

**NINETEENTH DAY'S PROCEEDINGS**  
**HALL OF THE HOUSE OF REPRESENTATIVES**

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Little Rock, Arkansas

December 26, 2003

The House was called to order at 10:07 a.m. by Mr. Cleveland, the Speaker.  
The following members answered to the roll call:

Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bolin, Bond, Bookout, Borhauer, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Eason, Edwards, Elliott, D.Evans, L. Evans, Ferguson, Gillespie, Gipson, Goss, Green, Haak, Harris, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C.Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, Smith, Stovall, Sullivan, Sumpter, C.Taylor, J.Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, White, Wood, Mr. Speaker.

Total .....94

The following member(s) was absent and did not answer to the roll call:  
Dobbins, Fite, Hardwick, Hathorn, Lewellen, Norton.

Total .....6

A quorum was present.

Unanimous leave was granted for Representative(s) Dobbins, Fite, Hardwick, Hathorn, Lewellen, Norton.

The House stood and was led in prayer by Representative Shirley Borhauer.

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

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

COMMITTEE REPORT

EDUCATION	December 26, 2003
	CALVIN JOHNSON
	CHAIRPERSON
HOUSE BILL NO. 1034	DO PASS
BY REPRESENTATIVE CLEVELAND	AS AMENDED #1
HOUSE BILL NO. 1049	DO PASS
BY REPRESENTATIVE CLEVELAND	

Upon motion of Representative C. Johnson, **HOUSE BILL NO. 1053** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 1053

Amend **HOUSE BILL NO. 1053** as originally introduced:

Add Representatives Chesterfield, Elliott, Fite, Green, Johnson, Pickett, and White as cosponsors of the bill

AND

Add Senator Gullett as a cosponsor of the bill

/s/ Calvin Johnson

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw  
Chief Clerk

Upon motion of Representative Pickett, **HOUSE BILL NO. 1009** was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 2 TO HOUSE BILL NO. 1009

Amend **HOUSE BILL NO. 1009** as engrossed, H12/17/03

(version: 12-17-2003 09:09):

Page 1, line 35, delete "Department of Education" and substitute "Department of Curriculum and Instruction"

AND

Page 2, line 8, delete "Department of Education" and substitute "Department of Curriculum and Instruction"

AND

Page 2, delete line 21 and substitute the following:

"an equitable and adequate education:

(E) Enforce the provisions of The Quality Education Act of 2003, §6-15-202, et seq.; and"

AND

Page 2, line 22, delete "(E)(i)" and substitute "(F)(i)"

AND

Page 3, delete line 5, and substitute the following:

"otherwise in this act.

(f)(1) The Director of the Department of Accountability shall review the functions, duties, and qualifications of the employees of the Department of Accountability to ensure that each employee is qualified and capable of performing his or her duties.

(2) The Director of the Department of Accountability may replace or reassign any employee the Director of the Department of Accountability determines is not qualified or capable of satisfactorily performing his or her duties."

AND

Page 6, line 7, delete "or the Director of the Director of the" and substitute "or the Director of the"

/s/ Betty Pickett

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw  
Chief Clerk

Upon motion of Representative Medley, **HOUSE BILL NO. 1041** was placed back on second reading for the purpose of amendment.

**AMENDMENT NO. 3 TO HOUSE BILL NO. 1041**

Amend **HOUSE BILL NO. 1041** as engrossed, H12/23/03

(version: 12-23-2003 09:14):

Add Representative J. Johnson as a co-sponsor of the bill

AND

Add Senators Broadway and J. Jeffress as co-sponsors of the bill

/s/ Jim Medley

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Medley, **HOUSE BILL NO. 1043** was placed back on second reading for the purpose of amendment.

