

5 26-52-316. Services subject to tax.

6 (a) The gross proceeds or gross receipts derived from the following  
7 services are subject to the gross receipts tax:

8 (1) Wrecker and towing services;

9 (2) Collection and disposal of solid wastes;

10 (3) Cleaning parking lots and gutters;

11 (4) Dry cleaning and laundry services;

12 (5) Industrial laundry services;

13 (6) Mini warehouse and self storage rental services;

14 (7) Body piercing, tattooing, and electrolysis services;

15 (8) Pest control services;

16 (9) Security and alarm monitoring services;

17 (10) Boat storage and docking fees;

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

21 (12) Locksmith services;

22 (13) Personal instruction services; and

23 (14) Pet grooming and kennel services.

24 (b) For purposes of this section:

25 (1)(A) "Locksmith services" means repairing, servicing, or  
26 installing locks and locking devices, whether the locks and locking devices  
27 are:

28 (i) Incorporated into real property;

29 (ii) Incorporated into tangible personal property;

30 or

31 (iii) Locks separate and apart from other property.

32 (B) "Locksmith services" also includes unlocking locks or  
33 locking devices for another person; and

34 (2) "Personal instruction services" means teaching an individual  
35 or group of individuals:

36 (A) To play a musical instrument or to dance;

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

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

5 (D) Tae kwon do, tae bo, kung fu, karate, or other martial  
 6 arts;

7 (E) To play or improve skills in baseball, football,  
 8 basketball, soccer, volleyball, golf, tennis, or other sports;

9 (F) To drive a motor vehicle;

10 (G) To fly an airplane, glider, or other aircraft; or

11 (H) To operate a boat, jet ski, or other watercraft.

12  
 13  
 14 SECTION 10. Arkansas Code § 26-51-815 is amended to read as follows:

15 26-51-815. Computing capital gains and losses.

16 (a) To the extent they apply to capital gains and losses realized or  
 17 incurred during income years beginning after December 31, 1996, 26 U.S.C. §§  
 18 1211-1237 and 1239-1257 as in effect on January 1, 1999, and the regulations  
 19 of the Secretary of the Treasury promulgated thereunder and in effect on  
 20 January 1, 1999, are adopted for the purpose of computing tax liability under  
 21 the Income Tax Act of 1929, as amended, § 26-51-101 et seq. However, the  
 22 provisions of this section shall not apply to C corporations as defined in 26  
 23 U.S.C. § 1361, as in effect on January 1, 1997. Furthermore, any other  
 24 provisions of the federal income tax law and regulations necessary for  
 25 interpreting and implementing 26 U.S.C. §§ 1211-1237 and 1239-1257 are  
 26 adopted to that extent and as in effect on January 1, 1999.

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

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

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

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

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

5                   (2)(A) "Venture capital" means equity financing, broadly  
6 defined, including early stage research, development, commercialization, seed  
7 capital for startup enterprises, and other risk capital for expansion of  
8 entrepreneurial enterprises doing business in Arkansas that are qualified  
9 technology-based enterprises doing business in Arkansas, qualified  
10 biotechnology enterprises doing business in Arkansas, or qualified technology  
11 incubator clients doing business in Arkansas.

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

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

18                   (ii) Registered or required to be registered under  
19 Section 12(g) of Title I of the Securities Exchange Act of 1934 as it exists  
20 on January 1, 2001; or

21                   (iii) Required to be registered except for the  
22 exemptions in Section 12(g)(2) of Title I of the Securities Exchange Act of  
23 1934 as it exists on January 1, 2001.

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

27                   (D) "Qualified technology incubator" means a business  
28 incubator certified by the Board of Directors of the Arkansas Science and  
29 Technology Authority as being a facility operated in cooperation with an  
30 Arkansas college or university to foster the growth of technology-based  
31 enterprises.

32                   (E) "Qualified technology incubator client" means a  
33 corporation, partnership, limited liability company, sole proprietorship, or  
34 other entity that, as of the date of the venture capital investment, is  
35 certified by an Arkansas college or university as currently receiving, or  
36 having received within the previous three (3) years, the services of a

1 qualified technology incubator.

