

**THIRTY-SECOND DAY'S PROCEEDINGS
HALL OF THE HOUSE OF REPRESENTATIVES**

Little Rock, Arkansas
March 19, 2014

The House was called to order at 1:35 p.m. by Mr. Carter, the Speaker. The following members answered to the roll call:

Alexander, Altes, C. Armstrong, E. Armstrong, Baine, Baird, Ballinger, Baltz, Barnett, Bell, Biviano, Bragg, Branscum, Broadway, Burris, Carnine, Catlett, Clemmer, Collins, Copenhaver, Cozart, Dale, Davis, Deffenbaugh, Dickinson, Dotson, C. Douglas, D. Douglas, Edwards, Eubanks, Farrer, Ferguson, Fielding, Fite, Gillam, Gossage, Hammer, Harris, Hawthorne, Hickerson, Hillman, Hobbs, Hodges, Holcomb, Hopper, House, Hutchison, Jean, Jett, Julian, Kerr, Kizzia, Lampkin, Lea, Leding, Lenderman, Linck, Love, Lowery, Magie, Malone, Mayberry, McCrary, McElroy, McGill, McLean, D. Meeks, S. Meeks, Miller, Murdock, Neal, Nickels, Overbey, Payton, Perry, Ratliff, Rice, Richey, Sabin, Scott, Shepherd, Slinkard, Smith, Steel, Talley, Thompson, Vines, Wagner, Walker, Wardlaw, Westerman, Whitaker, B. Wilkins, H. Wilkins, Williams, Womack, Word, Wren, Wright, Mr. Speaker.

Total100

The following member(s) was absent and did not answer to the roll call:

Total0

A quorum was present.

The House stood and was led in prayer by House Chaplain Greg Addison, Senior Pastor, First Baptist Church, Cabot, Arkansas.

The House stood and gave the Pledge of Allegiance to the Flag.

The reading of the Journal of yesterday's proceedings was dispensed with.

STATE OF ARKANSAS

MIKE BEEBE
GOVERNOR

March 13, 2014

TO THE SPEAKER OF THE HOUSE

Dear Mr. Speaker:

This is to inform you that on March 13, 2014, I approved the following measures from the Fiscal Session of the Eighty-ninth General Assembly:

HOUSE BILL NO. 1037 - ACT 273 HOUSE BILL NO. 1129 - ACT 282
HOUSE BILL NO. 1040 - ACT 274 HOUSE BILL NO. 1130 - ACT 283
HOUSE BILL NO. 1045 - ACT 275 HOUSE BILL NO. 1144 - ACT 284
HOUSE BILL NO. 1053 - ACT 276 HOUSE BILL NO. 1149 - ACT 285
HOUSE BILL NO. 1076 - ACT 277 HOUSE BILL NO. 1155 - ACT 286
HOUSE BILL NO. 1086 - ACT 278 HOUSE BILL NO. 1156 - ACT 287
HOUSE BILL NO. 1093 - ACT 279 HOUSE BILL NO. 1157 - ACT 288
HOUSE BILL NO. 1094 - ACT 280 HOUSE BILL NO. 1158 - ACT 289
HOUSE BILL NO. 1110 - ACT 281 HOUSE BILL NO. 1159 - ACT 290

Sincerely,

/s/ Mike Beebe

STATE CAPITOL, SUITE 250 • LITTLE ROCK, AR 72201
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STATE OF ARKANSAS

MIKE BEEBE

GOVERNOR

March 17, 2014

TO THE SPEAKER OF THE HOUSE:

Dear Mr. Speaker:

This is to inform you that on March 17, 2014, I approved HOUSE BILL NO. 1048. However, I have exercised my authority under Article 6, Section 17 of the Arkansas Constitution to "line item veto" section 16 of the Bill.

HOUSE BILL NO. 1048 - ACT 300

Sincerely,

/s/ Mike Beebe

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STATE OF ARKANSAS

MIKE BEEBE

GOVERNOR

March 17, 2014

Dear Mr. Speaker and Members of the House of Representatives:

In accordance with Article 6, Sections 15 and 17 of our Constitution, I write to inform you that today I have vetoed Section 16 of **HOUSE BILL NO. 1048**. I vetoed Section 16 of the bill because I believe it violates Article 5, Sections 5, 21, 29, and 30 of the Arkansas Constitution.

First, I believe that Section 16 violates the letter and spirit of Article 5, Section 5(c)(2) of our Constitution. It is clear that when the voters approved Amendment 86 to our Constitution, they intended to limit the matters considered during "Fiscal Sessions" of the General Assembly. Article 5, Section 5(c)(2) makes clear that bills purporting to make substantive non-appropriation law may *only* be taken up during a fiscal session after both houses of the General Assembly have approved the consideration of such bills by a two-thirds vote. Section 16 of HB 1048 purports to make a substantive change to the Arkansas Code (effective July 1, 2014) by establishing a new, additional category of items exempted from the existing gross receipts tax. While this proposed change to the Arkansas Code is clearly not an appropriation of funds, Section 16 of the bill was considered and adopted without first obtaining the required two-thirds vote of both chambers. If substantive changes to Arkansas law could be adopted in this manner during a Fiscal Session, the provisions of Article 5, Section 5(c)(2) would be meaningless and Fiscal Sessions could, as a practical matter, be rendered indistinguishable from Regular Sessions. I do not believe that Arkansas voters intended such a result when they approved limited Fiscal Sessions.