**AMENDMENT NO. 2 TO HOUSE BILL NO. 1043**

Amend **HOUSE BILL NO. 1043** as engrossed, H12/23/03

(version: 12-23-2003 09:04):

Add Representatives C. Johnson, J. Johnson, and Thomas as co-sponsors of the bill

AND

Add Senators Broadway and J. Jeffress as co-sponsors of the bill

AND

Page 2, line 1, delete "for" and substitute "from"

/s/ Jim Medley

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

ENGROSSED BILL REPORTS

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HERSCHEL W. CLEVELAND, CHAIRMAN

December 26, 2003

The following bill(s) reported correctly engrossed:

HOUSE BILL NO. 1009                    BY REPRESENTATIVE PICKETT  
 HOUSE BILL NO. 1030                    BY REPRESENTATIVE BOYD  
 HOUSE BILL NO. 1041 - TITLE - BY REPRESENTATIVE MEDLEY, ET AL  
 HOUSE BILL NO. 1043 - TITLE - BY REPRESENTATIVE MEDLEY, ET AL  
 HOUSE BILL NO. 1049                    BY REPRESENTATIVE CLEVELAND, ET AL  
 HOUSE BILL NO. 1053 - TITLE - BY REPRESENTATIVE C. JOHNSON, ET AL

HOUSE BILL ENGROSSED AS TITLE AMENDED  
 HOUSE BILL NO. 1041

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BY: REPRESENTATIVES MEDLEY, GREEN, *J. JOHNSON*  
 BY: *SENATORS BROADWAY, J. JEFFRESS*

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO ENSURE THAT THE  
 TEACHER DAILY PLANNING PERIOD OCCURS DURING THE STUDENT  
 INSTRUCTIONAL DAY; AND FOR OTHER PURPOSES.

HOUSE BILL ENGROSSED AS TITLE AMENDED  
 HOUSE BILL NO. 1043

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BY: REPRESENTATIVES MEDLEY, GREEN, *C. JOHNSON, J. JOHNSON,*  
*THOMAS*  
 BY: *SENATORS BROADWAY, J. JEFFRESS*

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO ENSURE THAT  
 TEACHERS RECEIVE A THIRTY-MINUTE UNINTERRUPTED DUTY-FREE  
 LUNCH PERIOD DURING EACH STUDENT INSTRUCTIONAL DAY; AND FOR  
 OTHER PURPOSES.

HOUSE BILL ENGROSSED AS TITLE AMENDED  
HOUSE BILL NO. 1053

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BY: REPRESENTATIVES C. JOHNSON, *CHESTERFIELD*, *ELLIOTT*, *FITE*,  
*GREEN*, *J. JOHNSON*, *PICKETT*, *WHITE*  
BY: *SENATOR GULLETT*

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO CLARIFY THE MEANING OF INSTRUCTIONAL DUTIES IN RELATION TO ASSIGNMENT OF NONINSTRUCTIONAL DUTIES TO TEACHERS; AND FOR OTHER PURPOSES.

HOUSE MEMORIAL RESOLUTION NO. 1006

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BY: REPRESENTATIVE LENDALL

MOURNING THE DEATH OF GEORGE FISHER AND HONORING HIM AS A LEGENDARY POLITICAL CARTOONIST AND SATIRIST.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES. THE RESOLUTION RECEIVED A UNANIMOUS VOTE.

Morning Hour Expired.

Upon motion of Representative Stovall, **HOUSE BILL NO. 1049** was placed back on second reading for the purpose of amendment.

**AMENDMENT NO. 5 TO HOUSE BILL NO. 1049**

Amend **HOUSE BILL NO. 1049** as engrossed, H12/22/03

(version: 12-22-2003 09:09):

Page 17, delete lines 34 through 36 and substitute the following:

"6-20-2203 Uniform budget and accounting system required.

(a) The State Board of Education shall adopt by rule a uniform budget and accounting system as presented in the Handbook IIR2 or future revisions as published by the U.S. Department of Education, Office of Educational Research and Improvements, for school districts, education service cooperatives, and open enrollment charter schools. The rules shall be developed by the Department of Education in cooperation with representatives from the Arkansas Association of School Administrators, the Arkansas Association of School business Officials, and the Legislative Joint Auditing Committee.

(b) The definitions contained in the Federal Handbook IIR2 shall be used for school districts in Arkansas and shall be used to allow for valid comparisons of expenditures among schools and among school districts.

