

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

SENATE BILL 120

5 By: Senators J. English, Bledsoe, Files, Hester, J. Hutchinson, D. Wallace, E. Williams, L. Eads, T.  
6 Garner, Irvin, B. Johnson, G. Stubblefield, Flippo  
7 By: Representatives C. Fite, Baltz, Barker, Beck, Brown, Burch, Capp, Cavanaugh, Coleman, Drown,  
8 Farrer, K. Ferguson, L. Fite, Fortner, Gazaway, House, Ladyman, Leding, Lowery, McCollum, G.  
9 McGill, D. Meeks, Nicks, Pilkington, Rye, B. Smith, Speaks, Wardlaw, J. Williams, Wing, Womack

## For An Act To Be Entitled

12 AN ACT TO AMEND ARKANSAS TAX LAW AND THE USE OF TAX  
13 REVENUES; TO CREATE AN INCOME TAX EXEMPTION FOR  
14 MILITARY RETIREMENT AND SURVIVOR BENEFITS; TO LEVY  
15 INCOME TAX ON UNEMPLOYMENT COMPENSATION BENEFITS; TO  
16 AMEND THE DEFINITIONS OF THE ARKANSAS GROSS RECEIPTS  
17 TAX ACT OF 1941 TO INCLUDE THE DEFINITION OF CANDY  
18 AND SOFT DRINKS; TO IMPOSE THE FULL GROSS RECEIPTS  
19 TAX AND COMPENSATING TAX ON THE SALE OF CANDY AND  
20 SOFT DRINKS; TO LEVY THE FULL GROSS RECEIPTS TAX ON  
21 THE SALE OF A MANUFACTURED OR MODULAR HOME; TO AMEND  
22 THE ARKANSAS SOFT DRINK TAX ACT TO REDUCE THE RATE OF  
23 TAX ON SYRUPS; TO SUPPLEMENT THE ARKANSAS MEDICAID  
24 PROGRAM TRUST FUND TO OFFSET THE DECREASE IN SOFT  
25 DRINK TAX REVENUES DEPOSITED INTO THE FUND; AND FOR  
26 OTHER PURPOSES.

## Subtitle

30 TO AMEND ARKANSAS TAX LAW CONCERNING  
31 INCOME TAX, SALES AND USE TAXES, AND THE  
32 SOFT DRINK TAX; AND TO SUPPLEMENT THE  
33 ARKANSAS MEDICAID PROGRAM TRUST FUND TO  
34 OFFSET DECREASED DEPOSITS FROM TAX  
35 REVENUES.



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 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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 4 SECTION 1. Arkansas Code § 19-5-402(a), concerning the maximum  
 5 allocations of general revenues in a fiscal year, is amended to add an  
 6 additional subdivision to read as follows:

7 (3)(A) For the fiscal year beginning July 1, 2017, two million  
 8 six hundred fifty-six thousand dollars (\$2,656,000) shall be:

9 (i) Included and added to the amount distributed in  
 10 subdivision (a)(1) of this section; and

11 (ii) Distributed by the Treasurer of State in  
 12 monthly amounts to the Arkansas Medicaid Program Trust Fund under § 19-5-985.

13 (B) For fiscal years beginning on and after July 1, 2018,  
 14 five million three hundred twelve thousand dollars (\$5,312,000) shall be:

15 (i) Included and added to the amount distributed in  
 16 subdivision (a)(1) of this section; and

17 (ii) Distributed by the Treasurer of State in  
 18 monthly amounts to the Arkansas Medicaid Program Trust Fund under § 19-5-985.

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 20 SECTION 2. Arkansas Code § 19-5-985(b), concerning the Arkansas  
 21 Medicaid Program Trust Fund, is amended to read as follows:

22 (b)(1) The fund shall consist of the following:

23 (A) All revenues derived from taxes levied on soft drinks  
 24 sold or offered for sale in Arkansas under the Arkansas Soft Drink Tax Act, §  
 25 26-57-901 et seq., there to be used exclusively for the state match of  
 26 federal funds participation under the Arkansas Medicaid Program;

27 (B) The additional ambulance annual fees stated in § 20-  
 28 13-212;

29 (C) The special revenues specified in §§ 19-6-301(156) and  
 30 19-6-301(236); ~~and~~

31 (D) The amounts collected under §§ 26-57-604 and 26-57-605  
 32 above the forecasted level for insurance premium taxes set by the Chief  
 33 Fiscal Officer of the State under § 10-3-1404(a)(1)(A); and

34 (E) The amount provided for in § 19-5-402(a)(3).