Second, Section 16 of HB 1048 violates Article 5, Sections 29 and 30 of the Arkansas Constitution. These provisions require that appropriations be made with a distinctly stated purpose, and only encompass that one purpose. The Arkansas Supreme Court has interpreted these sections to require a clear link between substantive changes in state law contained in an appropriation bill and the purpose

of the appropriation. See *Reid v. Jones*, 261 Ark. 550, 551 S.W.2d 191 (1977); *Ark. Motor Carriers Ass'n v. Pritchett*, 303 Ark. 620, 798, S.W.2d 918 (1990). The stated purpose of HB 1048 is to appropriate funds to pay the operating expenses of the DFA's Revenue Services Division. An appropriation is a law that authorizes the *expenditure* of public funds, and Section 16 has nothing to do with the expenditure of public funds for the operations of the Revenue Division.

Third, Section 16 of HB 1048 violates Article 5, Section 21 of the Arkansas Constitution. Article 5, Section 21 states that "no bill shall be so altered or amended on its passage through either house, as to change its original purpose." As described by the Arkansas Supreme Court, this provision is intended to "forbid amendments which should not be germane to the subject expressed by the title of the act." *Cone v. Garner*, 175 Ark. 860, 3 S.W.2d 1 (1927). Again, the subject matter and purpose of HB1048, as expressed in the title, are appropriations for the operating expenses of the Revenue Division. The new tax exemption created in Section 16, which was added to the original bill by amendment, unconstitutionally alters the purpose of the original bill.

Substantive changes to Arkansas law that have no relation to appropriations, such as Section 16 of HB 1048, should rarely be considered during fiscal sessions. If they are to be considered at all, it should be done through the process the people established in our Constitution, and not through "special language" amendments to unrelated appropriation bills.

Sincerely,

/s/ Mike Beebe

MB:jb

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Speaker Carter recognized Representative S. Meeks for a privileged matter.

Mr. Speaker: "What is your privileged matter, Rep. Meeks?"

Representative S. Meeks: "Will the House on reconsideration agree to pass **HOUSE BILL NO. 1048**, specifically Section 16, the objections of the governor to the contrary notwithstanding."

Speaker: "That is a privileged matter. Rep. Meeks you are recognized to speak for the over-ride of the line-item veto of **HOUSE BILL NO. 1048**."

The House stood in recess at 1:43 p.m. until 1:52 p.m. for House staff to request the return of **HOUSE BILL NO. 1048**, **ACT 300** from the Secretary of State's office.

The question before the House is the over-ride of the line-item veto of Section 16 of **HOUSE BILL NO. 1048**.

The vote was as follows:

AFFIRMATIVE: Alexander, D. Altes, Baird, Ballinger, Barnett, Bell, Biviano, Bragg, Branscum, J. Burris, Carnine, Clemmer, Collins, Cozart, Dale, Davis, Deffenbaugh, Dotson, C. Douglas, D. Douglas, Eubanks, Farrer, Fite, Gillam, Gossage, Hammer, Harris, Hickerson, Hobbs, Hopper, House, Hutchison, Jean, Kerr, Lea, Linck, Lowery, Magie, S. Malone, Mayberry, D. Meeks, S. Meeks, Miller, Neal, Payton, Perry, Rice, Scott, Shepherd, Slinkard, Steel, T. Thompson, Wardlaw, Westerman, Womack.

Total55

NEGATIVE: C. Armstrong, E. Armstrong, Baine, Baltz, Broadaway, Catlett, Copenhaver, J. Dickinson, Ferguson, Fielding, Hawthorne, Hillman, Hodges, Holcomb, Jett, Julian, Kizzia, Lampkin, Leding, Lenderman, Love, McCrary, McElroy, McGill, Murdock, Nickels, B. Overbey, Ratliff, Richey, Sabin, F. Smith, Talley, Vines, W. Wagner, Walker, D. Whitaker, B. Wilkins, H. Wilkins, Williams, Word, Wright.

Total41

ABSENT OR NOT VOTING: J. Edwards, McLean, Wren, Mr. Speaker.

Total4

VOTING PRESENT:

Total0

Total number of votes cast96

Total number voting in the affirmative55

Necessary to over-ride the veto51

So Veto was over-ridden.

STATE OF ARKANSAS EIGHTY-NINTH GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES 350 STATE CAPITOL

500 WOODLANE AVENUE

LITTLE ROCK, ARKANSAS 72201-1089

(501) 682-7771 TDD (501) 682-9148

DAVY CARTER, SPEAKER

March 19, 2014

The Honorable Mike Beebe
Governor, State of Arkansas
250 State Capitol Building
500 Woodlane Avenue
Little Rock, AR 72201

Dear Governor Beebe:

This is to inform you that **HOUSE BILL NO. 1048, ACT 300**, specifically section 16, having been vetoed by the Governor, with his objections thereto, and, after reconsideration, having passed both houses by the constitutional majority, has become law this 19th day of March, 2014.

Sincerely,

/s/ Davy Carter
Davy Carter
Speaker of the House

/s/ Michael Lamoureux
Michael Lamoureux
President of the Senate

NOTICE OF PASSAGE TO OVERRIDE THE GOVERNOR'S LINE ITEM VETO OF
SECTION 16 OF HOUSE BILL NO. 1048

HOUSE BILL NO. 1048

BY JOINT BUDGET COMMITTEE

ARKANSAS SENATE

NOTICE OF PASSAGE TO OVERRIDE THE GOVERNOR'S LINE ITEM VETO OF
SECTION 16 OF HOUSE BILL NO. 1048

HOUSE BILL NO. 1048

BY JOINT BUDGET COMMITTEE

In accordance with the provisions of **HOUSE CONCURRENT RESOLUTION NO. 1002**, the Fiscal Session of the House of Representatives of the 89th General Assembly is adjourned *sine die* at 2:00 p.m.

ATTEST:

Davy Carter
Speaker of the House of Representatives

Sherri Stacks
Chief Clerk