(c) In addition the State Board of Education shall adopt by rule "Arkansas Revisions" to the Federal Handbook IIR2. The rules shall be developed by the Department of Education in cooperation with representatives from the Arkansas Association of School Administrators, the Arkansas Association of School business Officials, and the Legislative Joint Auditing Committee. Arkansas Revisions shall include but not be limited to:

(1) Categories to allow for the gathering of data on separate functions and programs;

(2) Categories and descriptions of expenditures that each school or school district shall report on its annual school performance report authorized by the School Performance Report Act, 6-5-1401 et seq. The reported expenditures shall include, but not be limited to, the following categories:

(A) Total Expenditures;

(B) Instructional Expenditures;

(C) Administrative Expenditures;

(D) Extracurricular Expenditures;

(E) Capital Expenditures; and

(F) Debt Service Expenditures; and

(3) Categories and descriptions of school and school district

expenditures that allows for the gathering of data on separate functions and programs as described in the Education Funding Reform Act of 2003, § 6-20-2001 et seq.

(d) The department shall have the authority to analyze and inspect the financial records of any school or school district in order to verify that a school or school district is correctly and accurately reporting expenditures.

(e) The department shall annually submit a summary report to the State Board of Education, the Governor, and the Senate and House Joint Interim Committee concerning public school and public school district expenditures as described in the Education Funding Reform Act of 2003, § 6-20-2001 et seq. by November 1 of each year.

(f) All rules, regulations, and revisions adopted under this subchapter shall be adopted and published prior to the start of any fiscal year for which they are applicable and shall allow for an implementation schedule consistent with the method outlined in § 6-20-2206.”

AND

Page 18, delete lines 1 through 36

AND

Page 19, delete lines 1 through 4

AND

Page 19, line 6 delete “6-22-2206.” and substitute “6-22-2204.”

AND

Page 20, line 34 delete “6-22-2207.” and substitute “6-22-2205.”

AND

Page 21, line 34 delete “6-22-2208.” and substitute “6-22-2206.”

AND

Page 21, delete lines 11 through 14 and substitute the following:

“(b) For the 2005-2006 school year and subsequent school years, the Department of Education shall amend, prior to the beginning of any fiscal year, as necessary the rules provided for in subsection (a) of this section in order for school districts to comply with this subchapter.”

/s/ Herschel Cleveland

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Stovall, **HOUSE BILL NO. 1049** was placed back on second reading for the purpose of amendment.

**AMENDMENT NO. 6 TO HOUSE BILL NO. 1049**

Amend **HOUSE BILL NO. 1049** as engrossed, H12/22/03

(version: 12-22-2003 09:09):

Page 17, delete lines 34 through 36 and substitute the following:

"6-20-2203 Uniform budget and accounting system required.

(a) The State Board of Education shall adopt by rule a uniform budget and accounting system as presented in the Handbook IIR2 or future revisions as published by the U.S. Department of Education, Office of Educational Research and Improvements, for school districts, education service cooperatives, and open enrollment charter schools. The rules shall be developed by the Department of Education in cooperation with representatives from the Arkansas Association of School Administrators, the Arkansas Association of School business Officials, and the Legislative Joint Auditing Committee.

(b) The definitions contained in the Federal Handbook IIR2 shall be used for school districts in Arkansas and shall be used to allow for valid comparisons of expenditures among schools and among school districts.

(c) In addition the State Board of Education shall adopt by rule "Arkansas Revisions" to the Federal Handbook IIR2. The rules shall be developed by the Department of Education in cooperation with representatives from the Arkansas Association of School Administrators, the Arkansas Association of School business Officials, and the Legislative Joint Auditing Committee. Arkansas Revisions shall include but not be limited to:

(1) Categories to allow for the gathering of data on separate functions and programs;

(2) Categories and descriptions of expenditures that each school or school district shall report on its annual school performance report authorized by the School Performance Report Act, 6-5-1401 et seq. The reported expenditures shall include, but not be limited to, the following categories:

(A) Total Expenditures;

(B) Instructional Expenditures;

(C) Administrative Expenditures;

(D) Extracurricular Expenditures;

(E) Capital Expenditures; and

(F) Debt Service Expenditures; and

(3) Categories and descriptions of school and school district

expenditures that allows for the gathering of data on separate functions and programs as described in the Education Funding Reform Act of 2003, § 6-20-2001 et seq.

(d) The department shall have the authority to analyze and inspect the financial records of any school or school district in order to verify that a school or school district is correctly and accurately reporting expenditures.