35 (2) If the Arkansas Medicaid Program should be discontinued for  
 36 any reason, the revenues derived from the soft drink tax levied in the

1 Arkansas Soft Drink Tax Act, § 26-57-901 et seq., and the funds described in  
 2 subdivision (b)(1)(E) of this section shall be used exclusively to provide  
 3 services to Arkansas residents comparable to the services now provided under  
 4 the Arkansas Medicaid Program.

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 6 SECTION 3. Arkansas Code § 26-51-307 is amended to read as follows:

7 26-51-307. Retirement or disability benefits.

8 (a)(1) The first six thousand dollars (\$6,000) of benefits received by  
 9 ~~any a~~ a resident of this state from an individual retirement account or the  
 10 first six thousand dollars (\$6,000) of retirement benefits received by ~~any a~~ a  
 11 resident of this state from public or private employment-related retirement  
 12 systems, plans, or programs, regardless of the method of funding for these  
 13 systems, plans, or programs, ~~shall be~~ is exempt from the state income tax.

14 (2)(A) Only individual retirement account benefits received by  
 15 an individual retirement account participant after reaching fifty-nine and  
 16 one-half (59½) years of age qualify for the exemption.

17 (B) The only other distributions or withdrawals from an  
 18 individual retirement account that qualify for the exemption before the  
 19 individual retirement account participant reaches fifty-nine and one-half  
 20 (59½) years of age are those made on account of the participant's death or  
 21 disability.

22 (C) All other premature distributions or early  
 23 withdrawals, ~~including, but not limited to,~~ without limitation those taken  
 24 for medical-related expenses, higher education expenses, or a first-time home  
 25 purchase, do not qualify for the exemption.

26 (b)(1)(A) Except as provided in subdivision (b)(2) of this section and  
 27 subsection (e) of this section, the exemption provided for in subsection (a)  
 28 of this section for benefits received from an individual retirement account  
 29 or from a public or private employment-related retirement system, plan, or  
 30 program ~~shall be~~ is the only exemption from the state income tax allowed for  
 31 benefits received from an individual retirement account or from any publicly  
 32 or privately supported employment-related retirement system, plan, or  
 33 program, excepting only benefits received under systems, plans, or programs  
 34 which are by federal law exempt from the state income tax.

35 (B) ~~No~~ Except as provided in subsection (e) of this  
 36 section, a taxpayer shall not receive an exemption greater than six thousand

dollars (\$6,000) during any tax year under ~~the provisions of~~ this section.

(2) ~~The provisions of this~~ This section ~~shall~~ does not apply to retirement or disability benefits received under a plan, system, or fund described in § 26-51-404(b)(6).

(c)(1) Title 26 U.S.C. § 72, as in effect on January 1, 2009, is the sole method by which a recipient of benefits from an individual retirement account or from public or private employment-related retirement systems, plans, or programs may deduct or recover his or her cost of contribution to the plan when computing his or her income for state income tax purposes.

(2) A taxpayer shall not ~~be allowed to~~ deduct or recover any portion of the taxpayer's cost of contribution to the plan that the taxpayer:

(A) Has ~~once~~ already deducted or recovered; or

(B) Would have been allowed to deduct or recover under any provision of law or court decision.

(d)(1) An individual who is sixty-five (65) years of age or older and who does not claim an exemption under subsection (a) of this section ~~shall be~~ is entitled to an additional state income tax credit of twenty dollars (\$20.00).

(2) This credit is in addition to all other credits allowed by law.

(e)(1) The following are exempt from the income tax imposed under this chapter:

(A) Retirement benefits received by a member of the uniformed services from any of the uniformed services identified in subdivision (e)(2) of this section; and

(B) Survivor benefits that are funded by the retirement pay of a member of the uniformed services.

(2) As used in this subsection, "member of the uniformed services" means a retired member of any of the following:

(A) The United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, or the United States Coast Guard;

(B) A reserve component of any of the United States Armed Forces listed in subdivision (e)(2)(A) of this section;

(C) The National Guard of any state;

(D) The commissioned regular or reserve corps of the

1 United States Public Health Service; or

2 (E) The National Oceanic and Atmospheric Administration  
 3 Commissioned Officer Corps.

4 (f) A taxpayer claiming an exemption under subsection (e) of this  
 5 section is not eligible for an exemption under subsection (a) of this  
 6 section.