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

8  
9 SECTION 11. Arkansas Code Title 3, Chapter 7, Subchapter 1 is amended  
10 to add an additional section to read as follows:

11 3-7-206. Additional Tax.

12 (a)(1) An additional one percent (1%) excise tax is levied upon all  
13 gross receipts or proceeds derived from the retail sale of liquor, cordials,  
14 liqueurs, specialties, sparkling and still wines, native wine, and beer.

15 (2) The taxes levied by this section shall be in addition to all  
16 other taxes now imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-  
17 101 et seq. and the excise tax imposed by § 3-7-201.

18 (3) The taxes levied under this section shall be collected,  
19 reported, and paid in the same manner and at the same time as is prescribed  
20 by law for the collection, reporting, and payment of all other Arkansas gross  
21 receipts taxes.

22 (b) It shall be the duty of every retailer in this state to collect  
23 the tax levied in this section from the consumer in addition to the  
24 established retail price of beer, liquor, cordials, liqueurs, specialties,  
25 sparkling and still wines, and native wine, and to file a return and  
26 remittance with the Director of the Department of Finance and Administration  
27 on or before the twentieth day of each calendar month for the preceding  
28 month.

29 (c) Returns shall be filed upon forms prescribed by the director in  
30 accordance with such regulations as the director may promulgate hereunder.

31 (d) The revenues derived from the excise tax levied under this section  
32 shall be special revenues and shall be deposited in the Educational Adequacy  
33 Trust Fund.

34  
35 SECTION 12. Arkansas Code § 26-57-1002 is amended to read as follows:  
36 26-57-1002. Registration - Records - Amount of tax.

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

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

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

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

16 (d)(1)(A) ~~A tax of four and one half percent (4.5%)~~ A wholesale  
17 vending tax at the rate of eight percent (8%) is hereby levied on the  
18 purchase price of all tangible personal property purchased or withdrawn from  
19 inventory during each calendar month by a vending device operator for resale  
20 through a vending device.

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

24 (2)(A) An additional tax of one percent (1%) is hereby levied on  
25 the purchase price of all tangible personal property purchased or withdrawn  
26 from inventory during each calendar month for resale through a vending  
27 device.

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

32 (e) The taxes levied by subsection (d) of this section shall be  
33 reported and paid in the same manner and at the same time as prescribed by  
34 law for the reporting and payment of the Arkansas gross receipts tax, § 26-  
35 52-101 et seq.

36 (f) When calculating the taxes due under this section, a vending

1 device operator shall be allowed to deduct any manufacturer's rebates  
2 received which lower the final purchase price paid by the vending device  
3 operator for property sold through a vending device.

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

9  
10 SECTION 13. Arkansas Code § 26-57-1003 is repealed:

11 ~~26-57-1003. Election not to register.~~

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

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

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

21 ~~(B)(i) The sale for resale exemption provided in § 26-52-~~  
22 ~~401(12) shall not apply to purchases of tangible personal property for resale~~  
23 ~~through vending devices unless the purchaser is registered with the director~~  
24 ~~as a vending device operator.~~

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

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

35 ~~(c) Any person who elects to pay tax on tangible personal property~~  
36 ~~sold through vending devices in accordance with the provisions of this~~

1 ~~section and who manufactures the product which is withdrawn from stock for~~  
2 ~~resale through a vending device shall pay the taxes due under this section by~~  
3 ~~multiplying the tax rate by the selling price for which the person would sell~~  
4 ~~the product to another for resale through a vending device.~~

5  
6 SECTION 14. Arkansas Code § 26-57-1004 is amended to read as follows:

7 26-57-1004. Identification of taxpayer - Presumption of nonpayment.

8 (a) All persons who sell tangible personal property through vending  
9 devices shall affix the name and identification number, if any, of the person  
10 responsible for the payment of the taxes imposed by ~~§§ 26-57-1002 and 26-57-~~  
11 ~~1003~~ § 26-57-1002.

