

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Gibson**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AUTHORIZE A COUNTY OR COUNTIES TO LEVY A 1%
9 SALES AND USE TAX FOR THE PURPOSE OF FINANCING AIRPORTS
10 AND RIVERPORTS, OR PORTIONS THEREOF, WHICH ARE JOINTLY
11 OPERATED BY MORE THAN A SINGLE COUNTY; DECLARING AN
12 EMERGENCY; AND FOR OTHER PURPOSES."

13
14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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16 SECTION 1. This act shall be known as the "Multicounty Airport and
17 Riverport Financing Act".

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19 SECTION 2. Any county in the State of Arkansas may levy a sales and use
20 tax, as described and set forth herein, for the purpose of providing funds for
21 the acquisition, construction and equipping of properties, real, personal or
22 mixed, tangible or intangible, to constitute all or a part of any airport or
23 riverport owned and operated by such county and by one (1) or more other
24 counties jointly or by a metropolitan port authority (pursuant to Arkansas
25 Code of 1987 Annotated, Title 14, Chapter 185), a regional airport commission
26 (as set forth in Arkansas Code of 1987 Annotated, Title 14, Chapter 362) or
27 other instrumentality of such counties and for the other purposes set forth
28 herein (the "Project").

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30 SECTION 3. Any tax levied pursuant to the authority of this act shall
31 be a tax equal to one percent (1%) on the sales price on items of personal
32 property and services sold or to be used in the levying county, to the extent
33 of and subject to the exemptions with respect to the gross receipts tax and
34 compensating use tax (as set forth in Arkansas Code of 1987 Annotated, Title
35 26, Chapter 52 and Arkansas Code of 1987 Annotated, Title 26, Chapter 53,

1 respectively).

2 The tax shall be levied by ordinance of the quorum court of the county.

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4 SECTION 4. Any tax levied pursuant to this act shall be for a period of
5 not longer than four (4) years.

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7 SECTION 5. (a) No ordinance shall be enacted by a quorum court
8 levying a tax under this act until a majority of the qualified electors of the
9 county voting on the question shall have approved the levy of the tax at an
10 election called for that purpose and conducted in accordance with the general
11 election laws. Any such election shall be called by ordinance of the quorum
12 court of the levying county.

13 (b) The ballot title for the election shall include the expiration
14 date for the tax, and any tax levied pursuant to this act shall cease upon the
15 expiration date.

16 (c) The ballot title for the election shall identify the Project, and
17 the ballot shall specify whether the levy of the tax is contingent upon the
18 levy of sales and use tax pursuant to this act by any other county or
19 counties.

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21 SECTION 6. (a) Upon certification of the election results, the county
22 judge shall issue a proclamation declaring the results of the election and
23 cause the proclamation to be published one (1) time in a newspaper having
24 general circulation within the county.

25 (b) Any person desiring to challenge the results of the election as
26 published in the proclamation shall file such challenge in the circuit court
27 of the county within thirty (30) days after the date of publication of the
28 proclamation.

29 (c) If no election challenge is timely filed, there shall be levied,
30 effective on the first day of the first calendar month subsequent to the
31 expiration of the thirty (30) day challenge period, a one percent (1%) tax on
32 the gross receipts from the sale at retail within the county on all items
33 which are subject to the Arkansas Gross Receipts Act, Arkansas Code of 1987
34 Annotated, Title 26, Chapter 52 and an excise tax on the storage, use, or
35 consumption within the county of tangible personal property purchased, leased

1 or rented from any retailer outside the state storage, use, or other
2 consumption in the county, at a rate of one percent (1%) of the sale price of
3 the property or, in the case of leases or rentals, of the lease or rental
4 price, the rate of the use tax to correspond to the rate of the sales tax
5 portion of the tax. The use tax portion of the local sales and use tax shall
6 be collected according to the terms of the Arkansas Compensating Tax Act,
7 Arkansas Code of 1987 Annotated, Title 26, Chapter 53.

8 (d) In the event of an election challenge, the effective date of the
9 tax levy shall be the first day of the first calendar month subsequent to the
10 final judicial determination of the challenge. Hearings involving such
11 litigation shall be advanced on the docket of the courts and disposed of at
12 the earliest feasible time.

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14 SECTION 7. The collection of any tax levied pursuant to this act shall
15 be distributed as follows:

16 (a) To the county, for the acquisition, construction and equipping of
17 the Project - fifty percent (50%) of the tax collections.

18 (b) To the county and to each municipality located in the county,
19 proportionately on the basis of population as reflected in the latest federal
20 census - fifty percent (50%) of the tax collections.

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22 SECTION 8. (a) Any tax levied pursuant to this act shall be levied
23 and collected only to a maximum tax of twenty five dollars (\$25.00) on each
24 single transaction, and vendors shall be responsible for collecting and
25 remitting the tax only to the maximum of twenty five dollars (\$25.00) for each
26 single transaction. Vendors collecting, reporting, and remitting the county
27 sales or use taxes shall show county taxes as a separate entry on the tax
28 report form.

