Mitchell Williams’ attorneys work with national and international companies that are considering locating in Arkansas and others that are already involved in large projects in the state. We work alongside local and state economic development agencies and with major global manufacturing companies, as well as other business sectors, to help bring new opportunities to Arkansas. Learn more at MitchellWilliamsLaw.com.
The Turk Plant Means

- Economic Development
- Investment and Jobs
- Environmental Responsibility

Status of the project:
- The Arkansas legislature clarified several legal issues facing the plant by passing HB 1895
- The plant is over 65% complete
- Over 1,900 individuals currently work at the plant
- More than half of the 110 employees that will operate the plant have been hired
- Public support for the project has grown too - with over 1,700 members of ACARE

We need your support to continue progressing at the Turk Plant and fostering the jobs, economic growth and energy development it is bringing to the region!

For more information about ACARE or the Turk Project, contact:
Barbara Horn,
870-858-8800
bhorn@arkansasaffordablepower.org
www.ArkansasAffordablePower.org
DEAR STATE CHAMBER/AIA MEMBERS

The State Chamber/AIA secured a significant return on the investment of our members and succeeded in enhancing the business climate in the state during the 88th Session of the Arkansas General Assembly. This was a very successful session for business.

We succeeded in saving employers between $60 and $75 million dollars by reducing the cost of the state’s unemployment insurance system; we led the effort to further reduce the sales tax that manufacturers pay for energy used in industry and manufacturing. The total dollar amount we have saved manufacturers on this exemption amounts to approximately $24 million over the last three legislative sessions; and we led efforts to expedite administrative tax appeals and promote access to justice.

Besides our legislative successes, we hosted a series of lobbyist luncheons during the Session. Several prominent legislators made presentations including the House Speaker, Senate Pro Tem, House and Senate Minority Leaders, House and Senate Revenue and Tax Committee Chairmen, House and Senate Budget Chairs, House Judiciary Chair and others who had relevant legislation/issues to discuss.

In mid-January, we hosted a Legislative Reception in the newly remodeled State Chamber/AIA building drawing more than 300 guests including legislators, constitutional officers, legislative staff members, State Chamber/AIA board members, State Chamber/AIA Governmental Affairs Committee members, Leadership Arkansas Class V members and Leadership Arkansas alumni. The event provided an excellent opportunity for legislators to network with members of the state’s business community as well as an opportunity for business leaders to discuss issues with their legislators in a one-on-one setting.

We continued our industry-leading communications efforts by providing our members a Daily Legislative Update each day the General Assembly was in Session. Thanks to all of our members who read our updates and made contact with our legislators.

This 2011 Legislative Summary has been prepared for you as a resource document. It includes a summary of our priority issues for the Session, a chart showing the top legislation we worked on; a report from our tax counsel; economic development-related legislation and a broad business summary of legislation provided by Talk Business host Roby Brock.

Business matters, now more than ever, and we recognize that our successful efforts during the 88th General Assembly were bolstered by the strong grassroots participation of our members. Thank you for your continuing support of the State Chamber/AIA.

Sincerely,

Randy Zook
President & CEO

Kenneth R. Hall
Executive Vice President

Angela DeLille
Director of Governmental Affairs

State Chamber/AIA Governmental representatives Angela DeLille, Randy Zook and Kenny Hall.
Returning the state’s unemployment insurance trust fund to solvency. We took a leadership role in the introduction and successful passage of Act 861, which eliminates wage indexing, reduces Arkansas jobless benefits from 26 to 25 weeks and sets new eligibility requirements for workers seeking unemployment benefits. These changes are expected to save employers between $60 and $75 million annually or between 17 and 21 percent of the total trust fund deficit.

Leading the effort to further reduce the sales tax exemption for energy used in industry and manufacturing. We led the effort to pass Act 754, which will provide an additional ½ cent reduction for manufacturers in NAICS codes 31-32-33 to a new state tax rate of 2.625 percent, as well as providing the state’s independent power producers a tax cut similar to that enjoyed by manufacturers. The additional sales tax reduction for manufacturers became effective July 1, 2011. The tax cut for independent power producers becomes effective January 1, 2012. Thus far, over the last three legislative sessions, the reduction in this tax now totals approximately $24 million for manufacturers.

We also led efforts to expedite administrative tax appeals and promote access to justice. Act 585 will significantly shorten the amount of time between filing an administrative appeal with the Department of Finance and Administration (DFA) and the administrative hearing. This legislation became effective July 26, 2011.

Eliminating the state’s capital gains tax on new investment made in Arkansas. This passed in the House but failed in the Senate.

Fighting efforts to eliminate the Electoral College system to elect the President of the United States. This was never introduced due to our efforts prior to the session.

Protecting the Education Reforms of 2003-04, the Civil Justice Reform Act of 2003 and the workers’ compensation reform act of 1993. Mission accomplished - no bills were passed that weakened any of these important measures.

The State Chamber/AIA also supported efforts to improve Arkansas infrastructure, specifically the state’s highway system with the passage of Act 773, which would allocate a temporary 5-cent-per-gallon increase in the tax on diesel fuel if approved by voters. The General Assembly also referred a proposal to the November 2012 election ballot that would impose a temporary half-cent general sales tax increase that would be dedicated to highway improvements.

Additionally, the State Chamber/AIA supported the passage of Act 570, which implements reforms on the Arkansas prison system involving sentencing and corrections.

Finally, the State Chamber/AIA helped protect the natural gas industry in Arkansas.
## Lobbying Summary

