

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4  
5 By: Senator B. Sample  
6

# A Bill

SENATE BILL 876

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS CONCERNING THE EXCISE TAX ON  
9 DISTILLATE SPECIAL FUEL AND THE SALES AND USE TAX  
10 EXEMPTION FOR CLASS SIX AND CLASS SEVEN TRUCKS AND  
11 SEMITRAILERS; TO REPEAL THE SALES AND USE TAX  
12 EXEMPTION FOR CLASS SIX AND CLASS SEVEN TRUCKS AND  
13 SEMITRAILERS; TO REPEAL THE PROVISIONS ENACTED TO  
14 OFFSET THE GENERAL REVENUES LOST AS A RESULT OF THE  
15 SALES AND USE TAX EXEMPTION FOR CLASS SIX AND CLASS  
16 SEVEN TRUCKS AND SEMITRAILERS; TO INCREASE THE EXCISE  
17 TAX ON DISTILLATE SPECIAL FUEL; AND FOR OTHER  
18 PURPOSES.

## Subtitle

21 TO REPEAL THE SALES AND USE TAX EXEMPTION  
22 FOR CLASS SIX AND CLASS SEVEN TRUCKS AND  
23 SEMITRAILERS AND TO REPEAL THE PROVISIONS  
24 ENACTED TO OFFSET THE GENERAL REVENUES  
25 LOST AS A RESULT OF THE EXEMPTION.  
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29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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31 SECTION 1. Arkansas Code § 19-5-1103(b), concerning the Property Tax  
32 Relief Trust Fund, is amended to read as follows:

33 (b) The fund shall consist of such revenues as generated by  
34 §§ 26-52-302(c), 26-52-317(c)(1)(B), 26-52-319(a)(3)(B), 26-53-107(c), 26-53-  
35 145(c)(1)(B), 26-53-148(a)(3)(B), ~~26-56-201(g)(1)(C)~~, and 26-56-224(c)(2),  
36 and shall be used for such purposes as set out in § 26-26-310.



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SECTION 2. Arkansas Code § 19-5-1227(b)(3), concerning the Educational Adequacy Fund, is amended to read as follows:

(3) The revenues generated by §§ 26-52-302(d), 26-52-316, 26-52-317(c)(1)(C), 26-52-319(a)(3)(C), 26-53-107(d), 26-53-145(c)(1)(C), 26-53-148(a)(3)(C), ~~26-56-201(g)(1)(B)~~, 26-56-224(c)(3), and 26-57-1002(d)(1)(A)(ii); and

SECTION 3. Arkansas Code § 19-6-201(68), concerning the enumeration of general revenues, is repealed.

~~(68) The first four million dollars (\$4,000,000) of the eight and one-half cent (8½¢) tax on distillate special fuels levied each fiscal year under § 26-56-201(a)(1)(A)(i).~~

SECTION 4. Arkansas Code § 19-6-301(3)(A), concerning the enumeration of special revenues, is amended to read as follows:

(3) Distillate special motor fuels taxes and liquefied gas special motor fuels taxes and license and permit fees, as enacted by the Special Motor Fuels Tax Law, § 26-56-101 et seq., ~~known as the "Special Motor Fuels Tax Law"~~, and all laws amendatory thereto, including the:

(A) ~~Eight and one-half cent (8.5¢) tax~~ Tax of nine and one-half cents (9½¢) on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(i), ~~after the deduction of the first four million dollars (\$4,000,000) each fiscal year under § 26-56-201(g)(1) and one cent (1¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(ii);~~

(B) ~~Seven and one-half cent (7.5¢) tax~~ Tax of seven and one-half cents (7½¢) on liquefied gas special motor fuels levied by § 26-56-301(a);

(C) Additional tax of one cent (1¢) ~~tax~~ on distillate special motor fuels levied by § 26-56-201(a)(2);

(D) Additional tax of four ~~cent~~ cents (4¢) ~~tax~~ on liquefied gas special motor fuels and the additional tax of two ~~cent~~ cents (2¢) ~~tax~~ on distillate special motor fuels levied by § 26-56-502(a);

(E) Additional tax of four ~~cent~~ cents (4¢) ~~tax~~ on distillate special motor fuels levied by § 26-56-201(d)(1);

(F) Additional tax of five ~~cent~~ cents (5¢) ~~tax~~ on

1 liquefied gas special motor fuels and the additional tax of two cent cents  
2 (2c) ~~tax~~ on distillate special motor fuels levied by §§ 26-55-1201(a) and 26-  
3 56-601; and

4 (G) Additional liquefied gas special motor fuels user  
5 permit fees levied in § 26-55-1002;

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7 SECTION 5. Arkansas Code § 26-52-436 is amended to read as follows:  
8 26-52-436. Certain classes of trucks or trailers.