(e) The department shall annually submit a summary report to the State Board of Education, the Governor, and the Senate and House Joint Interim Committee concerning public school and public school district expenditures as described in the Education Funding Reform Act of 2003, § 6-20-2001 et seq. by November 1 of each year.

(f) All rules, regulations, and revisions adopted under this subchapter shall be adopted and published prior to the start of any fiscal year for which they are applicable and shall allow for an implementation schedule consistent with the method outlined in § 6-20-2206."

AND

Page 18, delete lines 1 through 36

AND

Page 19, delete lines 1 through 4

AND

Page 19, line 6 delete "6-22-2206." and substitute "6-20-2204."

AND

Page 20, line 34 delete "6-20-2207." and substitute "6-20-2205."

AND

Page 21, line 3 delete "6-20-2208." and substitute "6-20-2206."

AND

Page 21, delete lines 11 through 14 and substitute the following:

"(b) For the 2005-2006 school year and subsequent school years, the Department of Education shall amend, prior to the beginning of any fiscal year, as necessary the rules provided for in subsection (a) of this section in order for school districts to comply with this subchapter."

/s/ Herschel Cleveland

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Cleveland, **HOUSE BILL NO. 1049** was placed back on second reading for the purpose of amendment.

**AMENDMENT NO. 7 TO HOUSE BILL NO. 1049**

Amend **HOUSE BILL NO. 1049** as engrossed, H12/22/03

(version: 12-22-2003 09:09):

Page 14, line 3 delete "and each school within a school district"

AND

Page 14, line 5 delete "each school within"

/s/ Herschel Cleveland

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Speaker Cleveland requested that **HOUSE BILL NO. 1049** be referred back to the Committee on EDUCATION.

HOUSE BILL NO. 1069

BY: REPRESENTATIVE R. SMITH

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Adams, Agee, Anderson, Bennett, Berry, Biggs, Blair, Bledsoe, Bolin, Bond, P. Bookout, Borhauer, Boyd, Bradford, Bright, Childers, Clemons, Cowling, Creekmore, Dangeau, Dees, Dickinson, Eason, Edwards, Elliott, D. Evans, L. Evans, Ferguson, Gillespie, Gipson, Goss, Green, Haak, Harris, Hickinbotham, House, Hutchinson, Jackson, Jacobs, Jeffrey, C. Johnson, J. Johnson, Jones, Judy, Kenney, Key, King, Lamoureux, Ledbetter, Lendall, Mack, Mahony, Martin, Matayo, Mathis, Medley, Milligan, Moore, Napper, Nichols, Oglesby, Ormond, Pace, Parks, Pate, Penix, Petrus, Pickett, L. Prater, S. Prater, Pritchard, Rankin, Roebuck, Rosenbaum, Schulte, Scrimshire, Scroggin, Seawel, R. Smith, Stovall, Sullivan, Sumpter, C. Taylor, J. Taylor, Thomas, Thomason, Thyer, Verkamp, Walters, Weaver, White, Wood, Mr. Speaker.

Total .....93

NEGATIVE:

Total .....0

ABSENT OR NOT VOTING: Chesterfield, Dobbins, Fite, Hardwick, Hathorn, Lewellen, Norton.

Total .....7

VOTING PRESENT:

Total .....0

Total number of votes cast.....93

Total number voting in the affirmative .....93

Necessary to the passage of the bill .....51

So the Bill passed and the title as read was agreed to.

Representative Boyd moved that the record by which **HOUSE BILL NO. 1030 AMENDMENT NO. 1** passed be expunged from the record, which motion prevailed by more than 67 votes.

Upon motion of Representative Boyd, **HOUSE BILL NO. 1030** was placed back on second reading for the purpose of amendment.