<table>
<thead>
<tr>
<th>Bill Number and Sponsor(s)</th>
<th>State Chamber/ AIA Position</th>
<th>Summary of Bill and How it Affects Your Business</th>
<th>Outcome</th>
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<tbody>
<tr>
<td><strong>State Chamber Unemployment Insurance Benefit Reductions</strong></td>
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<tr>
<td>SB 593 (Sen. Jonathan Dismang &amp; Rep. Davy Carter)</td>
<td></td>
<td>Sets minimum and maximum UI benefits, changes UI eligibility rules, saving employers $60 to $75 million annually.</td>
<td>PASSED ACT 861</td>
</tr>
<tr>
<td><strong>Manufacturers’ Energy Sales Tax Reduction</strong></td>
<td></td>
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<tr>
<td>SB 275 (Sen. Bill Sample &amp; Rep. Lane Jean)</td>
<td></td>
<td>Further reduces the sales tax manufacturers pay on their electricity and natural gas purchases. Phased reduction of tax on natural gas used in electricity production.</td>
<td>PASSED ACT 754</td>
</tr>
<tr>
<td><strong>State Chamber’s Workers’ Comp Offer to Labor</strong></td>
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<tr>
<td>SB 778 (Sen. Bill Pritchard &amp; Rep. Terry Rice)</td>
<td></td>
<td>Eliminates made whole doctrine in comp cases.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>State Chamber Workers’ Comp Bill</strong></td>
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<tr>
<td><strong>State Chamber’s Administrative Tax Appeals Reform</strong></td>
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<tr>
<td>SB 332 (Sen. Jake Files)</td>
<td></td>
<td>Expedites administrative tax appeals and promotes access to justice.</td>
<td>PASSED ACT 585</td>
</tr>
<tr>
<td><strong>Interest Rate on Bonds</strong></td>
<td></td>
<td></td>
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<tr>
<td>HB 1416 (Rep. Fred Allen)</td>
<td></td>
<td>Removes the interest rate limit on capital improvement bonds in accordance with Issue No. 2 approved at 2010 general election.</td>
<td>PASSED ACT 287</td>
</tr>
<tr>
<td><strong>Amendment 82 Modification Enabling Legislation</strong></td>
<td></td>
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<tr>
<td>HB 1955 (Rep. Walls McCrary)</td>
<td></td>
<td>Modifies Amendment 82 by removing minimum dollar amount for qualification of bond-financed investments as approved at November 2010 election.</td>
<td>PASSED ACT 1047</td>
</tr>
<tr>
<td><strong>Capital Gains Repeal</strong></td>
<td></td>
<td></td>
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<tr>
<td>HB 1002 (Rep. Ed Garner)</td>
<td></td>
<td>Seeks repeal of capital gains tax on sale of “Arkansas property” acquired after July 1, 2011 and owned for at least one year.</td>
<td>FAILED PASSED HOUSE</td>
</tr>
<tr>
<td><strong>Diesel Tax for Roads</strong></td>
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<tr>
<td>HB 1902 (Rep. Robert Moore)</td>
<td></td>
<td>Levies an additional $.05 tax per gallon on diesel fuel used by on-road vehicles if voters approve the levy and highway bond issuance.</td>
<td>PASSED SUBJECT TO STATEWIDE VOTE OF THE PEOPLE</td>
</tr>
<tr>
<td>Bill Number and Sponsor(s)</td>
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<tr>
<td><strong>SALES TAX FOR ROADS</strong></td>
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<tr>
<td>HJR 1001 (Rep. Jonathan Barnett)</td>
<td>👍</td>
<td>Levies an additional 0.5% sales tax for four-lane highway construction and improvement bonds not to exceed $1.3 billion.</td>
<td>REFERRED TO GENERAL ELECTION</td>
</tr>
<tr>
<td><strong>MANUFACTURING REPAIR/REPLACEMENT MACHINERY EXEMPTION</strong></td>
<td></td>
<td></td>
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<tr>
<td>SB 331 (Sen. Jake Files)</td>
<td>👍</td>
<td>Clarifies the sales and use tax exemption for replacements of manufacturing machinery &amp; equipment that improves, modernizes and expands existing facilities.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>UNEMPLOYMENT INSURANCE BONDING AUTHORITY</strong></td>
<td></td>
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<tr>
<td>SB 305 (Sen. Jeremy Hutchinson)</td>
<td>😊</td>
<td>Authorizes the Governor to call election authorizing the issuance of up to $500 million of general obligation bonds to finance the retirement of Unemployment Trust Fund debt to the federal government funded by employer assessment.</td>
<td>PASSED ACT 1125</td>
</tr>
<tr>
<td><strong>AT-WILL STATUS OF PUBLIC EMPLOYEES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB 2145 (Rep. John Walker)</td>
<td>😞</td>
<td>Creates presumption of wrongful termination by public employers when specific written notification of termination is not provided.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>MAIN STREET FAIRNESS</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>SB 738 (Sen. Jake Files)</td>
<td>👍</td>
<td>Makes out-of-state sellers with at least $10,000 annual gross receipts and other guidelines subject to existing AR sales and use tax laws.</td>
<td>PASSED ACT 1001</td>
</tr>
<tr>
<td><strong>WORKERS’ COMP ATTORNEY FEES</strong></td>
<td></td>
<td></td>
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<tr>
<td>HBI823 (Rep. Jim Nickels)</td>
<td>😞</td>
<td>Authorizes the Workers’ Compensation Commission to award capped attorney fees payable for medical benefits.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>WORKERS’ COMPENSATION</strong></td>
<td></td>
<td></td>
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<tr>
<td>HB 2152 (Rep. Jim Nickels)</td>
<td>😞</td>
<td>Removes authorization for employers to make failed claimants pay attorney fees from future benefits.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>LOCAL BONDS FOR DEVELOPMENT DISTRICTS</strong></td>
<td></td>
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<tr>
<td>SJR 5 (Sen. Jake Files)</td>
<td>👍</td>
<td>Proposes Constitutional amendment authorizing issue of local sales tax revenue bonds for financing development districts, pay unfunded liabilities of closed pension funds, and pay short-term financing from special revenues.</td>
<td>REFERRED TO 2012 GENERAL ELECTION</td>
</tr>
<tr>
<td><strong>UNITARY COMBINED INCOME TAX REPORTING</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>HB 1495 (Rep. Jim Nickels)</td>
<td>😞</td>
<td>Requires corporations to use combined reporting for income tax purposes.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>LIMITS ON ATTORNEY FEES FOR INDIGENT DEFENDANTS</strong></td>
<td></td>
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<tr>
<td>HB 1004 (Rep. John Edwards)</td>
<td>👍</td>
<td>Prohibits the Public Defender Commission from paying for privately retained counsel to defend indigent persons, except when the counsel meets the standards that would govern the appointment of counsel “in a case with similar facts.”</td>
<td>PASSED ACT 39</td>
</tr>
<tr>
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<tr>
<td><strong>CORRECTIONS REFORM</strong></td>
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<tr>
<td>SB 750 (Sen. Jim Luker &amp; Rep. Robert Moore)</td>
<td>🟢</td>
<td>The omnibus correction reform act, addressing restitution costs from offenders, sentencing, probation, more.</td>
<td>PASSED ACT 570</td>
</tr>
<tr>
<td><strong>GUNS ON COMPANY PROPERTY</strong></td>
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<tr>
<td>HB 1051 (Rep. Denny Altes)</td>
<td>🟢</td>
<td>Allows concealed guns in vehicles on private property.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>UNION DUES CHECK-OFF FOR COUNTY EMPLOYEES</strong></td>
<td></td>
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</tr>
<tr>
<td>HB 2060 (Rep. Leslee Post &amp; Sen. Steve Harrelson)</td>
<td>🟢</td>
<td>Allows county employees to request professional dues be withheld from salary and requires county to transmit all dues within five days.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>SCRAP METAL SALES</strong></td>
<td></td>
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<tr>
<td>HB 2119 (Rep. Kim Hammer)</td>
<td>🟢</td>
<td>Revises provisions regulating the sale of restricted scrap metal.</td>
<td>PASSED ACT 1193</td>
</tr>
<tr>
<td><strong>COMMERCIAL LIABILITY INSURANCE</strong></td>
<td></td>
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<tr>
<td>HB 1439 (Rep. Barry Hyde &amp; Sen. Steve Harrelson)</td>
<td>🟢</td>
<td>Requires commercial liability insurance policies to include coverage for faulty workmanship, accidents and repeated exposure to harmful conditions.</td>
<td>PASSED ACT 604</td>
</tr>
<tr>
<td><strong>DECEPTIVE TRADE PRACTICES</strong></td>
<td></td>
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<tr>
<td>SB 164 (Sen. Jeremy Hutchinson)</td>
<td>🟢</td>
<td>Provides that proof of reliance is not a required element of proof for deceptive and unconscionable trade practices.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>UNEMPLOYMENT INSURANCE BENEFIT NOTIFICATIONS</strong></td>
<td></td>
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<tr>
<td>HB 2127 (Rep. Ann Clemmer)</td>
<td>🟢</td>
<td>Authorizes e-mail notice to employers regarding UI benefit applications; sets the period allowed for response at 15 calendar days; and requires the Workforce Services Department to enable employers to choose e-mail notification.</td>
<td>PASSED ACT 1229</td>
</tr>
<tr>
<td><strong>CENTRAL BUSINESS DISTRICT REHABILITATION TAX CREDIT</strong></td>
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<tr>
<td>HB 1118 (Rep. Tracy Pennartz &amp; Sen. Jake Files)</td>
<td>🟢</td>
<td>Creates an income tax credit for expenses of qualified rehabilitation projects in central business districts.</td>