9 (a) As used in this section:

10 (1) "Person" means a natural person who resided in this state at  
11 the time of purchasing a truck tractor or semitrailer in this state;

12 (2) "Semitrailer" means every a vehicle with or without motive  
13 power, including a pole trailer, drawn by a truck tractor ~~or a Class Six or~~  
14 ~~Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is~~  
15 ~~registered with the International Registration Plan to be engaged in~~  
16 ~~interstate commerce~~ and designed for carrying property; and

17 (3)~~(A)~~ "Truck tractor" means a motor vehicle:

18 ~~(i)~~ (A) Designed and used primarily for drawing other  
19 vehicles and not so constructed as to carry a load other than a part of the  
20 weight of the vehicle and load so drawn; and

21 ~~(ii)~~ (B) Registered as a+

22 ~~(a)~~ Class Five, Class Six, Class Seven, or  
23 Class Eight truck as defined by § 27-14-601(a)(3);~~or~~

24 ~~(b)~~ Class Six or Class Seven truck as defined  
25 by § 27-14-601(a)(3)(F) and (G) that is not registered with the International  
26 Registration Plan to be engaged in interstate commerce.

27 ~~(B)~~ "Truck tractor" does not include a Class Six or Class  
28 Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered  
29 with the International Registration Plan to be engaged in interstate  
30 commerce.

31 (b) Except as provided in ~~subsections~~ subsection (d) ~~and (e)~~ of this  
32 section, the gross receipts or gross proceeds in excess of nine thousand one  
33 hundred fifty dollars (\$9,150) derived from the sale of a new or used truck  
34 tractor in this state are exempt from the Arkansas gross receipts tax levied  
35 by this chapter.

36 (c) The Except as provided in subsection (d) of this section, the

1 gross receipts or gross proceeds in excess of one thousand dollars (\$1,000)  
2 derived from the sale of a new or used semitrailer in this state are exempt  
3 from the Arkansas gross receipts tax levied by this chapter.

4 ~~(d) The gross receipts or gross proceeds derived from the sale in this~~  
5 ~~state of a new or used Class Six or Class Seven truck as defined by § 27-14-~~  
6 ~~601(a)(3)(F) and (G) that is registered with the International Registration~~  
7 ~~Plan to be engaged in interstate commerce are exempt from the Arkansas gross~~  
8 ~~receipts tax levied by this chapter.~~

9 ~~(e) (d)~~ The exemption ~~under subsection (b) of~~ in this section does not  
10 apply to gross receipts taxes levied by any Arkansas city, town, or county.

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12 SECTION 6. Arkansas Code § 26-53-144 is amended to read as follows:  
13 26-53-144. Certain classes of trucks or trailers.

14 (a) As used in this section:

15 (1) "Person" means a natural person who resided in this state at  
16 the time of purchasing a truck tractor or semitrailer in another state;

17 (2) "Semitrailer" means ~~every~~ a vehicle with or without motive  
18 power, including a pole trailer, drawn by a truck tractor ~~or a Class Six or~~  
19 ~~Class Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is~~  
20 ~~registered with the International Registration Plan to be engaged in~~  
21 ~~interstate commerce~~ and designed for carrying property; and

22 (3)~~(A)~~ "Truck tractor" means a motor vehicle:

23 ~~(i) (A)~~ (A) Designed and used primarily for drawing other  
24 vehicles and not so constructed as to carry a load other than a part of the  
25 weight of the vehicle and load so drawn; and

26 ~~(ii) (B)~~ (B) Registered as a+

27 ~~(a)~~ Class Five, Class Six, Class Seven, or  
28 Class Eight truck as defined by § 27-14-601(a)(3); ~~or~~

29 ~~(b)~~ Class Six or Class Seven truck as defined  
30 ~~by § 27-14-601(a)(3)(F) and (G) that is not registered with the International~~  
31 ~~Registration Plan to be engaged in interstate commerce.~~

32 ~~(B)~~ "Truck tractor" does not include a Class Six or Class  
33 ~~Seven truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered~~  
34 ~~with the International Registration Plan to be engaged in interstate~~  
35 ~~commerce.~~

36 (b) Except as provided in ~~subsections~~ subsection (d) ~~and (e)~~ of this

1 section, the gross receipts or gross proceeds in excess of nine thousand one  
 2 hundred fifty dollars (\$9,150) derived from the sale of a new or used truck  
 3 tractor in another state for use in this state are exempt from the Arkansas  
 4 compensating use tax levied by this subchapter.