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

15 (B) The director shall seal any vending device subject to  
16 this presumption in such a manner as to prevent any further sales through the  
17 device and shall assess and collect a penalty of fifty dollars (\$50.00) per  
18 vending device against the person selling tangible personal property through  
19 the device.

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

24  
25 SECTION 15. Arkansas Code § 26-57-1204 is amended to read as follows:

26 26-57-1204. Application, issuance and display of decal. [Effective  
27 January 1, 1998.]

28 (a) Any person who is the operator of a vending device in this state  
29 that is made available for use and operation by the general public (whether  
30 the operator is the owner of such vending device, or a lessee, renter,  
31 bailee, etc. of the owner of such vending device) ~~may, in lieu of paying~~  
32 ~~sales taxes under the provisions of § 26-52-101, et seq., or under the~~  
33 ~~provisions of § 26-57-1001, et seq. elect to~~ shall obtain a decal and pay the  
34 decal fees provided by § 26-57-1206. ~~If such election is not made by the~~  
35 ~~operator, then the general or short term sales taxes that are otherwise~~  
36 ~~applicable to the operation of these vending devices shall be imposed upon~~

1 ~~the sale of tangible personal property from such vending devices.~~

2 (b) ~~The An~~ operator of vending devices, ~~who makes the election to pay~~  
3 ~~the decal fees provided by this subchapter,~~ shall be responsible for applying  
4 to the Director of the Department of Finance and Administration for the  
5 issuance of an annual or short-term special vending device decal for such  
6 vending device and shall, at the same time, pay to the Director of the  
7 Department of Finance and Administration the annual or short-term special  
8 vending device decal fee provided for by this subchapter, before such vending  
9 device is made available for use and operation by the general public.

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

15 (d)(1) The annual or short-term special vending device decals, and the  
16 application provided for herein, shall be in such form as prescribed by the  
17 Director of the Department of Finance and Administration. These decals and  
18 applications shall contain on their faces such information and descriptions  
19 as shall be required by regulations adopted by the Director of the Department  
20 of Finance and Administration to properly and reasonably implement the  
21 provisions of this subchapter.

22 (2) Any number of vending devices may be included in one (1)  
23 application, but all vending devices operated by the applying operator must  
24 be made subject to this ~~alternative~~ decal fee. ~~Such operator may not choose~~  
25 ~~to have part of his or her vending devices covered by the decal fee provided~~  
26 ~~by this subchapter, while other vending devices operated by the same operator~~  
27 ~~during the decal registration year would be subject to the general or sales~~  
28 ~~taxes that would be otherwise applicable to the sale of tangible personal~~  
29 ~~property from such vending devices.~~

30 (e) Before any vending device is put into operation or placed where  
31 the same may be used or operated by any member of the general public, and at  
32 all times when the vending device is being used or operated or made available  
33 to members of the general public for use or operation, an annual or short-  
34 term special vending device decal shall be firmly affixed to the vending  
35 device covered thereby by the person who is the operator of the vending  
36 device, so that such decal shall be plainly visible to, and readable by, the

1 members of the general public.

2  
3 SECTION 16. Arkansas Code § 26-57-1206 is amended to read as follows:

4 26-57-1206. Annual decal fee - ~~Special decal~~ ~~In lieu of sales tax,~~  
5 Short-term special decal. ~~[Effective January 1, 1998.]~~

6 (a)(1) Every person who is the operator of a vending device, ~~who~~  
7 ~~elects to have the operation of such vending device covered by the provisions~~  
8 ~~of this subchapter,~~ and who makes available to the general public for use and  
9 operation vending devices described in this subchapter, shall pay to the  
10 Director of the Department of Finance and Administration (for the benefit of  
11 the state and its municipalities and counties) the following annual vending  
12 device decal fee for each vending device before such vending device may be  
13 placed in service within the state for use by members of the public:

14 (A) For each coin-operated vending device requiring a coin  
15 or thing of value ~~of twenty five cents (25¢) or more for a sale, seventy~~  
16 ~~dollars (\$70.00)~~ two dollars (\$2.00);