<td>PASSED ACT 1166</td>
</tr>
<tr>
<td><strong>ENERGY CONSERVATION INVESTMENTS</strong></td>
<td></td>
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<tr>
<td>HB 2185 (Rep. Gary Smith)</td>
<td>🟢</td>
<td>Provides exemption from conservation programs public utility companies bill to large non-residential rate payers for those rate payers that show completion of or intent to make energy savings investments.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>EMPLOYMENT-RELATED DISCRIMINATION CLAIMS</strong></td>
<td></td>
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<tr>
<td>HB 1352 (Rep. Linda Tyler)</td>
<td>🟢</td>
<td>Requires employment-related claims under the Civil Rights Act to be brought only against an employer not against business agents, employees, board members or officers, and protects employees from rights-related retaliation.</td>
<td>FAILED</td>
</tr>
<tr>
<td>Bill Number and Sponsor(s)</td>
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<tr>
<td><strong>PRESUMPTION OF DISABILITY FOR FIREFIGHTERS</strong></td>
<td></td>
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<tr>
<td>SB 293 (Sen. Jimmy Jeffress)</td>
<td></td>
<td>Creates a presumption of disability for firefighters who suffer death or disability from a type of cancer that meets specified conditions.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>LICENSE OF ELECTRICAL INSPECTORS</strong></td>
<td></td>
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</tr>
<tr>
<td>SB 566 (Sen. Jimmy Jeffress)</td>
<td></td>
<td>Changes licensure requirements of electrical inspectors.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>PERMITS AND INSPECTIONS FOR ELECTRICAL WORK</strong></td>
<td></td>
<td></td>
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<tr>
<td>SB 567 (Sen. Jimmy Jeffress)</td>
<td></td>
<td>Changes permit and inspection requirements for construction, installation or maintenance of electrical work.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>WORKERS’ COMP MENTAL INJURY COVERAGE</strong></td>
<td></td>
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<tr>
<td>SB 727 (Sen. Sue Madison)</td>
<td></td>
<td>Provides workers’ compensation coverage for mental injury or illness to emergency first responders.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>BUSINESS RECORDS ACCESS</strong></td>
<td></td>
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<tr>
<td>HB 1042 (Rep. Jon Woods)</td>
<td></td>
<td>Requires the Department of Finance and Administration to provide an online list of all sales and use tax permit holders that have reported and paid local sales and use taxes.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>FALSE ADVERTISING</strong></td>
<td></td>
<td></td>
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<tr>
<td>SB 950 (Sen. Jeremy Hutchinson)</td>
<td></td>
<td>Amends provisions related to unlawful product labeling or false advertising.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>SALES TAX FOR LOCAL ECONOMIC DEVELOPMENT</strong></td>
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<tr>
<td>HB 1898 (Rep. Keith Ingram &amp; Sen. Jake Files)</td>
<td></td>
<td>Creates the Local Sales and Use Tax Economic Development Project Funding Act, authorizing the levy, by ordinance and subsequent special election, of local sales tax up to one percent to fund projects and capital improvement bonds.</td>
<td>PASSED ACT 828</td>
</tr>
<tr>
<td><strong>ERRONEOUS BACKGROUND CHECKS</strong></td>
<td></td>
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<tr>
<td>HB 1494 (Rep. Jim Nickels &amp; Sen. Stephanie Flowers)</td>
<td></td>
<td>Establishes civil liability for private entities and persons if they provide erroneous background check information that causes injury to a person’s reputation, employment status, potential employment status or civil liberties.</td>
<td>FAILED</td>
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<tr>
<td><strong>FAILURE TO PAY WAGES</strong></td>
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<tr>
<td>HB 1445 (Rep. Jim Nickels)</td>
<td></td>
<td>Creates a criminal offense for failure to pay an employee wages, final compensation or wage supplements within a reasonable amount of time.</td>
<td>FAILED</td>
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<tr>
<td><strong>CONCEALED HANDGUNS ON COMPANY PROPERTY</strong></td>
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<tr>
<td>HB 1873 (Rep. John Catlett)</td>
<td></td>
<td>Prohibits an employer from basing one’s employment status on concealed licensure; requires employers to allow employees with handgun licenses to keep a handgun locked inside a vehicle in the employer’s parking lot.</td>
<td>FAILED PASSED HOUSE</td>
</tr>
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<tr>
<td>HB 1893 (Rep. Debra Hobbs)</td>
<td>✅</td>
<td>Recognizes valid teaching licenses from other states, plus other requirements, as sufficient qualification for a standard teaching license; recognizes Teach for America or master’s teaching degrees for nontraditional licensure.</td>
<td>PASSED ACT 1178</td>
</tr>
<tr>
<td>HB 1392 (Rep. Kathy Webb)</td>
<td>❌</td>
<td>Requires the Oil and Gas Commission to inspect natural gas wells and hydraulic fracturing treatment on a regular basis to ensure compliance.</td>
<td>FAILED</td>
</tr>
<tr>
<td>HB 1393 (Rep. Kathy Webb)</td>
<td>❌</td>
<td>Requires gas drilling operators to post bonds sufficient to cover cleanup and well closure.</td>
<td>FAILED</td>
</tr>
<tr>
<td>HB 1394 (Rep. Kathy Webb)</td>
<td>❌</td>
<td>Requires the Pollution Control and Ecology Commission to initiate rulemaking regarding hydraulic fracturing procedures, storage ponds &amp; well casings, and requires operators to test all fresh water after evidence of contamination.</td>
<td>FAILED</td>
</tr>
<tr>
<td>HB 1395 (Rep. Kathy Webb)</td>
<td>❌</td>
<td>Requires the Pollution Control and Ecology Commission to initiate rulemaking regarding air quality during gas drilling and production, including requiring companies to reduce and monitor emissions.</td>
<td>FAILED</td>
</tr>
<tr>
<td>HB 1396 (Rep. Kathy Webb)</td>
<td>❌</td>
<td>Requires natural gas drilling operators to disclose chemical names, the volume of both chemicals and water, the source of the water, and the disposal method for fracking fluids.</td>
<td>FAILED</td>
</tr>
<tr>
<td>HB 1399 (Rep. Bobby Pierce)</td>
<td>❌</td>
<td>Requires the Oil and Gas Commission to create rules to reduce the noise arising from natural gas fields to no more than 55 decibels during the day and 45 decibels during the night, when a habitable dwelling is within 1,000 feet.</td>
<td>FAILED</td>
</tr>
<tr>
<td>HB 1400 (Rep. Bobby Pierce)</td>
<td>❌</td>
<td>Creates the Landowner’s Bill of Rights, regarding natural gas drilling activity disclosure, notification and compensation for adverse effects.</td>
<td>FAILED</td>
</tr>
<tr>
<td>SB 945 (Sen. Steve Harrelson)</td>
<td>❌</td>
<td>Amends provisions related to the Civil Justice Reform Act of 2003.</td>
<td>FAILED</td>
</tr>
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<tr>
<td><strong>ECONOMIC DEVELOPMENT INCENTIVES</strong></td>
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<tr>
<td>HB 2160 (Rep. Mark Biviano)</td>
<td></td>
<td>Includes employees who do not work at a facility for business incentives that are based on the creation of full-time employees.</td>
<td>PASSED ACT 1197</td>
</tr>
<tr>
<td><strong>APPLICATION OF FOREIGN LAW</strong></td>
<td></td>
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<tr>
<td>SB 97 (Sen. Cecile Bledsoe &amp; Rep. Jane English)</td>
<td></td>
<td>Makes unenforceable any ruling of courts, arbitration, tribunals or agencies that is based on any foreign law, legal code or system that is in conflict with rights granted under the U.S. and Arkansas constitutions.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>UNDOCUMENTED WORKERS</strong></td>
<td></td>
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</tr>
<tr>
<td>HB 1013 (Rep. Jim Nickels)</td>
<td></td>
<td>Authorizes the Contractors Licensing Board to either suspend or revoke contractor licenses when the contractor is found to knowingly employ workers without legal status.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>SCHOOL ELECTION DATE</strong></td>
<td></td>
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<tr>
<td>SB 894 (Sen. Eddie Joe Williams)</td>
<td></td>
<td>Requires school elections to be held on the same day as general elections.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>BUSINESS RECORDS ACCESS</strong></td>
<td></td>
<td></td>
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<tr>
<td>HB 1041 (Rep. Jon Woods)</td>
<td></td>
<td>Requires the Department of Finance and Administration to provide local sales and use tax records and reports to authorized personnel designated by city and county governments.</td>
<td>FAILED</td>
</tr>
<tr>
<td><strong>INDEPENDENT CONTRACTOR CLASSIFICATION</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>HB 1324 (Rep. Jim Nickels)</td>
<td></td>
<td>Defines independent contractors for the building construction industry and creates penalties for employers who improperly classify employees for purposes of the Department of Workforce Services.</td>
<td>FAILED</td>
</tr>
<tr>
<td>HB 1325 (Rep. Jim Nickels)</td>
<td></td>
<td>Defines independent contractors for the building construction industry and creates penalties for employers who improperly classify employees for purposes of the Department of Workers Compensation Law.</td>
<td>FAILED</td>
</tr>
</tbody>
</table>