5 (c) The Except as provided in subsection (d) of this section, the  
 6 gross receipts or gross proceeds in excess of one thousand dollars (\$1,000)  
 7 derived from the sale of a new or used semitrailer in another state for use  
 8 in this state are exempt from the Arkansas compensating use tax levied by  
 9 this subchapter.

10 ~~(d) The gross receipts or gross proceeds derived from the sale in~~  
 11 ~~another state for use in this state of a new or used Class Six or Class Seven~~  
 12 ~~truck as defined by § 27-14-601(a)(3)(F) and (G) that is registered with the~~  
 13 ~~International Registration Plan to be engaged in interstate commerce are~~  
 14 ~~exempt from the Arkansas compensating use tax levied by this subchapter.~~

15 ~~(e) (d)~~ The exemption ~~under subsection (b) of~~ in this section does not  
 16 apply to compensating use taxes levied by any Arkansas city, town, or county.  
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18 SECTION 7. Arkansas Code § 26-56-201(a) and (b), concerning the excise  
 19 tax on distillate special fuel, are amended to read as follows:

20 (a)(1)(A)~~(i)~~ There is levied an excise tax at the rate of ~~eight and~~  
 21 ~~one-half cents (8½¢)~~ nine and one-half cents (9½¢) per gallon on all  
 22 distillate special fuel, except fuel utilized in propelling jet aircraft,  
 23 sold or used in this state or purchased for sale or use in this state.

24 ~~(ii) In addition to the tax levied in subdivision~~  
 25 ~~(a)(1)(A)(i) of this section, there is levied an excise tax at the rate of~~  
 26 ~~one cent (1¢) per gallon on all distillate special fuel sold or used in this~~  
 27 ~~state or purchased for sale or use in this state.~~

28 (B) The additional levies provided in subdivision (a)(2)  
 29 of this section and § 26-56-502 are specifically intended to apply to the  
 30 taxes levied by this section and shall remain effective.

31 (2) In addition to the tax levied in subdivision (a)(1) of this  
 32 section, there is levied an excise tax of one cent (1¢) for each gallon of  
 33 distillate special fuel, as defined in § 26-56-102, sold or used in this  
 34 state, or purchased for sale or use in this state, to be computed in the  
 35 manner set forth in this section.

36 (b) The following are exempted from the tax levied by subsection (a)

1 of this section:

2 (1) Sales to the United States Government;

3 (2) Sales to dealers, users, or off-road consumers for off-road  
4 use only if the distillate special fuel was delivered by the supplier into  
5 storage facilities clearly marked "NOT FOR MOTOR VEHICLE USE";

6 (3) Sales of distillate special fuel by a licensed supplier for  
7 export from the State of Arkansas when shipped by common carrier f.o.b.  
8 destination to any other state or territory or to any foreign country, or the  
9 export of distillate special fuel by a licensed supplier from the State of  
10 Arkansas to any other state or territory or to any foreign country, if  
11 satisfactory proof of actual exportation of all such distillate special fuel  
12 is furnished at the time and in the manner prescribed by the Director of the  
13 Department of Finance and Administration; and

14 (4) Sales of distillate special fuel by a pipeline importer who  
15 has first received the distillate special fuel in this state or to a licensed  
16 first receiver in this state;

17 ~~(5) [Repealed]; and~~

18 ~~(6) Sales of distillate special fuel utilized in propelling jet~~  
19 ~~aircrafts.~~

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21 SECTION 8. Arkansas Code § 26-56-201(f) and (g), concerning the excise  
22 tax on distillate special fuel, are amended to read as follows:

23 (f) ~~Except as provided in subsection (g) of this section, the~~ The  
24 additional taxes collected under this section are special revenues and shall  
25 be distributed as set forth in the Arkansas Highway Revenue Distribution Law,  
26 § 27-70-201 et seq., subject to any requirements for the repayment of bonds  
27 issued under the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq.,  
28 the Arkansas Interstate Highway Financing Act of 2007, § 27-64-401 et seq.,  
29 and the Arkansas Highway Financing Act of 2011, § 27-64-501 et seq.

30 ~~(g)(1) In order to offset the general revenues lost by the tax~~  
31 ~~exemption contained in § 26-52-436(c) and (d) and § 26-53-144(c) and (d), the~~  
32 ~~Chief Fiscal Officer of the State shall, on or before June 30, 2013, and on~~  
33 ~~or before June 30 of each fiscal year thereafter, deposit the first four~~  
34 ~~million dollars (\$4,000,000) of the taxes collected under subdivision~~  
35 ~~(a)(1)(A)(i) of this section as general revenues, to be distributed as~~  
36 ~~follows:~~