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 8 SECTION 4. Arkansas Code § 26-51-404(a)(1), concerning the definition  
 9 of "gross income", is amended to add additional subdivisions to read as  
 10 follows:

11 (G) Unemployment compensation benefits paid from federal  
 12 unemployment funds; and

13 (H) Unemployment insurance benefits received from  
 14 unemployment compensation paid under Title IV of the Social Security Act, 42  
 15 U.S.C. § 601 et seq., except for unemployment or sickness payments made  
 16 pursuant to 45 U.S.C. § 352, as it existed on January 1, 2017.

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 18 SECTION 5. Arkansas Code § 26-51-404(b)(6)(B), concerning exemptions  
 19 from the definition of "gross income", is amended to read as follows:

20 (B) Social Security payments, railroad retirement  
 21 benefits, ~~unemployment compensation benefits paid from federal unemployment~~  
 22 ~~trust funds, and~~ unemployment insurance benefits received from the railroad  
 23 retirement boards, ~~and unemployment compensation paid under Title IV of the~~  
 24 ~~Social Security Act, 42 U.S.C. § 601 et seq.;~~

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 26 SECTION 6. Arkansas Code § 26-52-103(12)(B), concerning the  
 27 definitions used under the Arkansas Gross Receipts Act of 1941, is amended to  
 28 read as follows:

29 (B) "Food" and "food ingredients" do not include candy, a  
 30 soft drink, an alcoholic beverage, tobacco, or a dietary supplement;

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 32 SECTION 7. Arkansas Code § 26-52-103, concerning the definitions used  
 33 under the Arkansas Gross Receipts Act of 1941, is amended to add additional  
 34 subdivisions to read as follows:

35 (25)(A) "Candy" means a preparation of sugar, honey, or other  
 36 natural or artificial sweeteners in combination with chocolate, fruits, nuts,

1 or other ingredients or flavorings in the form of bars, drops, or pieces.

2 (B) "Candy" shall not include a preparation containing  
3 flour and shall require no refrigeration; and

4 (26)(A) "Soft drink" means a nonalcoholic beverage that contains  
5 natural or artificial sweeteners.

6 (B) "Soft drink" does not include a beverage that contains  
7 milk or milk products, soy, rice, or similar milk substitutes, or that is  
8 greater than fifty percent (50%) of vegetable or fruit juice by volume.

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10 SECTION 8. Arkansas Code § 26-53-102(5)(B), concerning the definitions  
11 used under the Arkansas Compensating Tax Act, is amended to read as follows:

12 (B) "Food" and "food ingredients" do not include candy, a  
13 soft drink, an alcoholic beverage, tobacco, or a dietary supplement;

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15 SECTION 9. Arkansas Code § 26-53-102, concerning the definitions to be  
16 used under the Arkansas Compensating Tax Act of 1949, is amended to add  
17 additional subdivisions to read as follows:

18 (22)(A) "Candy" means a preparation of sugar, honey, or other  
19 natural or artificial sweeteners in combination with chocolate, fruits, nuts,  
20 or other ingredients or flavorings in the form of bars, drops, or pieces.

21 (B) "Candy" shall not include a preparation containing  
22 flour and shall require no refrigeration; and

23 (23)(A) "Soft drink" means a nonalcoholic beverage that contains  
24 natural or artificial sweeteners.

25 (B) "Soft drink" does not include a beverage that contains  
26 milk or milk products, soy, rice, or similar milk substitutes, or that is  
27 greater than fifty percent (50%) of vegetable or fruit juice by volume.

28  
29 SECTION 10. Arkansas Code § 26-52-802(b), concerning the sales tax  
30 imposed on the sale of manufactured homes, modular homes, and mobile homes,  
31 is amended to read as follows:

32 (b) Upon the initial sale of a new manufactured home or modular home,  
33 the tax levied by this chapter shall be collected on ~~sixty-two percent (62%)~~  
34 ~~of~~ the acquisition price of the new manufactured home or modular home.

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36 SECTION 11. Arkansas Code § 26-57-904(a)(1), concerning the tax levied

1 on the sale of soft drink syrup and simple syrup, is amended to read as  
2 follows:

3 (1) ~~Two dollars (\$2.00)~~ One dollar and twenty-six cents (\$1.26)  
4 per gallon for each gallon of soft drink syrup or simple syrup sold or  
5 offered for sale in the State of Arkansas;

6  
7 SECTION 12. Arkansas Code § 26-57-905(3), concerning exemptions from  
8 the Arkansas Soft Drink Tax Act, is amended to read as follows:

9 (3) Any powder or base product that is used in preparing coffee  
10 or tea and any simple syrup used in preparing tea;

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12 SECTION 13. EFFECTIVE DATE. Sections 2 through 12 of this act are  
13 effective for tax years beginning on and after January 1, 2018.

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