“Thank you for another successful session of working on our behalf. This legislature had me worried at the beginning.”

John Burgess
Mainstream Technologies

Director of Governmental Affairs Angela DeLille
"As always, you guys did a great job keeping us all informed. Thanks for your efforts."

Randy Thurman
Arkansas Environmental Federation

“Many thanks to the State Chamber team for all your hard work and efforts on behalf of Arkansas’s business community. We all benefit so very much from your leadership in directing a massive, combined effort on a multitude of issues and interests. Kudos on a job extremely well done.”

Kelly Robbins
Arkansas Independent Producers & Royalty Owners

Angela DeLille discusses a bill at the State Capitol with Phil Jacobs.

The Arkansas Senate in session

The Arkansas House in session
The 88th General Assembly - 2011 Regular Session convened January 10, 2011, and adjourned on April 27, 2011. Contrary to the trend in most other states, the Arkansas Legislature adopted several additional tax reductions and exemptions this session, including lowering taxes on groceries, and electricity and natural gas used in manufacturing, raising the threshold for taxing used motor vehicles, adopting a "back-to-school holiday" and reducing income tax on certain low-income families, among other measures. The 88th General Assembly - 2012 Fiscal Session is set to convene on February 13, 2012, primarily for the purpose of reviewing and adjusting agency budgets and appropriations. Other changes of interest to business and industry include procedural changes to expedite administrative appeals and provide a mechanism for taxpayers to recover attorney fees in judicial appeals under certain limited circumstances.

The following summaries are taken in part from descriptions compiled by the Office of Revenue Legal Counsel, with appreciation for use of these materials. Unless a specific date is noted, new Acts are from the 2011 Session, are effective 90 days following adjournment (July 26, 2011), and in the case of Income Tax Acts, apply to tax years beginning on or after January 1, 2011.

A. INCOME TAX.

Act 68. Adds spina bifida and Down syndrome to the list of conditions that establish qualification for developmental services for certain purposes, including the state income tax credit that is available to a taxpayer who supports a child with a developmental disability.

Act 736. Provides an exemption from income tax for persons filing tax returns as "head of household or widow or widower with two or more dependents" if their gross income is less than $18,101. The bill also creates a new low income tax table for use by these same taxpayers if their income is at least $18,101 but not more than $22,200. These income levels are adjusted annually by a cost of living adjustment.

Act 787 (03/30/2011). Makes the following technical corrections to the Arkansas Income Tax laws to adopt recent changes in federal law.
- Readopts IRC §21 to extend the enhanced dependent care credit for two more years through December 31, 2012.
- Adopts new IRC §36C containing adoption credit provisions moved from IRC §23. The maximum amount of the adoption credit has been increased from $12,170 to $13,170 through the 2011 tax year. The Arkansas credit is equal to 20% of the federal credit and therefore will be raised from $2,434 to $2,634.
- Readopts IRC §68 which reduces the total amount of a high-income individual's otherwise allowable itemized deductions.
- Readopts IRC §72 which allows the holder of a non-qualified annuity to elect to receive a portion of the annuity in the form of a stream of payments with the remainder of the annuity to accumulate income on a tax-deferred basis.
- Readopts IRC §105 and IRC §106. IRC §105 allows employer-provided health insurance for an employee's child to be excluded from the employee's taxable income for a child under the age of 27. IRC §106 prohibits the cost of over-the-counter medications from being taken as an itemized deduction.
- Readopts IRC §108 which allows the forgiveness of a student loan for a healthcare professional who agrees to work in an underserved area to be excluded from the healthcare professional's taxable income.
- Readopts IRC §117 regarding the exclusion from income for scholarships received under the National Health Services Corps Scholarship Program and the Armed Forces Scholarship Program.
- Readopts IRC §125 which limits the exclusion from gross income of health flexible spending account contributions to $2,500 per year.
- Readopts IRC §127 which allows employees to exclude up to $5,250 annually in employer-provided education assistance benefits from the employees' income. A corresponding deduction is allowed for the employers.
- Readopts IRC §137 which increases the exclusion from taxable income of employer reimbursed adoption expenses from $12,170 to $13,170 for the 2011 tax year.
- Readopts IRC §162 which allows a self-employed taxpayer to deduct the cost of premiums paid for health insurance for a child under the age of 27 from the taxpayer's gross income and limits the deduction available to a TARP-assisted health insurance provider for compensation paid to its employees to $500,000 per employee.
- Readopts IRC §163 regarding the treatment of residential mortgage insurance premiums as deductible qualified residential mortgage interest.
- Readopts IRC §170 which extends charitable incentives for contributions of food inventory, contributions by C corporations of books to public schools and contributions by corporations of computer equipment for educational purposes.
- Readopts IRC §198 which extends the expensing of qualified remediation expenses.
- Readopts IRC §213 which allows medical expenses to be deducted only to the extent that the expenses exceed 10% of adjusted gross income.
- Readopts IRC §217 which expands the deductibility of moving expenses related to military service or employment paid under the HAP program. The federal Homeowner's Assistance Program (HAP), administered by the Department of Defense, now provides additional assistance to wounded veterans, Coast Guard employees and other members of the Armed Services.
- Readopts IRC §220 regarding the definition of qualified medical expenses for Medical Savings Accounts (MSA's). The definition is now more consistent with itemized deduction rules regarding prescription drugs and over-the-counter medications.
• Readopts IRC §221 regarding the deduction of interest paid on a qualified higher education (student) loan.
• Readopts IRC §223 regarding the definition of qualified medical expenses for Health Savings Accounts (HSAs). The definition is now more consistent with itemized deduction rules regarding prescription drugs and over-the-counter medications.
• Readopts IRC §280F which allows the cost of cellular telephones to be deducted or depreciated as business property without significant record-keeping requirements regarding the use of the cell phones.
• Readopts IRC §401 which allows health insurance benefits provided under a retirement plan to a retiree’s child to be excluded from the retiree’s taxable income for a child under the age of 27.
• Readopts IRC §402 which allows participants in governmental IRC §457(b) deferred compensation plans to treat elective deferrals as Roth IRA contributions. The federal law change also allows participants in 401(k), 403(b) and governmental 457(b) plans to roll their pre-tax account balances over into designated Roth IRA accounts.
• Readopts IRC §529 which allows computer equipment and related technologies to qualify as a higher education expense eligible for payment from a tax-deferred tuition savings program.
• Readopts IRC §530 which allows an increase in contributions that may be made to a Coverdell Education Savings Account.
• Readopts IRC §613A that sets no income limitations on percentage depletion for marginal oil and gas wells for 2010 and 2011.
• Readopts IRC §§1211-1237 and 1239-1257 to extend the exclusion of gain realized on qualified small business stocks held by non-corporate taxpayers.
• Readopts IRC §1367 and §1374 which address charitable contributions made by S corporations (§1367) and the reduction of the recognition period for an S corporation’s “built-in” gain from ten years to five years (§1374).
• Readopts IRC Subchapter M (IRC §851 et seq) which relaxes provisions regarding the disqualification of an entity as a Regulated Investment Company (RIC). Most of the provisions of this Act will apply to tax years beginning on and after January 1, 2011. However, the provisions regarding IRC §105, IRC §162 and IRC §401 are effective for tax years beginning on or after January 1, 2010.

Act 815. Adds the Department of Health to the entities that are allowed to participate in the individual income tax refund setoff process.

B. EXCISE TAXES (INCLUDING SALES & USE TAX)

Act 173. Authorizes the Arkansas Public Service Commission to levy a surcharge on commercial radio services to be collected by the service providers and local exchange carriers and remitted to DFA for deposit as special revenues to the Telecommunications Equipment Fund.

Act 291. Amends sales and use tax laws to be consistent with the Streamline Sales and Use Tax Agreement (SSUTA).

Act 753 (01/01/2012). Increases the threshold value of used motor vehicles subject to sales and use tax from $2,500 to $4,000.

Act 754. Reduces the sales and use tax on electricity and natural gas used directly in manufacturing by a qualified manufacturer classified within NAICS Codes 31 through 33 from 3.25% to 2.75%, effective July 1, 2011; and provides a phased reduction of tax on the purchase of natural gas by generators in NAICS Code 22 used in the production of electricity in facilities using combined-cycle gas turbine technology, beginning January 1, 2012.

Act 755. Reduces the state sales and use tax rate on food and food ingredients from the current 2% rate to a one and one-half percent (1½%) rate beginning July 1, 2011. The one and one-half percent total rate consists of the reduced statutory levy of 1.375% plus the constitutional levy of 0.125%. City and county local sales taxes will continue to be collected on food and food ingredients.

