

As Engrossed: 3/29/95 4/6/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 1006 OF 1995
SENATE BILL 661

4 **By: Senators Dowd, Bookout, Hoofinan, Wilson, Bearden, and Mahony**

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For An Act To Be Entitled

8 *"AN ACT TO REFER TO THE PEOPLE OF ARKANSAS FOR A STATEWIDE*
9 *VOTE THE INCREASE OF THE EXCISE TAX LEVIED ON DISTILLATE*
10 *SPECIAL FUELS BY FIVE CENTS PER GALLON; TO PROVIDE THAT*
11 *THE ADDITIONAL TAXES COLLECTED SHALL BE USED TO REPAY*
12 *HIGHWAY CONSTRUCTION BONDS AND FOR UTILIZATION BY THE*
13 *COUNTIES AND MUNICIPALITIES ON COUNTY ROADS AND MUNICIPAL*
14 *STREETS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."*

15

Subtitle

16
17 *"REFERS FOR VOTE THE INCREASE BY FIVE*
18 *CENTS PER GALLON THE TAX ON DISTILLATE*
19 *SPECIAL FUELS."*

20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22

23 *SECTION 1. Upon approval of the voters at a statewide election as*
24 *required by Article 5, § 38 of the Arkansas Constitution, Ark. Code Ann. § 26-*
25 *56-201 is amended to add a new subsection to read as follows:*

26 *"(e) (1) In addition to all other taxes levied on distillate special*
27 *fuels, there is hereby levied an additional excise tax of five cents (5¢) per*
28 *gallon upon all distillate special fuels subject to the tax levied in*
29 *subsection (a) of this section.*

30 *(2) This additional excise tax shall be levied, collected,*
31 *reported, and paid in the same manner and at the same time as is prescribed by*
32 *law for the levying, collection, reporting, and payment of the other*
33 *distillate special fuels taxes under Arkansas law."*

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35 *SECTION 2. The additional tax levied by Ark. Code Ann. §26-56-201(e)*
36 *shall be taken into consideration and used when calculating tax credits or*

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1 additional tax due under Ark. Code Ann. §26-56-214.

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3 *SECTION 3. The State Treasurer shall establish in the State Highway and*
4 *Transportation Department Fund a special account, known as the "The 1995*
5 *Arkansas Highway Construction and Improvement Bond Account."* The additional
6 *excise tax collected pursuant to Ark. Code Ann. § 26-56-201(e) shall be*
7 *classified as special revenues pursuant to Ark. Code Ann. §19-6-301 and shall*
8 *be deposited into the State Treasury and shall be distributed pursuant to Ark.*
9 *Code Ann. §27-70-206; provided, however, that notwithstanding the provisions*
10 *of Ark. Code Ann. §27-70-206(3), seventy percent (70%) of such revenues*
11 *available after the deposits required by Ark. Code Ann. §27-70-206(1) and (2)*
12 *shall be deposited in the 1995 Arkansas Highway Construction and Improvement*
13 *bond Account of the State Highway and Transportation Department Fund, fifteen*
14 *percent (15%) of such revenues, after such deposits, shall be transferred to*
15 *the County Aid Fund for distribution and utilization pursuant to Ark. Code*
16 *Ann. §27-70-207, and fifteen percent (15%) of such revenues, after such*
17 *deposits, shall be transferred to the Municipal Aid Fund for distribution and*
18 *utilization pursuant to Ark. Code Ann. §27-70-207.*

19

20 *SECTION 4. EFFECTIVE DATE. The tax levied by Ark. Code Ann. § 26-56-*
21 *201(e) shall not become effective until after a majority of the qualified*
22 *electors of the state voting on the question approve the tax levied by Ark.*
23 *Code Ann. § 26-56-201(e) and approve the issuance of highway construction and*
24 *improvement general obligation bonds to be repaid in part by that portion of*
25 *the tax levied by Ark. Code Ann. §26-56-201(e) deposited to the 1995 Arkansas*
26 *Highway Construction and Improvement Bond Account in the State Highway and*
27 *Transportation Department Fund in accordance with the Arkansas Highway General*
28 *Obligation Bond Act of 1995. If such election is called by the Governor and*
29 *the bond issue approved, the effective date of the tax levied by Ark. Code*
30 *Ann. § 26-56-201(e) shall be as follows:*

31 (i) *If no election challenge is filed within thirty (30) days of the*
32 *date of the publication of the proclamation, the tax shall become effective on*
33 *the first day of the calendar quarter subsequent to the expiration of the*
34 *thirty (30) day period for challenge.*

35 (ii) *In the event of an election contest, the tax shall be collected as*

1 *prescribed in subsection (a) of this section unless enjoined by court order.*

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3 SECTION 5. (a) *If bonds are approved and issued, then the tax levied*
4 *by Ark. Code Ann. §26-56-201(e) shall be abolished when there are no bonds*
5 *outstanding to which portions of taxes collected pursuant to Ark. Code Ann.*
6 *§26-56-201(e) are pledged.*