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

20 ~~(C)(B)~~ For each coin-operated bulk vending device  
21 requiring a coin or thing of value ~~of more than twenty five cents (25¢) for a~~  
22 ~~sale, seven dollars and fifty cents (\$7.50)~~ two dollars (\$2.00); and

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

26 ~~(E)(C)~~ For each coin-operated manually powered vending  
27 devices, coin-operated tabletop snack vending device, or other manually  
28 powered coin-operated vending device requiring a coin or thing of value ~~of~~  
29 ~~twenty five cents (25¢) or more for a sale, thirty dollars (\$30.00)~~ two  
30 dollars (\$2.00).

31 (2) The annual vending device decal issued by the Director of  
32 the Department of Finance and Administration, after payment of the  
33 appropriate annual vending device decal fee, shall bear on its face the year  
34 of its issue, and such annual decal must be affixed to each vending device in  
35 a place that is clearly visible to the user of such device before each such  
36 vending device may be placed for public use or operation in this state by the

1 operator.

2 (3) Such annual vending device decal shall not be transferred  
3 from one (1) vending device to another, unless the person who is the operator  
4 of such vending device shall establish to the satisfaction of the Director of  
5 the Department of Finance and Administration that the vending device to which  
6 the annual vending device decal is to be transferred is a vending device that  
7 is replacing the vending device to which such annual decal was originally  
8 affixed.

9 (b) In those instances where it is shown to the satisfaction of the  
10 Director of the Department of Finance and Administration that a vending  
11 device upon which an annual vending device decal fee is otherwise due will be  
12 placed in service for use by members of the general public for a definite,  
13 but limited, period of time that is less than one (1) year, such as where the  
14 vending device shall be placed for public use in connection with fairs,  
15 carnivals, and places of amusement that operate only during certain seasons  
16 of the year, the Director of the Department of Finance and Administration  
17 shall issue a short-term special vending device decal and collect a short-  
18 term special vending device decal fee for such vending devices as hereinafter  
19 computed:

20 (1) Such short-term special decal may be issued for any number  
21 of thirty-day periods, less than a full year, and such short-term special  
22 decal shall indicate on its face that it is a short-term special decal, not  
23 an annual decal, and such short-term special decal shall be for one (1) or  
24 more thirty-day periods, but such short-term special decal shall state on its  
25 face the precise dates for which it has been issued and such short-term  
26 special decal shall not be transferred from one (1) vending device to  
27 another.

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

33 (A) For each coin-operated or manually-powered vending  
34 device, the fee shall be two dollars (\$2.00) for each thirty-day period for  
35 which the short-term decal is issued, up to the annual rate of two dollars  
36 (\$2.00); and

1                    (B) For each coin-operated bulk vending device, the fee  
2 shall be one dollar (\$1.00) for each thirty-day period for which the short-  
3 term decal is issued, up to the annual rate of two dollars (\$2.00).

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

9                    (c) The annual or short-term special vending device decal fees  
10 required to be paid by subsections (a) and (b) of this section shall be paid  
11 by the person who is the operator of such vending device ~~in lieu of the~~  
12 ~~requirement that such person collect and remit: (1) the state and local gross~~  
13 ~~receipts (sales) taxes levied pursuant to the provisions of the Arkansas~~  
14 ~~Gross Receipts Act of 1941, as amended, § 26-52-101 et. seq., or any~~  
15 ~~provision of Chapters 74 and 75 of Title 26, or any other provision of this~~  
16 ~~Code which provides for the levy of a local sales tax; or (2) in addition to~~  
17 ~~the special sales taxes levied pursuant to the provisions of the Vending~~  
18 ~~Devices Sales Tax Act of 1995, § 26-57-1001, et seq. Where gross receipts or~~  
19 ~~gross proceeds are received by a person who is the operator of a vending~~  
20 ~~device from the sale of any item of tangible personal property, through the~~  
21 ~~vending device, where the annual vending device decal fee has been paid and~~  
22 ~~such decal is affixed to the vending device, then it is the intent of the~~  
23 ~~General Assembly that such gross proceeds or gross receipts shall not be~~  
24 ~~subject to any state or local gross receipts (sales) taxes imposed in this~~  
25 ~~state.~~