Act 757. Creates a sales tax holiday for clothing, clothing accessories and equipment, school art supplies, school instructional material and school supplies for the weekend beginning with the first Saturday in August every year. The holiday exemption for clothing is limited to single articles with a price of less than one hundred dollars ($100.00). For clothing accessories or equipment, the exemption applies to items with a price of less than fifty dollars ($50.00). Clothing and clothing accessories with sales prices that exceed the threshold amounts will be subject to state and local sales tax on the total sales price of the item.

Act 773. The Arkansas Highway Financing Act of 2011:
• Authorizes the issuance of revenue bonds and the levy of an additional 5¢ per gallon excise tax on distillate special fuels sold for highway use subject to a vote of the electorate, which will be used to fund the revenue bonds. The tax would be effective on the first day of the second month following the month the affirmative vote is certified by the Secretary of State;
• Provides that the revenues from the new tax if approved by the electorate are to be distributed as set forth in the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq., subject to requirements for the repayment of bonds issued under the Act. The bill does not affect the distribution of existing taxes.

The revenue bonds, and the interest thereon, would be exempt from all taxes of the State of Arkansas, including income, inheritance, and property taxes.

Act 824 (10/01/2011). Exempts the sale of motor vehicles subject to sales and use tax from $2,500 to $4,000.

Act 998 (10/01/2011). Exempts the Arkansas Black Hall of Fame Foundation, Inc. from sales and use tax on its purchases.

Act 1001. An “affiliate nexus” and “click-through nexus” or (Amazon bill), establishing a presumption that a seller is
engaged in the business of selling tangible personal property or taxable services for use in the state if the seller: (a) is a member of the same controlled group of corporations with a person subject to the sales and use tax jurisdiction of the state under various circumstances; or (b) enters into an agreement with one or more residents of the state that provides commissions or other consideration for referrals if the seller has at least $10,000 in cumulative gross receipts during the preceding 12 months as a result of such referrals.

**Act 1142 (07/01/2011).** Requires vendors with average net sales of more than $200,000 per month to prepay compensating use tax electronically in the same manner as for sales taxes.

**Act 1226.** Exempts a wholesale manufacturer of beer from the payment of sales and use tax on kegs used to sell beer wholesale.

### C. MISCELLANEOUS TAXES.

**Act 278 (01/01/2012).** Allows taxpayers whose liability for severance tax is less than $100 per month to report and remit the tax quarterly and whose liability is less than $25 per month to report and remit annually.

**Act 700.** Requires DFA to investigate alternate proofs of compliance with the Real Property Transfer Tax Affidavit of Compliance, including electronic affidavits with electronic signatures.

**Act 788.**
- Repeals code sections that were superseded by the Arkansas Tax Procedure Act;
- Authorizes DFA to suspend the license of a motor fuel distributor for nonpayment of tax (not penalty or interest);
- Amends the confidentiality provisions of Ark. Code Ann. §26-18-303 to clarify that DFA may notify respective bonding companies as to delinquent motor fuel tax, distillate special fuel tax and liquefied gas special fuel tax owed by taxpayers under bond; and
- Changes the requirements for mandatory notification of delinquent motor fuel tax to bonding companies. DFA must notify the bonding company of the delinquency at the end of the 10-day period for payment after the issuance of a final assessment under the Tax Procedure Act. DFA may, but is not required to, notify the bonding company of the delinquency at the time of proposed assessment.

**Act 791 (01/01/2012).** Changes the method of providing salt water disposal tax credits to oil and natural gas producers from allowing the producer to take the credit on monthly severance tax returns to requiring a producer to file an annual claim for the credit with DFA. Natural gas producers and oil producers are entitled to an aggregate salt water disposal credit allowance of $370,000.00, which amount is distributed pro rata among the eligible producers.

**Act 795.** Amends the real property transfer tax to clarify that the tax is based on only the consideration paid for the lands, tenements or other realty conveyed, and not on the consideration paid for any tangible or intangible personal property included in a conveyance of real property.

### D. TAX CREDITS AND INCENTIVES

**Act 628.** Amends the Research Park Authority Act, Ark. Code Ann. §14-144-101 et seq., which establishes research park authorities to provide facilities and support for businesses engaged in research and development, exempts the property of each research park authority from local and municipal taxes and exempts the bonds and evidences of indebtedness of the Authority from state, county, and municipal taxes, including income tax, inheritance tax, and estate tax. Adds to the list of sponsors for a research park authority a “research institute or center,” which is defined under the bill as a non-profit or government-owned or operated organization that has a presence in Arkansas and is involved with performing research for processes, products, techniques or services.

**Act 631 (03/23/2011).** Amends the Water Resource Conservation and Development Incentives Act to clarify that a tax credit issued to a pass-through entity is passed through to the partners, or other owners on a pro rata basis or pursuant to an agreement that is executed by the partners or other owners that provides for an alternate method of distribution and to clarify the annual limit on the amount of income tax credit that may be claimed per project.

**Act 738.** Expands the Delta Geotourism Incentive Act to apply the income tax credit to businesses within 30 miles of a national scenic byway, increases the maximum investment qualifying for the tax credit to $250,000 and extends the expiration date of the program from 2016 to 2021.

**Act 828.** Creates the Local Sales and Use Tax Economic Development Project Funding Act, authorizing the levy, by ordinance and subsequent special election, of local sales tax up to one percent to fund projects and capital improvement bonds.

**Act 829.** Limits the total award of an equity investment tax credit to nine years and requires the award be determined jointly by the President of the Development Finance Authority, President of the Science and Technology Authority, and Director of the Economic Development Commission.

**Act 831.** Extends the tax credit for the rehabilitation of historic structures from December 31, 2015 to December 31, 2021.

**Act 1047.** Removes the requirements of 500 new jobs and $500 million investment for purposes of qualifying for special incentives previously reserved for “super projects” meeting these requirements, pursuant to changes authorized by the November 2010 changes to Amendment 82 to the Arkansas Constitution.

**Act 1166.** Creates an income tax credit for expenses of qualified rehabilitation projects in central business districts of up to 25% of the first $500,000 invested for income-producing properties and the first $200,000 invested for non-income producing properties, subject to a credit cap of $1 million in any one fiscal year.

**Act 1197.** Provides that new employees who do not work at a facility may be counted for purposes of qualifying for
business incentives that are based on the creation of new full-time permanent employees, provided that they are subject to Arkansas income tax withholding and meet other requirements.

E. LEGAL/PROCEDURAL.

Act 585.
• Requires protests to be delivered promptly to the hearing officer;
• Requires DFA to waive interest if a hearing is not held and a decision issued on a protest of assessment within 180 days of the protest if the reasons are beyond the taxpayer’s control;
• Provides for supplemental proceedings to be held on requests for revision and requires that the revision decision be issued within 60 days of receipt of the request;
• Allows a court to award attorney’s fees to a taxpayer if a hearing decision that favored the taxpayer is revised, the taxpayer prevails in circuit court, and the court finds that the revision was without a reasonable basis in law and fact.

F. PROPERTY TAXES.

Act 175. Changes various dates for payment of property taxes, including extending the due date for payment from October 10 to October 15.

Act 813. Exempts from property taxes industrial facilities that are financed with public funds and owned by the Arkansas Development Finance Authority (ADFA). Current law requires a payment in lieu of property tax by the business leasing or purchasing the industrial facility, and this requirement applies to ADFA, as well as cities and counties.

Act 821. Imposes a new 10% penalty if personal property taxes on business assets are not paid when due following the sale of a business or the assets, goods, chattels, inventory or equipment of a business other than in the ordinary course of business. The Act appears to apply to sales either in the year the taxes are assessed or the year in which the taxes are due, whether or not the taxes are delinquent at the time of sale, but provisions of the Act are internally inconsistent and will present issues of interpretation that may be difficult to resolve. The Act also allows county collectors to authorize payment of taxes under any installment arrangement and makes additional technical changes in due dates for payment consistent with Act 175 above.

Act 862. Provides that defects in publishing notice of the sale of tax-delinquent lands do not invalidate an auction sale unless the owner did not receive the mailed notice; sets requirement for deposit prior to filing a complaint to set aside a sale.