29 (b) The term "single transaction", as used in this section, shall be
30 defined by ordinance of the county levying the tax. In the case of any
31 taxpayer not subject to the levy of a use tax on tangible personal property
32 brought into the State of Arkansas for storage until such property is
33 subsequently initially used in the State of Arkansas, a county use tax shall
34 be computed on each purchase of such property by the taxpayer as if all such
35 property were subject upon purchase to the county use tax up to a maximum of

1 twenty five dollars (\$25.00) per single transaction. The taxes so computed
2 shall be aggregated on a monthly basis, and the aggregate monthly amount shall
3 be divided by the sum of the total purchases of such property on which the
4 taxes are computed, and the quotient shall be multiplied by the amount of the
5 taxpayer's property subsequently initially used and subject to levy of a use
6 tax within the county during the month for which the monthly aggregate tax
7 figure was computed, and the product shall be the amount of county use tax
8 liability for the taxpayer for the month computed.

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10 SECTION 9. This act is intended to supplement existing laws and to
11 authorize the levy of the tax authorized hereby without resort to or reliance
12 upon any other law. Any county which is authorized to levy a tax under this
13 act may levy such tax without regard to whether such county (or any
14 municipality located therein) has in effect a sales and use tax or taxes.

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16 SECTION 10. (a) The Director of the Department of Finance and
17 Administration shall maintain a record of the amount of tax collected pursuant
18 to this act in each county and shall deposit all such revenues with the State
19 Treasurer.

20 (b) Upon receipt of the funds, the State Treasurer shall deduct three
21 percent (3%) thereof as a charge by the State for its services as specified in
22 this act and shall credit the three percent (3%) to the Constitutional and
23 Fiscal Agencies Fund. In addition, the State Treasurer is authorized to
24 retain in the Local Sales and Use Tax Trust Fund an amount not to exceed five
25 percent (5%) of the total amount received from the tax levied by each county,
26 to be used by the State Treasurer to:

27 (1) Make remittances to the county for rebates made by the
28 county for taxes, if any, in excess of amounts specified by the particular
29 county ordinances paid by a taxpayer on a single transaction;

30 (2) Make refunds for overpayment of the taxes; and

31 (3) Redeem dishonored checks and drafts received and deposited
32 in the Local Sales and Use Tax Trust Fund.

33 (c) (1) All funds received by the State Treasurer from the sales tax
34 levied by each county after deducting the three percent (3%) for the
35 Constitutional and Fiscal Agencies Fund shall be deposited in the Local Sales

1 and Use Tax Trust Fund and shall be credited to the account of the county in
2 which collected.

3 (2) The State Treasurer shall transmit monthly to the county
4 treasurer and to the municipal treasurer of each municipality located in a
5 county levying the tax authorized in this act their per capita share of the
6 moneys received by the State Treasurer from the tax levied by such county and
7 credited to the account of the county in the Local Sales and Use Tax Trust
8 Fund. The county treasurer of any county which has levied a sales and use tax
9 pursuant to this act and which rebates taxes paid on a single transaction in
10 excess of a specified amount shall monthly certify to the State Treasurer the
11 total amount of rebates paid since the preceding certification and the State
12 Treasurer shall remit that amount to the county treasurer from the Local Sales
13 and Use Tax Trust Fund.

14 (d) Funds received by the counties and municipalities pursuant to the
15 provisions of this act, other than those required to be applied to a Project
16 (as set forth in Section 7) may be used by the counties and municipalities for
17 any purpose for which the county general funds or the municipal general funds
18 may be used.

19 (e) The State Treasurer is authorized to make refunds for overpayment
20 of the tax and to redeem dishonored checks and drafts issued in payment of the
21 tax from the Local Sales and Use Tax Trust Fund.

22 (f) When any tax adopted by a county pursuant to this act is
23 terminated, the Director shall retain in the account of that county in the
24 Local Sales and Use Tax Trust Fund for a period of one (1) year an amount
25 equal to five percent (5%) of the final remittance to the county and
26 municipalities therein at the time of termination of the collection of the tax
27 to:

- 28 (1) Cover possible rebates by the county;
 - 29 (2) Cover refunds for overpayment of taxes;
 - 30 (3) Redeem dishonored checks and drafts deposited to the credit
- 31 of the Local Sales and Use Tax Fund. After one (1) year has elapsed after the
32 effective date of the abolition of the tax in any county, the Director shall
33 transfer the balance in that county's account to the county and municipalities
34 in the county and shall close the account.

35 (g) The Director may promulgate reasonable rules and regulations not

1 inconsistent with the provisions of this act to implement the administration,
2 collection, enforcement, and operation of the taxes authorized in this act.

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4 SECTION 11. All provisions of this act of a general and permanent
5 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
6 Code Revision Commission shall incorporate the same in the Code.

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8 SECTION 12. If any provision of this act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 act are declared to be severable.

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14 SECTION 13. All laws or parts of laws in conflict with this act are
15 hereby repealed.

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17 SECTION 14. It has been found and it is hereby declared that certain
18 Projects (as defined herein) presently await funding by the authority set
19 forth in this act. Therefore, an emergency is declared, and this act, being
20 necessary for the preservation of the public peace, health, and safety, shall
21 be in force upon its passage and approval.

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