**AMENDMENT NO. 1 TO HOUSE BILL NO. 1030**

Amend **HOUSE BILL NO. 1030** as originally introduced:

Page 15, delete line 13, and substitute the following:

"property and services, and that is effective until contingency in Acts 2003, No. 1273, § 88 is met, is amended to read as follows:"

AND

Page 15, delete line 20, and substitute the following:

"transportation services;

SECTION 3. Arkansas Code § 26-52-301(2), establishing an excise tax on property and services that is effective when contingency in Acts 2003, No. 1273, § 88 is met, is amended to read as follows:

(2)(A) Natural or artificial gas, electricity, water, ice, steam, sewer services, sanitation services, garbage collection, and solid and liquid waste collection and disposal ~~or any other utility or public service, except transportation services, sewer services, and sanitation or garbage collection services;~~

(B) Any other utility or public service except transportation services;"

AND

Page 15, line 22, delete "SECTION 3." and substitute "SECTION 4."

AND

Page 15, line 34, delete "SECTION 4." and substitute "SECTION 5."

AND

Page 16, line 10, delete "SECTION 5." and substitute "SECTION 6."

AND

Page 17, line 19, delete "SECTION 6." and substitute "SECTION 7."

AND

Page 17, delete line 23, and substitute the following:

"levied in this section shall not apply to the alteration, addition, cleaning,"

AND

Page 18, line 29, delete "SECTION 7." and substitute "SECTION 8."

AND

Page 19, line 8, delete "SECTION 8." and substitute "SECTION 9."

AND

Page 19, line 23, delete "SECTION 9." and substitute "SECTION 10."

AND

Page 20, line 23, delete "SECTION 10." and substitute "SECTION 11."

AND

Page 21, line 24, delete "SECTION 11." and substitute "SECTION 12."

AND

Page 22, line 28, delete "SECTION 12." and substitute "SECTION 13."

AND

Page 23, line 32, delete "SECTION 13." and substitute "SECTION 14."

AND

Page 24, line 13, delete "SECTION 14." and substitute "SECTION 15."

AND

Page 24, line 18, delete "SECTION 15." and substitute "SECTION 16."

AND

Page 24, line 27, delete "SECTION 16." and substitute "SECTION 17."

AND

Page 25, line 3, delete "SECTION 17." and substitute "SECTION 18."

AND

Page 25, line 11, delete "SECTION 18." and substitute "SECTION 19."

AND

Page 25, delete lines 13 through 22, and substitute the following:

"(a)(1) Any person who is the operator of a vending device in this state that is made available for use and operation by the general public (~~whether the operator is the owner of such vending device, or a lessee, renter, bailee, etc. of the owner of such vending device~~) may, in lieu of paying sales taxes under the provisions of ~~§ 26-52-101, et seq., or under the provisions of § 26-57-1001, et seq.~~ elect to pay the decal fees provided by ~~§ 26-57-1206.~~ If such election is not made by the operator, then the general or special sales taxes that are otherwise applicable to the operation of these vending devices shall be imposed upon the sale of tangible personal property from such vending devices.shall:

(A) Pay the decal fees provided by § 26-57-1206; and

(B) Collect and remit the state gross receipts taxes levied under Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. and Amendment 75 of the Arkansas Constitution, and any applicable city and county gross receipts taxes.

(2) The provisions of subdivision (a)(1) of this section shall apply whether the operator of a vending device is the owner of the vending device, or is

the lessee, renter, or bailee of the owner of the vending device."

AND

Page 25, line 24, delete "SECTION 19." and substitute "SECTION 20."

AND

Page 25, line 35, delete "SECTION 20." and substitute "SECTION 21."

AND

Page 26, line 17, delete "SECTION 21." and substitute "SECTION 22."

AND

Page 29, delete lines 10 through 13, and substitute the following:

~~"(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."~~

AND

Page 29, delete lines 15 through 26, and substitute the following:

"SECTION 23. Arkansas Code § 26-57-1208 is repealed.

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

~~(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)."~~

AND

Page 29, delete line 26 and substitute the following:

"State Treasury and credited as follows.

"SECTION 24. Arkansas Code §§ 26-57-1001 through 26-57-1005 are repealed.