Act 863. Requires the Land Commissioner’s notice to owner that a tax-delinquent property has been received to include a partial or abbreviated legal description and the parcel number of the property; revises other procedures regarding notice requirements; and provides that the notice may only be challenged by a party that did not receive notice in substantial compliance with notice requirements.

Act 864. Requires payment to redeem tax-delinquent land be made by cash or cashier’s check if the redemption occurs within 60 days before the date of the scheduled sale or during the redemption period following the sale.

Act 867. Requires county assessors to assess all mineral interests within a county.

Michael O. Parker, Esq.
Dover Dixon Horne PLLC

Mike Parker is co-author of the American Bar Association’s annual Sales and Use Tax Desk Book, and the Council on State Taxation’s (COST’s) Audit Session Notebooks, is a frequent speaker on state and local tax issues, and is listed in Best Lawyers in America in the areas of Tax Law and Trusts and Estates. Mr. Parker is a member of Dover Dixon Horne PLLC law firm in Little Rock, an ex-officio member of the Board of Directors of the Arkansas State Chamber of Commerce/Associated Industries of Arkansas and serves as special tax counsel for the organizations.

Any U.S. federal tax advice contained in this Article is not intended to be used and cannot be used for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter. This Arkansas State Tax Update is designed to alert readers to recent legal developments in particular areas. Such developments are discussed in general terms, and should not be acted upon without professional advice.
Prepared By: Arkansas Economic Development Commission

GENERAL ECONOMIC DEVELOPMENT RELATED LEGISLATION

**Act 282** (HB 1306, Rep. Kathy Webb) Public Corporations for Economic Development – Amends the 2005 legislation authorizing third party corporations for economic development to specify that the final decision rests with the City Council or Quorum Court. It incorporates language in the original act providing that final decisions rest with the local government authorizing the corporation.

**Act 290** (HB 1525, Rep. Bobby Pierce) High Cost Fund/Expansion of Broadband Services – Allows the Public Service Commission to retain revenues from the high cost fund to insure adequate resources for the expansion of broadband services into high cost service areas.

**Act 524** (HB 1842, Rep. Jonathan Barnett) Regional Mobility Authorities – Adds rail, waterway and trail projects to the types of undertakings that may be pursued by regional mobility authorities. Also, this act allows for public/private partnerships.

**Act 609** (HB 1482, Rep. Linda Tyler) Open-Cut Land Reclamation Act – Authorizes a civil penalty equal to the pecuniary gain from extractions made without a permit.

**Act 628** (HB 1702 by Rep. Darrin Williams) Research Park Authorities – Amends the 2007 act to allow for a research center or institute to be a sponsor and to allow for additional sponsors following the establishment of a research park authority.


**Act 706** (HB 2048, Rep. Uvalde Lindsey) Arkansas Acceleration Fund – Creates a fund within the Arkansas Science and Technology Authority (ASTA) to assist various programs and efforts aimed at creating high-paying, technology oriented jobs. Also creates a committee, composed primarily of private sector members to advise ASTA on the utilization of available funds.

**Act 738** (HB 1421, Rep. Mike Patterson and Sen. Jimmy Jeffress) Delta Geotourism Act – Amends the 2007 act by extending the expiration date, increasing the maximum tax credit available and expanding the counties which may participate. The expiration date was extended from 2016 to 2021. The maximum tax credit was increased from $25,000 to $100,000 and the area eligible for the tax credit was extended from within five miles of a national scenic byway to 30 miles.

**Act 749** (HB 1903, Rep. Robert Moore, Jr.) State Water Plan – Addresses the need for the state to develop policies and practices that benefit both people and wildlife, reduces dependency on groundwater and employs best practices for the use of surface water resources.

**Act 754** (SB 275, Sen. Bill Sample and Rep. Lane Jean) Reduction in sales and use tax for energy used in manufacturing – Effective July 1, 2011 the sales tax on energy used in manufacturing is reduced to 2.625%, with a $27 million annual cap on revenue loss from this benefit. In addition, there is a graduated reduction on the sales tax on natural gas used in combined cycle gas turbines used to generate electricity.

**Act 800** (SB784, Sen. Johnny Key) Allow a certificate of title to be issued for a motor vehicle that was manufactured in Arkansas by a small volume manufacturer – Allows for a title to be issued to a manufacturer of less than ten vehicles per year and for a manufacturer of custom motorcycles of less than six per year.

**Act 818** (HB 1594, Rep. Fred Allen and Sen. Jack Crumby) Revisions to Workforce Investment Act – Addresses the composition and meetings of local workforce investment boards. Ensures that both business and education are properly represented on local boards and provides more flexibility in opportunities for meetings.

**Act 824** (HB 1802, Rep. Tiffany Rogers) Agricultural exemptions for sales and use tax – Adds to the exemptions, from the sales and use tax for agricultural needs, water purchased from a public service water delivery project.

**Act 829** (HB 1899, Rep. Keith Ingram) Amends Equity Investment Incentive Act – Makes a technical correction to correctly state that this program is jointly administered by ASTA, ADFA and AEDC. Also clarifies that a tax credit may be used in the year earned/purchased.


**Act 861** (SB 593, Sen. Jonathan Dismang and Rep. Davy Carter) Minimum and Maximum Unemployment Benefits – Makes several changes to the calculation of unemployment benefits. Reduces from 26 weeks to 25 weeks the period of time under which benefits can be received. Establishes minimum weekly benefit of at least $81 and the maximum weekly benefit of no more than $451.
**Act 867** (SB 849, Sen. Larry Teague) Assessment of mineral interests – States that county assessor shall assess all mineral interests within a county. If an assessor fails to do so, the Assessment Coordination Department shall notify specified parties of the failure and may withhold reappraisal reimbursement funds.


**Act 895** (HB 1988, Rep. Tracy Pennartz) Regional Economic Development Partnerships – Authorizes the creation of regional economic development partnerships, prescribes conditions for operation and funding of these partnerships.


**Act 910** (HB 1895, Rep. David “Bubba” Powers) Utility Facility Environmental and Economic Protection Act – Amends the process used by the Public Service Commission pertaining to the siting and approval for construction of a utility-generating facility.


**Act 1048** (HB 1980, Rep. Bruce Westerman) Retirement Community Program Act – Amends the 2007 act to provide that the Arkansas Association of Development Organizations will assume the responsibility for certifying communities that apply for certification as a “retirement community”.

**Act 1050** (HB 2033, Rep. John Vines) Telecommunications Regulatory Reform Act of 1997 – Prescribes the limited conditions under which a governmental entity might provide voice, data, broadband, video or wireless telecommunication service.

**Act 1052** (HB 2122, Rep. Leslee Milam Post) Arkansas Wine Trail – Specifies that the Arkansas Highway and Transportation Department shall initiate efforts to identify and promote, through signage and other means, those roads and highways that will lead tourists to Arkansas’s wine country attractions.

**Act 1125** (SB 305, Sen. Jeremy Hutchinson) Unemployment Trust Fund Financing Act of 2011 – Establishes procedures for the issuance of up to $500 million in bonds, issued by ADFA, to provide repayment of principal and interest for unemployment funds borrowed from the federal government. A statewide vote is required. Bonds will be repaid from increases in unemployment insurance taxes paid by employers.

**Act 1197** (HB 2160, Rep. Mark Biviano) Amends definition of “new, full-time permanent employee” – Amends the definition in the Consolidated Incentive Act to allow for employees not working “at the facility.” Current code requires that “new, full-time permanent employees” work “at the facility.” This change allows for telecommuters to count if they otherwise meet the definition and are paid a wage equal to or greater than the state average hourly wage for the preceding calendar year.

**Act 1229** (HB 2127, Rep. Ann Clemmer) Extension of time for employers to respond to applications for unemployment – Provides that employers will have 15 calendar days to respond to applications for unemployment. Also, provides that notice may be provided on-line.

**Act 1232** (HB 2219, Rep. Charlie Collins) Electrical Energy Advancement Program – Establishes a consortium composed of UAF, UALR and ASU focused on electrical energy training. The consortium will be headquartered at the National Center for Reliable Electrical Power Transmission. Also creates a 16 member board to advise the program. This program has a six year expiration.