7 (b) *In order to provide for the accomplishment of the*
8 *administrative duties of the Director of the Department of Finance and*
9 *Administration and to protect the owners of the bonds, the tax shall be*
10 *abolished on the first day of the calendar month subsequent to the expiration*
11 *of thirty (30) days from the date there is filed with the Director a written*
12 *statement signed by the Governor and by the trustee for the bondholders, if a*
13 *trustee is serving in such capacity, identifying the tax and the bonds,*
14 *wherein either:*

15 (1) *The trustee certifies that the trustee has or will have sufficient*
16 *funds set aside to pay the principal of and interest on the bonds when due at*
17 *maturity or at redemption prior to maturity and the Governor certifies that*
18 *portions of the tax are not pledged to any other bonds; or*

19 (2) *The Governor certifies that there are no longer any bonds*
20 *outstanding payable from tax collections.*

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22 SECTION 6. (a) *Pursuant to Article 5, § 38 of the Arkansas*
23 *Constitution, there is hereby referred to the people of the state of Arkansas*
24 *for their approval at a statewide election, the following proposition:*

25 *"Shall Ark. Code Ann. § 26-56-201 be amended to increase by five cents*
26 *(\$0.05) per gallon the tax on distillate special fuels, which portions of such*
27 *tax increase shall be pledged for the repayment of highway improvement general*
28 *obligation bonds issued pursuant to the Arkansas Highway General Obligation*
29 *Bond Act of 1995 (_1995 Act_) and which tax increase will not become effective*
30 *unless the bond issue pursuant to the 1995 Act is approved by the voters in a*
31 *statewide election?"*

32 (b) *The election on the proposition in Section 6(a) shall be held at*
33 *the same time and in the same manner as the election on the issuance of bonds*
34 *pursuant to the 1995 Act and in substantial compliance with Section 5 of the*
35 *1995 Act. The notice of the election on the proposition stated in Section*

1 6(a) of this act shall be substantially the form set forth below:

2 "Amending the Arkansas Code Annotated to increase by five cents (\$0.05)
3 per gallon the tax on distillate special fuels (diesel and other related
4 products). Portions of the tax increase shall be pledged for the repayment of
5 the State of Arkansas Highway Construction and Improvement General Obligation
6 Bonds (the Bonds) which may be issued pursuant to the Arkansas Highway
7 General Obligation Bond Act of 1995 (the 1995 Act). The tax increase shall
8 not become effective unless the bonds are also approved by the voters. If the
9 bonds are approved, the tax increase shall be collected so long as there are
10 bonds outstanding. If the tax increase is not approved, the bonds, if
11 approved, may be issued and secured by other taxes or portions of other taxes.
12 The bond issue is submitted to the voters elsewhere on this ballot."

13 (c) The ballot title, and the proposition set forth in Section 6(a) of
14 this act shall be submitted by the Secretary of State to the Attorney General
15 for approval in substantially the following form:

16 "INCREASE IN TAX ON DISTILLATE SPECIAL FUELS BY FIVE CENTS (\$0.05) PER
17 GALLON"

18 On each ballot there shall be printed the title, the proposition set forth in
19 Section 6(a) of this act, and the following:

20 "FOR an increase in the tax on distillate special fuel by five cents
21 (\$0.05) per gallon and the pledge of portions of such increase to the
22 repayment of the Arkansas Highway Construction and Improvement General
23 Obligation Bonds... []"

24 "AGAINST an increase in the tax on distillate special fuel by five cents
25 (\$0.05) per gallon and the pledge of portions of such increase to the
26 repayment of the Arkansas Highway Construction and Improvement General
27 Obligation Bonds... []"

28

29 SECTION 7. All provisions of this act of a general and permanent nature
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
31 Revision Commission shall incorporate the same in the Code.

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33 SECTION 8. If any provision of this act or the application thereof to
34 any person or circumstance is held invalid, such invalidity shall not affect
35 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this
2 act are declared to be severable.

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4 SECTION 9. All laws and parts of laws in conflict with this act are
5 hereby repealed.

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7 SECTION 10. EMERGENCY CLAUSE. It is hereby found and determined by the
8 General Assembly that existing highway user revenue sources do not provide
9 sufficient funds for the necessary maintenance, repair, construction and
10 *reconstruction of state highways, county roads and municipal streets; that*
11 *there is an immediate and urgent need for an adequate highway system and*
12 *adequate county roads and municipal streets; that the continued economic*
13 *expansion and growth of this State will be jeopardized if an adequate system*
14 *of State highways, county roads and municipal streets is not provided; and*
15 *that only by the immediate passage of this act may such vitally needed*
16 *additional funds be provided to solve these problems; that an emergency exists*
17 *requiring the increase of the tax rate by this Act pursuant to Article 5, §38*
18 *of the Arkansas Constitution. Therefore, an emergency is declared to exist*
19 *and this act, being necessary for the immediate preservation of the public*
20 *peace, health, and safety, shall be in full force and effective from and after*
21 *passage and approval.*

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/s/Dowd et al

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APPROVED: 4-7-95

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