~~26-57-1001. Definitions.~~

~~For the purposes of this subchapter, the following definitions shall apply:~~

~~(1) "Director" shall mean the Director of the Department of Finance and Administration or his authorized agents;~~

~~(2) "Person" shall mean any individual, partnership, corporation, limited liability corporation, association, organization, or nonprofit corporation, and any county or municipal subdivision of this state;~~

~~(3)(A) "Vending device" shall mean any machine or manual device which dispenses tangible personal property after a coin or thing of value is inserted.~~

~~(B) The term "vending device" shall not include devices used exclusively for the purpose of selling cigarettes, newspapers, magazines, or postage stamps; and~~

~~(4) "Vending device operator" shall mean any person who sells tangible personal property through vending devices, and who elects to pay the taxes imposed by § 26-57-1002.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(ii) However, any person not registered as a vending device operator who maintains property in inventory for subsequent resale on which~~

~~the state and local sales and use taxes have not been paid, and who subsequently withdraws that property from inventory for sale through a vending device, shall report and pay the state and local sales and use taxes on their purchase price of such property withdrawn from inventory.~~

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

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

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

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

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

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

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

~~26-57-1005. Disposition of revenues.~~

~~(a) The revenues derived from § 26-57-1002(d)(1) shall be general revenues and shall be deposited in the State Treasury in the same manner as the Arkansas gross receipts tax, § 26-52-101 et seq.~~

~~(b) All revenues derived from § 26-57-1002(d)(2) shall be deposited by the Treasurer of 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 in 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)-"

AND

Page 29, line 28, delete "SECTION 23." and substitute "SECTION 25."

AND

Page 30, line 4, delete "SECTION 24." and substitute "SECTION 26."

AND

Page 30, line 15, delete "SECTION 25." and substitute "SECTION 27."

AND

Page 30, line 27, delete "SECTION 26." and substitute "SECTION 28."

AND

Page 30, delete line 31, and substitute the following:

"one percent (.375%) upon all tangible personal property and services subject to the tax"

AND

Page 31, line 3, delete "SECTION 27." and substitute "SECTION 29."

AND

Page 31, line 14, delete "SECTION 28." and substitute "SECTION 30."

AND

Page 31, delete line 26, and substitute the following:

"the second calendar month following the effective date of this act, with the exception of sections 18 through 25 pertaining to the provisions of Arkansas Code § 26-57-1001 et seq., which shall become effective July 1, 2004."

/s/ Travis Boyd

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw

Chief Clerk

Upon motion of Representative Boyd, **HOUSE BILL NO. 1030** was placed back on second reading for the purpose of amendment.

**AMENDMENT NO. 2 TO HOUSE BILL NO. 1030**

Amend **HOUSE BILL NO. 1030** as originally introduced:

Page 15, delete line 13, and substitute the following:

"property and services, and that is effective until contingency in Acts 2003, No. 1273, § 88 is met, is amended to read as follows:"

AND

Page 15, delete line 20, and substitute the following:

"transportation services;

SECTION 3. Arkansas Code § 26-52-301(2), establishing an excise tax on property and services that is effective when contingency in Acts 2003, No. 1273, § 88 is met, is amended to read as follows:

(2)(A) Natural or artificial gas, electricity, water, ice, steam, sewer services, sanitation services, garbage collection, and solid and liquid waste collection and disposal ~~or any other utility or public service, except transportation services, sewer services, and sanitation or garbage collection services;~~

(B) Any other utility or public service except transportation services;"

AND

Page 15, line 22, delete "SECTION 3." and substitute "SECTION 4."

AND

Page 15, line 34, delete "SECTION 4." and substitute "SECTION 5."

AND

Page 16, line 10, delete "SECTION 5." and substitute "SECTION 6."

AND

Page 17, line 19, delete "SECTION 6." and substitute "SECTION 7."

AND

Page 17, delete line 23, and substitute the following:

"levied in this section shall not apply to the alteration, addition, cleaning,"

AND

Page 18, line 29, delete "SECTION 7." and substitute "SECTION 8."

AND

Page 19, line 8, delete "SECTION 8." and substitute "SECTION 9."

AND

Page 19, line 23, delete "SECTION 9." and substitute "SECTION 10."

AND

Page 20, line 23, delete "SECTION 10." and substitute "SECTION 11."

AND

Page 21, line 24, delete "SECTION 11." and substitute "SECTION 12."

AND

Page 22, line 28, delete "SECTION 12." and substitute "SECTION 13."

AND

Page 23, line 32, delete "SECTION 13." and substitute "SECTION 14."

AND

Page 24, line 13, delete "SECTION 14." and substitute "SECTION 15."