**ECONOMIC DEVELOPMENT FINANCING**

**Act 287** (HB 1416, Rep. Fred Allen) Remove interest rate limitation under the authority of Amendment 62 – Amends Amendment 62 to implement the change in interest rates authorized by the voters with the passage of Amendment 89.

**Act 773** (HB 1902, Rep. Robert Moore, Jr.) Arkansas Highway Financing Act of 2011 – Levies an additional $0.05 tax per gallon of distillate special fuel (diesel), conditioned upon elector’s approval of the levy and of highway bond issuance. Specifies revenues are to be used for construction and maintenance of state highways.

**Act 813** (HB 1429, Rep. Jane English) Allows for the issuance of bonds by ADFA in projects containing a “payment in lieu of taxes” – Provides for a separate agreement for payment in lieu of property taxes for industrial facilities owned by ADFA, in the same manner as applies to such facilities owned by cities and counties.

**Act 814** (HB 1430, Rep. Allen Kerr) Prescribes duties of ADFA in the allocation of private activity and governmental volume caps – Establishes ADFA as the primary administrator of federal allocations of private activity and governmental volume cap that are allocated to the state. Also provides that volume cap allocations are subject to the Arkansas Administrative Procedure Act.

**Act 828** (HB 1898, Rep. Keith Ingram and Sen. Jake Files) Local Sales and Use Tax Economic Development Project Funding Act – Authorizes the levy of a local sales tax to fund economic development projects if preconditions are met.

**Act 1047** (HB 1955, Rep. Walls McCrary) Implements the job/investment threshold reductions authorized by November
2010 changes to Amendment 82 – Removes the requirement of 500 new jobs, $500 million investment and requires that a business seeking Amendment 82 benefits meet the “eligible business” definition in the Consolidated Incentive Act (CIA).

ENERGY RELATED LEGISLATION

**Act 347** (HB 1452, Rep. Bobby Pierce) Amends Arkansas Alternative Fuels Development Act – Amends the Arkansas Alternative Fuels Development Act to include propane gas with the definition of “alternative fuels”.

**Act 734** (SB 875, Sen. Jake Files) Amends Arkansas Alternative Fuels Development Act – Amends the Arkansas Alternative Fuels Development Act to include “biogas” in the definition of alternative fuels.

**Act 735** (SB 876, Sen. Jake Files) Amends Arkansas Clean Energy Development Act – Amends the Arkansas Clean Energy Development Act to include natural gas utilities. Allows for the use of biofuels to satisfy a public utility’s energy efficiency or conservation goals.

**Act 791** (SB 569, Sen. Bill Sample) Salt water disposal system tax credit – Amends existing law to allow for the proper handling of salt water from either oil or gas wells. Specifies that the current credit ($370,000 per year) is available both for oil and gas producers. Allows for the credit to be used against the severance tax.

**Act 802** (SB 816, Sen. Jimmy Jeffress and Rep. Tiffany Rogers) Arkansas Energy Code updates – Removes the need to amend the Arkansas Energy Reorganization and Policy Act each time there is a change in the state Energy Code. Provides that proposed changes be made under the provisions of the Administrative Procedures Act.


**Act 832** (HB 1914, Rep. Linda Tyler) Amends Arkansas Alternative Fuels Development Act – Amends the Arkansas Alternative Fuels Development Act to allow for the issuance of rebates to those converting vehicles to operate on compressed natural gas.

**BILLS REFERRED TO INTERIM COMMITTEE**

**HB 1495** (Rep. Jim Nickels) Small Business Fairness Act/Combined Reporting – Would require corporations to file corporate income tax via combined reporting. To be studied by Joint Committee on Revenue and Taxation.

**HB 1572** (Rep. Jon Woods and Sen. Michael Lamoureux) Amend Amendment 89 on interest rates for consumer loans – Would allow the interest rate limit established by Amendment 89 to be exceeded on loans of $5,000 or less. To be studied by Joint Interim Committee on Insurance and Commerce.

**HB 1864** (Rep. Leslee Milam Post) Amend provisions related to railroads – Amend law related to railroads to remove barriers for business and industry. To be studied by Joint Interim Committee on Public Transportation.

**HB 1992** (Rep. Tommy Lee Baker and Sen. Jimmy Jeffress) Amends law to effectively raise the severance tax on natural gas – Removes the 36-month severance tax rate reduction for high cost natural gas wells and the provision that a well must pay its drilling and completion costs before regular severance tax is levied. To be studied by Joint Interim Committee on Insurance and Commerce.

**HB 2117** (Rep. Kim Hammer) E-verify – Requires a private business or commercial enterprise to use E-Verify if the entity receives state funds. To be studied by Joint Interim Committee on Insurance and Commerce.

**SB 314** (Sen. Mary Anne Salmon) Mineral exploration/surface owner rights – To establish a landowner’s surface property rights in relation to a mineral exploration or development company. To be studied by Joint Interim Committee on Agriculture, Forestry and Economic Development.

**SB 331** (Sen. Jake Files) Machinery and manufacturing equipment sales tax exemption – To clarify the exemption from sales and use tax for replacements of manufacturing machinery and equipment that improve, modernize and expand existing facilities. To be studied by Joint Interim Committee on Revenue and Taxation.

**SB 721** (Sen. Sue Madison) Clean Energy Act of 2011 – Creates the Arkansas Clean Energy Act to promote the use of renewable energy resources to generate electricity. Requires electric utilities to buy power from the renewable energy producer at a PSC-approved feed-in tariff and provides for cost recovery for the utilities. To be studied by Joint Interim Committee on Insurance and Commerce.

**SB 758** (Sen. Michael Lamoureux and Rep. Kim Hammer) Income taxes – Repeals certain income tax exemptions, credits, incentives and reduced rates. Provides an adjustment in income tax rates for individuals, trusts and estates. To be studied by Joint Interim Committee on Revenue and Taxation.

**SB 771** (Sen. Jack Crumbly) Targeted income tax incentive for areas meeting certain requirements – To create a tax incentive to attract new business and expand existing businesses in areas that have high poverty or high unemployment. Qualifications include expand workforce by 25% or a new business that employs at least 25 full-time employees for 18 consecutive months. To be studied by Joint Interim Committee on Revenue and Taxation.

**SB 812** (Sen. Joyce Elliott and Rep. Fred Love) Study to address quality of life issues in underserved areas – To create a study to explore how to use the Economic Development Commission, Rural Services, public agencies, and public and private organizations in addressing quality of life issues and economic development in underserved areas. To be studied by Joint Interim Committee on Agriculture, Forestry and Economic Development.

**SB 831** (Sen. Gene Jeffress) Surface/mineral interest owner rights – Concerns the rights of surface owners and owners of
mineral interests relating to nonpayment of royalties. To be studied by Joint Interim Committee on Agriculture, Forestry and Economic Development.

SB 864 (Sen. Steve Harrelson) Surface/mineral interest owner rights – To allow the surface owner of property to purchase the tax-delinquent severed mineral rights to their property and to regulate mineral interests. To be studied by Joint Interim Committee on Agriculture, Forestry and Economic Development.

SB 896 (Sen. Eddie Joe Williams) Amends Tourism Development Act – Amends eligibility provisions of the Tourism Development act to include refurbishment and renovation of tourism attractions. To be studied by Joint Interim Committee on Agriculture, Forestry and Economic Development.

SB 895 (Sen. Stephanie Flowers) Wheat Promotion Board – To merge the Arkansas Wheat Promotion Board with the Arkansas Agriculture Department. To be studied by Joint Interim Committee on Agriculture, Forestry and Economic Development.

SB 996 (Sen. Stephanie Flowers) Rice Research and Promotion Board – To merge the Rice Research and Promotion Board into the Arkansas Agriculture Department. To be studied by Joint Interim Committee on Agriculture, Forestry and Economic Development.

SB 997 (Sen. Stephanie Flowers) Soybean Promotion Board – To merge the Arkansas Soybean Promotion Board with the Arkansas Agriculture Department. To be studied by Joint Interim Committee on Agriculture, Forestry and Economic Development.