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

33                    ~~(e) For all vending devices that the operator does not elect to have~~  
34 ~~covered by the decal fee provided by this section, the operator of that~~  
35 ~~vending device shall acquire from the Director of the Department of Finance~~  
36 ~~and Administration an identifying decal that the operator shall affix to the~~

~~vending device in a prominent place so as to establish to the consuming public that such vending device is not covered by the provisions of this subchapter. The Director of the Department of Finance and Administration shall establish, by reasonable regulations, the amount to be charged for such identifying decal, which amount shall not exceed the cost of producing such decals.~~

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

SECTION 17. Arkansas Code § 26-57-1208 is repealed.

~~26-57-1208. Distribution of revenue. [Effective January 1, 1998.]~~

~~(a) It is hereby declared to be the purpose of this subchapter to provide revenues for general governmental functions of the state, and its counties and municipalities, in lieu of the state and local gross receipts (sales) taxes or vending devices sales taxes that would otherwise be due and owing from the person who is the operator of such vending devices. For that purpose and to that end, it is expressly provided that the revenue derived by the Director of the Department of Finance and Administration from the sale of annual or special vending device decal fees, including penalties, shall be deposited by the director into the State Treasury and credited as follows.~~

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

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

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

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

~~26-57-1217. Purpose. [Effective January 1, 1998.]~~

1       ~~The purpose for the enactment of this "Vending Devices Decal Act of~~  
2 ~~1997" is to provide a simplified method for the operators of such vending~~  
3 ~~devices to be able to pay their proportionate amount of state and local~~  
4 ~~taxes, without being required to maintain complex financial records that~~  
5 ~~would otherwise be required of such operators (who are in the unique position~~  
6 ~~among retailers in this state of not being able to pass the cost of sales~~  
7 ~~taxes directly on to their customers), and to assure that the State of~~  
8 ~~Arkansas and its cities and counties collect their fair share of taxes from~~  
9 ~~what is almost entirely a cash business.~~

10  
11       SECTION 19. Arkansas Code Title 26, Chapter 57, Subchapter 12 is  
12 amended to add an additional section to read as follows:

13       26-57-1218. Renewal.

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

18       (b) Any person who renews an annual vending device decal after June 30  
19 shall pay a penalty. For each sixty-day period or a portion thereof after  
20 June 30 during which the renewal fee is paid, the penalty shall be one-half  
21 (1/2) of the yearly renewal fee.

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

26  
27       SECTION 20. Educational Adequacy Trust Fund.

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

31       (b) The Educational Adequacy Trust Fund shall consist of the revenues  
32 generated by Arkansas Code §§ 26-52-302(d), 26-53-107(d), 26-52-316, 3-7-206,  
33 26-57-1002(d)(1)(A), the repeal of the exemption for capital gain in § 26-51-  
34 815(b), and other revenues as 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 provided by law. The Treasurer  
3 of State shall make the transfer after making the deductions required from  
4 the net special revenues as set out in Arkansas Code § 19-5-203(b)(2)(A).

5 (d)(1) Additionally, for each of the state's fiscal years, the Chief  
6 Fiscal Officer of the State shall determine as an annual allocation amount  
7 for the Educational Adequacy Trust Fund an amount equivalent to the revenues  
8 generated by Arkansas Code § 26-52-316 which shall be equal to total net  
9 general revenues as enumerated in § 19-6-201(1) and (2), which were collected  
10 in the immediate past year, times a factor of 0.0103.

11 (2) The Chief Fiscal Officer of the State shall certify to the  
12 Treasurer of State the amount determined in subdivision (d)(1) of this  
13 section for transfer to the Educational Adequacy Trust Fund.

14 (3) The Treasurer of State shall make the transfer from general  
15 revenues after making the deductions required from the net general revenues  
16 under Arkansas Code § 19-5-202(b)(2)(B)(i).