AND

Page 24, line 18, delete "SECTION 15." and substitute "SECTION 16."

AND

Page 24, line 27, delete "SECTION 16." and substitute "SECTION 17."

AND

Page 25, line 3, delete "SECTION 17." and substitute "SECTION 18."

AND

Page 25, line 11, delete "SECTION 18." and substitute "SECTION 19."

AND

Page 25, delete lines 13 through 22, and substitute the following:

"(a)(1) Any person who is the operator of a vending device in this state that is made available for use and operation by the general public ~~(whether the operator is the owner of such vending device, or a lessee, renter, bailee, etc. of the owner of such vending device)~~ may, in lieu of paying sales taxes under the provisions of ~~§ 26-52-101, et seq., or under the provisions of § 26-57-1001, et seq.~~ elect to pay the decal fees provided by ~~§ 26-57-1206.~~ If such election is not made by the operator, then the general or special sales taxes that are otherwise applicable to the operation of these vending devices shall be imposed upon the sale of tangible personal property from such vending devices.shall:

(A) Pay the decal fees provided by § 26-57-1206; and

(B) Collect and remit the state gross receipts taxes levied under Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. and Amendment 75 of the Arkansas Constitution, and any applicable city and county gross receipts taxes.

(2) The provisions of subdivision (a)(1) of this section shall apply whether the operator of a vending device is the owner of the vending device, or is the lessee, renter, or bailee of the owner of the vending device."

AND

Page 25, line 24, delete "SECTION 19." and substitute "SECTION 20."

AND

Page 25, line 35, delete "SECTION 20." and substitute "SECTION 21."

AND

Page 26, line 17, delete "SECTION 21." and substitute "SECTION 22."

AND

Page 29, delete lines 10 through 13, and substitute the following:

~~"(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."~~

AND

Page 29, delete lines 15 through 26, and substitute the following:

"SECTION 23. Arkansas Code § 26-57-1208 is repealed.

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

~~(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)."~~

AND

Page 29, line 28 add a new section to read as follows:

"SECTION 24. Arkansas Code §§ 26-57-1001 through 26-57-1005 are repealed.

~~26-57-1001. Definitions.~~

For the purposes of this subchapter, the following definitions shall apply:

~~(1) "Director" shall mean the Director of the Department of Finance and Administration or his authorized agents;~~

~~(2) "Person" shall mean any individual, partnership, corporation, limited liability corporation, association, organization, or nonprofit corporation, and any county or municipal subdivision of this state;~~

~~(3)(A) "Vending device" shall mean any machine or manual device which dispenses tangible personal property after a coin or thing of value is inserted.~~

~~(B) The term "vending device" shall not include devices used exclusively for the purpose of selling cigarettes, newspapers, magazines, or postage stamps; and~~

~~(4) "Vending device operator" shall mean any person who sells tangible personal property through vending devices, and who elects to pay the taxes imposed by § 26-57-1002.~~

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

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

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

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

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

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

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

~~(2)(A) An additional tax of one percent (1%) is hereby levied on the purchase price of all tangible personal property purchased or withdrawn from~~

inventory during each calendar month for resale through a vending device.

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

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

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

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

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

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

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

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

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

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

~~(b) Any person selling property through vending devices who has paid the~~

~~state and local sales and use taxes in the manner provided by this section shall not be required to collect and remit state or local sales tax on sales of tangible personal property through the vending device.~~

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

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

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

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

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

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

~~26-57-1005. Disposition of revenues.~~

~~(a) The revenues derived from § 26-57-1002(d)(1) shall be general revenues and shall be deposited in the State Treasury in the same manner as the Arkansas gross receipts tax, § 26-52-101 et seq.~~

~~(b) All revenues derived from § 26-57-1002(d)(2) shall be deposited by the Treasurer of 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 in 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)."~~

AND

Page 29, line 28, delete "SECTION 23." and substitute "SECTION 25."

AND

Page 30, line 4, delete "SECTION 24." and substitute "SECTION 26."

AND

Page 30, line 15, delete "SECTION 25." and substitute "SECTION 27."

AND

Page 30, line 27, delete "SECTION 26." and substitute "SECTION 28."