SB 999 (Sen. Stephanie Flowers) Catfish Promotion Board – To merge the Arkansas Catfish Promotion Board with the Arkansas Agriculture Department. To be studied by Joint Interim Committee on Agriculture, Forestry and Economic Development.

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88TH GENERAL ASSEMBLY • 2011 LEGISLATIVE SUMMARY 21
WHAT THE LEGISLATURE DID AND DIDN’T DO

Prepared by: Roby Brock

I’ve been involved with state legislative activity for nearly 20 years. I’ll never forget my first legislative session as a young staffer for then-Governor Jim Guy Tucker in 1993.

The state was coming through a historic and hectic period as Bill Clinton had just been elected President of the U.S. During Tucker’s first session, he drafted more than 100 bills to address pressing issues in the areas of economic development, education, and criminal justice. My job was coordinating Tucker’s “war room,” the central hub of all legislative activity. It was a hopping place, where every staffer and gubernatorial liaison came for information.

This was before the age of the Internet. You had to physically go pull roll call votes from the Senate or House. Legislative liaisons would report after committee hearings on what happened in committee. If you were looking for a bill, you had to find a printed copy. You didn’t look it up “online” because “online” didn’t exist.

It always struck me as noble and patriotic and important that what we were all doing in the State Capitol during those Session days was crucial to every citizen’s daily life.

While I’m a lot less naïve about the process, I still marvel at the consequence of the session’s call. A regular session of the Arkansas Legislature is the state’s biennial chance to shape and reshape public policy on a variety of issues important to commerce, health and quality of life.

A DIFFERENT DYNAMIC

In the 2011 session, state lawmakers were faced with a different dynamic: Republican gains made both chambers of the General Assembly competitive for solutions and votes.

This new Republican muscle and the decades-long grip that Democrats have had on the statehouse brought a version of “line-in-the-sand” politics we haven’t seen much of in Arkansas. At times, it was healthy and it had its dangerous moments, too.

For instance, GOP lawmakers staked out principled votes on budget matters and taxes that ultimately forced compromises with Democratic leadership in the legislature and Governor’s office. Likewise, Democrats used their majority status to advance Congressional maps that originally offered them an advantage.

In the end, neither party claimed total victory.

A RECAP OF ISSUES

This year, it was a busier legislative session than many predicted. Taking a comprehensive look at the major highlights of the 88th General Assembly, we find there was plenty of activity impacting the business community in the 94-day session.

Budget:

The legislature approved a $4.6 billion budget packed with more money for schools and prisons, but the General Assembly blocked Governor Mike Beebe’s proposed 1.86 percent pay increase for state employees and went further on tax relief.

Tax cuts:

Beebe proposed taking another half-cent off the sales tax on groceries and argued that no further tax cuts could be afforded. Lawmakers disagreed and pushed through an additional 5 tax cut measures for a total of $35 million in tax relief. The areas of additional tax relief included used cars, low-income heads of households, manufacturers, tourism and back-to-school shoppers. How much of this will stimulate future business activity is debatable, but without a doubt, it will result in less coming out of Arkansans’ pockets.

Unemployment trust fund debt:

There was much done to address the $360 million trust fund debt owed to the federal government and the State Chamber of Commerce was a chief negotiator in much of it.

There were adjustments made to unemployment benefits that will result in estimated savings to employers of $60-$75 million annually. Those changes include eliminating wage indexing, reducing jobless benefits from 26 to 25 weeks, and setting new eligibility requirements for the unemployed.

Lawmakers also gave the Governor license to float a bond issue to pay down the debt, but the aforementioned changes appear capable of pulling the upside-down trust fund out of the negative by the end of 2014.

Health care reform:

One of the most contentious issues facing businesses – health care reform – is more likely to be settled at the federal level; however that didn’t stop politicians from making an effort at the state level. Lawmakers made several attempts to defund or halt implementation of federal health care reforms in Arkansas.

In the end, the push for a greater deployment of technology to streamline costs was passed. Health care exchanges, a mandate of the federal law, will move forward more slowly after Democrats and Republicans hammered out a plan to send an implementation measure to interim committee for more consensus.

Prisons:

A hallmark piece of legislation to reform prison and sentencing standards sailed through the General Assembly after a compromise was struck with prosecutors. The reforms included reducing sentencing for lower-level drug offenders to free up space for more violent criminals – a move that could save hundreds of millions of dollars over the next decade.

Highways:

Speaker of the House Robert Moore successfully pushed through measures that could refer to voters two tax hike
proposals for highway construction and maintenance. All told, voters could ultimately decide on spending as much as $2.8 billion on state roads.

**Congressional Redistricting:**
Finally, lawmakers agreed on a convoluted map that divides parts of 5 counties and pulls major rural sections of the 3rd Congressional District into the 4th District. It received bipartisan support and was the compromise to the controversial “Fayetteville Finger” plan.

**WHAT WASN’T DONE**
Often, a legislative body can be defined by what it does not do. This won’t be the case in the 88th General Assembly, but there were some notable areas where little to nothing changed.

Most significantly to the business interests of this state, no major laws were passed to further tax or regulate the natural gas industry. A myriad of environmental-related bills were steered to interim study, where they will presumably be discussed between now and 2013.

While several economic development incentive measures were renewed, there were only minor new laws passed to stoke job creation. Some will argue that the tax cut bills that passed may help. Supporters of a defeated capital gains tax elimination bill suggested it would have done the most to jump-start business creation.

Despite a variety of efforts, state lawmakers never passed meaningful or controversial legislation aimed at curbing illegal immigration. This has been a hallmark of several other states, such as Arizona and Oklahoma.

**CONCLUSION**
In my years of observation, the business community has always held an advantage among policy makers in the Arkansas Legislature. Typically, retirees, small business people or those who work for major employers have the most time to devote to the citizen-legislator roles.

We have seen a number of younger people being elected to the statehouse in recent years. None are elected with an anti-business agenda. Typically, they are sympathetic, if not empathetic, to pro-business causes.

While I don’t see any major threats on the horizon to the business community, I do see a threat to the functionality of state government looming.

We are heading into an era where I predict the major political parties will wrestle for control of the State Senate and State House. If they follow the path of Washington, and make state policy a choice of “you’re either with us or against us” decision, you can kiss sound state decisions goodbye.

Let’s hope we find better ways to define our differences than whether we have a “D” or “R” after our name. Like the majority of business leaders in this state, I consider consensus-building and good-faith compromise a strength, not a weakness.

*Roby Brock is the executive editor of Talk Business & Politics. His TV, radio and Internet news coverage focuses on Arkansas politics and business.*

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**TRACKED BILLS THAT BECAME LAW AND TRACKED BILLS THAT DID NOT BECOME LAW**

The State Chamber/AIA tracked 564 bills out of the 2,236 bills that were filed in the 2011 Session. We have divided the entire list of tracked bills into two reports based upon whether the tracked bills passed or failed. Both reports subdivide the tracking list into business categories. These reports are posted on our Web site, http://www.arkansasstatechamber.com, in the Governmental Affairs section under the heading of 2011 88th General Assembly.
The Pinnacle program recognizes the state’s outstanding corporate citizens – State Chamber/AIA members who desire to make a significant statement about their participation in Arkansas’s future. These leading companies are helping make the state a better place to live, work and conduct business by supplying the leadership and financial support necessary for the State Chamber/AIA to effectively represent the Arkansas business community.

Through the involvement and leadership of senior representatives of their firms, Pinnacle members actively participate in our grassroots action network, work on policy committees and lead the State Chamber/AIA on the Board of Directors. In doing so, these Pinnacle members provide resources necessary for our organization to achieve success while helping to shape the future of Arkansas and enhance its economic climate.
This is a note of thanks and appreciation for the timely, accurate and reliable legislative updates (I love it when they ding into my inbox!) that you provide us. I am always eager to pass the information along to our Chamber members. I have enjoyed being perceived as resourceful and considerate. Every now and then I share the credit with you – but there are times when I smile at how good you make me look. I realize that the information you gather and compile is a coordinated effort. It is exceptionally well done!

Connie Nelson
Arkadelphia Regional Economic Development Alliance and Area Chamber of Commerce

AIA Chairman Bill Hannah of Nabholz Construction Corporation and Steve Kinzler of Polk Stanley Wilcox at the State Chamber/AIA Legislative Reception.
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