17 (e)(1) Additionally, for each of the state's fiscal years, the Chief  
18 Fiscal Officer of the State shall determine as an annual allocation amount  
19 for this Educational Adequacy Trust Fund an amount equivalent to the revenues  
20 generated by the increase in the wholesale vending tax which shall be equal  
21 to the total net general revenues as enumerated in § 19-6-201(1) and (2),  
22 which were collected in the immediate past year, times a factor of 0.0031.

23 (2) The Chief Fiscal Officer of the State shall certify to the  
24 Treasurer of State the amount determined in subdivision (e)(1) of this  
25 section for transfer to the Educational Adequacy Trust Fund.

26 (3) The Treasurer of State shall make the transfer from general  
27 revenues after making the deductions required from the net general revenues  
28 under Arkansas Code § 19-5-202(b)(2)(B)(i).

29 (f)(1)(A) For the fiscal year beginning July 1, 2005, the Chief Fiscal  
30 Officer shall determine an amount equivalent to the revenues generated by the  
31 repeal of the capital gain exemption in Arkansas Code § 26-51-815(b) for  
32 transfer to the Educational Adequacy Trust Fund.

33 (B) For each of the months January through June 2005, the  
34 Chief Fiscal Officer of the State shall transfer the amount of two million,  
35 one hundred thousand dollars (\$2,100,000) monthly from gross receipts to the  
36 Revenue Holding Fund Account of the State Apportionment Fund.

1 (C) On July 1, 2005, the Treasurer of State shall transfer  
2 twelve million six hundred thousand dollars (\$12,600,000) from the Revenue  
3 Holding Fund Account of the State Apportionment Fund to the Educational  
4 Adequacy Trust Fund Account.

5 (D)(i) On March 1, 2006, the Chief Fiscal Officer of the  
6 State shall:

7 (a) Calculate the amount generated by the  
8 repeal of the capital gain exemption in Arkansas Code § 26-51-815(b) from  
9 individual income tax returns filed during calendar year 2005;

10 (b) Subtract from the amount calculated in  
11 subdivision (f)(1)(D)(i)(a) of this section the twelve million six hundred  
12 thousand dollars (\$12,600,000) transferred to the Educational Adequacy Trust  
13 Fund Account on July 1, 2005; and

14 (c) Certify the amount of the difference to  
15 the Treasurer of State.

16 (ii) The Treasurer of State shall transfer the  
17 amount certified in subdivision (f)(1)(D)(i)(c) of this section to the  
18 Educational Adequacy Trust Fund, after making the deductions required from  
19 the net general revenues under Arkansas Code § 19-5-202(b)(2)(B)(i).

20 (2)(A) On March 1, 2007, and each year thereafter, the Chief  
21 Fiscal Office of the State shall calculate the amount generated by the repeal  
22 of the capital gain exemption in Arkansas Code § 26-51-815(b) from individual  
23 income tax returns filed during the previous calendar year and shall certify  
24 this amount to the Treasurer of State.

25 (B) The Treasurer of State shall transfer the amount  
26 certified in subdivision (f)(2)(A) of this section to the Educational  
27 Adequacy Trust Fund, after making the deductions required from the net  
28 general revenues under Arkansas Code § 19-5-202(b)(2)(B)(i).

29  
30 SECTION 21. Sections 1 through 6 of this bill become effective on  
31 March 1, 2004.

32  
33 SECTION 22. Sections 7, 8, and 9 of this bill become effective on July  
34 1, 2004.

35  
36 SECTION 23. Section 10 applies to tax years beginning on or after

1 January 1, 2004.

2  
3 SECTION 24. Section 11 becomes effective on March 1, 2004.

4  
5 SECTION 25. Sections 12 through 19 become effective on July 1, 2004.

6  
7 SECTION 26. 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 hereby declared to exist  
16 and this act being necessary for the immediate preservation of the public  
17 peace, health, and safety shall be in full force and effect from and after  
18 the date of March 1, 2004.

19  
20 /s/ Wooldridge