AND

Page 30, delete line 31, and substitute the following:

"one percent (.375%) upon all tangible personal property and services subject to the tax"

AND

Page 31, line 3, delete "SECTION 27." and substitute "SECTION 29."

AND

Page 31, line 14, delete "SECTION 28." and substitute "SECTION 30."

AND

Page 31, delete line 26, and substitute the following:

"the second calendar month following the effective date of this act, with the exception of sections 18 through 25 pertaining to the provisions of Arkansas Code § 26-57-1001 et seq., which shall become effective July 1, 2004."

/s/ Travis Boyd

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw  
Chief Clerk

Motion was made by Representative C. Johnson to recess at 10:27 a.m. until 11:00 a.m. for the EDUCATION COMMITTEE to meet.

The House reconvened at 11:03 a.m.

Representative Norton arrived at 11:03 a.m.

The House recessed at 11:05 a.m. and stood in recess until 3:00 p.m.

The House reconvened at 2:58 p.m.

HOUSE BILLS ORDERED TRANSMITTED TO THE SENATE AS PASSED

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HOUSE BILL NO. 1069 BY REPRESENTATIVE R. SMITH

ARKANSAS SENATE  
HOUSE BILLS RETURNED FROM THE SENATE AS PASSED

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HOUSE BILL NO. 1011 BY REPRESENTATIVE BOYD  
AS AMENDED #1 & #2

HOUSE BILL NO. 1074

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BY: REPRESENTATIVES PETRUS, MAHONY

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO SIMPLIFY THE QUALIFICATIONS FOR THE OFFICE OF DIRECTOR OF THE DEPARTMENT OF EDUCATION; AND FOR OTHER PURPOSES.

Was read the first time, rules suspended, read the second time, and referred to the Committee on EDUCATION.

HOUSE BILL NO. 1075

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BY: REPRESENTATIVES ANDERSON, ROSENBAUM, MATAYO

BY: SENATOR BISBEE

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO STANDARDIZE SCHOOL SUPERINTENDENT SALARIES; AND FOR OTHER PURPOSES.

Was read the first time, rules suspended, read the second time, and referred to the Committee on EDUCATION.

**HOUSE BILL NO. 1076**

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**BY: REPRESENTATIVE DANGEAU**

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO MAKE AN APPROPRIATION FOR ARKANSAS BETTER CHANCE FOR SCHOOL SUCCESS PROGRAM GRANTS AND AID FOR THE DEPARTMENT OF EDUCATION FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2005; AND FOR OTHER PURPOSES.

Was read the first time, rules suspended, read the second time, and referred to the Committee on JOINT BUDGET.

**HOUSE BILL NO. 1077**

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**BY: REPRESENTATIVE CLEVELAND**

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO ALLOW SCHOOL DISTRICTS TO APPEAL CERTAIN DECISIONS OF THE STATE BOARD OF EDUCATION TO A CIRCUIT COURT IN PULASKI COUNTY OR THE CIRCUIT COURT IN THE COUNTY WHERE THE SCHOOL DISTRICT MAINTAINS ITS PRINCIPAL ADMINISTRATIVE OFFICE; AND FOR OTHER PURPOSES.

Was read the first time, rules suspended, read the second time, and referred to the Committee on EDUCATION.

**HOUSE BILL NO. 1078**

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**BY: REPRESENTATIVE CLEVELAND**

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES FOR THE DEPARTMENT OF HIGHER EDUCATION FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2005; AND FOR OTHER PURPOSES.

Was read the first time, rules suspended, read the second time, and referred to the Committee on JOINT BUDGET.

HOUSE BILL NO. 1079

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BY: REPRESENTATIVE CLEVELAND

A BILL FOR AN ACT TO BE ENTITLED AN ACT TO EXPAND THE STATE TEACHER ASSISTANCE RESOURCE PROGRAM; AND FOR OTHER PURPOSES.

Was read the first time, rules suspended, read the second time, and referred to the Committee on EDUCATION.

Upon motion of Representative Gillespie, the House adjourned at 3:00 p.m. until 1:30 p.m., Monday, December 29, 2003.

ATTEST:

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Herschel W. Cleveland  
Speaker of the House of Representatives

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Jo Renshaw  
Chief Clerk

