

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H3/10/11 H3/14/11

# A Bill

HOUSE BILL 1898

5 By: Representative Ingram  
6 By: Senators Files, R. Thompson  
7

## For An Act To Be Entitled

9 AN ACT TO KEEP ARKANSAS COMPETITIVE BY PROMOTING  
10 FUNDING FOR ECONOMIC DEVELOPMENT PROJECTS; TO  
11 AUTHORIZE THE LEVY OF LOCAL SALES AND USE TAXES TO  
12 FUND ECONOMIC DEVELOPMENT PROJECTS; AND FOR OTHER  
13 PURPOSES.  
14  
15

## Subtitle

16 TO KEEP ARKANSAS COMPETITIVE BY PROMOTING  
17 FUNDING FOR ECONOMIC DEVELOPMENT PROJECTS  
18 AND TO AUTHORIZE THE LEVY OF LOCAL SALES  
19 AND USE TAXES TO FUND ECONOMIC  
20 DEVELOPMENT PROJECTS.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code Title 26 is amended to add an additional  
27 chapter to read as follows:

28 Chapter 82 – Local Sales and Use Tax Economic Development Project Funding Act  
29

30 26-82-101. Title.

31 This chapter shall be known as the “Local Sales and Use Tax Economic  
32 Development Project Funding Act”.  
33

34 26-82-102. Definitions.

35 As used in this chapter:

36 (1) “Calendar quarter” means a three-month period that begins on



1 January 1, April 1, July 1, or October 1;

2 (2) "City" means any city of the first class, city of the second  
3 class, or incorporated town of the state;

4 (3) "Develop" means to plan, design, construct, acquire by  
5 purchase, acquire by eminent domain, own, operate, rehabilitate, lease as  
6 lessor or lessee, enter into lease-purchase agreements with respect to, lend,  
7 make grants in respect of, or install or equip any lands, buildings,  
8 improvements, machinery, equipment, or other properties of whatever nature,  
9 whether real property, personal property, or mixed property;

10 (4) "Economic development project" means infrastructure, land,  
11 buildings, and other improvements on the land and all other machinery,  
12 apparatus, equipment, office facilities, and furnishings that are necessary,  
13 suitable, or useful by a sponsor that meets at least three (3) of the  
14 following criteria:

15 (A) The sponsor makes an investment of at least ten  
16 million dollars (\$10,000,000) in the project;

17 (B) The economic development project creates at least  
18 fifty (50) new jobs;

19 (C) The sponsor pays wages to new full-time permanent  
20 employees in excess of one hundred and ten percent (110%) of the lesser of  
21 the state average wage or county average wage for the preceding calendar  
22 year;

23 (D) The economic development project is related to a  
24 targeted industry as identified in a local, regional, or state strategic plan  
25 for economic development;

26 (E) The economic development project has a benefit-to-cost  
27 ratio greater than two (2) as determined by the Arkansas Economic Development  
28 Commission;

29 (F) The economic development project receives at least a  
30 three-fourths (3/4) vote of support from the city council or quorum court; or

31 (G) The sponsor signs a financial incentive agreement with  
32 the Arkansas Economic Development Commission;

33 (5) "Infrastructure" means:

34 (A) Land acquisition;

35 (B) Site preparation;

36 (C) Road and highway improvements;

1                   (D) Rail spur construction;  
2                   (E) Water service;  
3                   (F) Wastewater treatment;  
4                   (G) Employee training, including without limitation  
5 equipment used for the training;  
6                   (H) Environmental mitigation;  
7                   (I) Training and research facilities and the necessary  
8 equipment for the training and research facilities; and  
9                   (J) Sponsor-owned electric equipment, including without  
10 limitation redundant transformers, redundant service lines, backup generation  
11 devices, substation equipment, and similar electric equipment that is owned  
12 by a sponsor.

13                   (6)(A) "Investment" means money expended by a sponsor on project  
14 costs directly related to an economic development project.

15                   (B) "Investment" does not include amounts expended in aid  
16 of an economic development project by the state or by a local entity;

17                   (7) "Levying entity" means a city or a county levying a local  
18 sales and use tax under this chapter;

19                   (8) "Local entity" means a nonprofit corporation, county, city,  
20 improvement district, or school district in the state or an agency or  
21 instrumentality of a nonprofit corporation, county, city, improvement  
22 district, or school district;

23                   (9) "Local sales and use tax" means a tax levied under this  
24 chapter on the gross proceeds or gross receipts derived from sales within a  
25 city or county of all items that are subject to taxation under the Arkansas  
26 Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating  
27 Tax Act of 1949, § 26-53-101 et seq.;

28                   (10) "New full-time permanent employee" means a position or job  
29 expected to be held by the employee or employees for at least twenty-six (26)  
30 consecutive weeks with an average of at least thirty (30) hours of work per  
31 week;

32                   (11) "New job" means a position for a new full-time permanent  
33 employee created at an economic development project;

34                   (12)(A) "Project costs" means costs associated with the:

35                                 (i) Construction of a new plant or facility,  
36 including without limitation land, building, production equipment, or support

1 infrastructure;

2 (ii) Expansion of an established plant or facility  
3 by adding to the building, production equipment, or support infrastructure;  
4 or

5 (iii) Modernization of an established plant or  
6 facility through the replacement of production or processing equipment or  
7 support infrastructure that improves efficiency or productivity.

8 (B) "Project costs" does not include:

9 (i) Expenditures for routine repair and maintenance  
10 that do not result in new construction or expansion;

11 (ii) Routine operating expenditures;

12 (iii) Expenditures incurred at multiple facilities;

13 or

14 (iv) The purchase or acquisition of an existing  
15 business unless:

16 (a) There is sufficient documentation that the  
17 existing business was closed; and

18 (b) The purchase of the existing business will  
19 result in the retention of the jobs that would have been lost due to the  
20 closure; and

21 (13) "Sponsor" means a sole proprietor, partnership,  
22 corporation, limited liability company, or association taxable as a business  
23 entity, a non-profit corporation, or a combination of these entities.

24

25 26-82-103. Authority to levy tax.

26 (a)(1) The governing body of a city or county may adopt an ordinance  
27 levying a local sales and use tax in the amount of one-eighth of one percent  
28 (0.125%), one-fourth of one percent (0.25%), one-half of one percent (0.5%),  
29 three-fourths of one percent (0.75%), one percent (1%), or any combination of  
30 these amounts to pay project costs of an economic development project located  
31 within the levying entity or near the levying entity if still located within  
32 the state.

33 (2)(A) The ordinance may levy multiple local sales and use  
34 taxes.

35 (B) However, there shall not be in effect at any one (1)  
36 time local sales and use taxes levied under this chapter at an aggregate rate

1 greater than one percent (1%).

2 (b) A certified copy of the ordinance authorizing the levy of a local  
3 sales and use tax shall be provided to the Director of the Department of  
4 Finance and Administration as soon as practicable after the adoption of the  
5 ordinance.

6 (c) The local entity shall:

7 (A) Determine the maximum amount of revenue to be  
8 generated by each local sales and use tax levied under this chapter; and

9 (B) State in the levying ordinance the maximum amount of  
10 revenue to be generated by each local sales and use tax levied under this  
11 chapter.

12 (d)(1) The local sales and use tax levied under this chapter shall  
13 expire when the maximum amount of revenue determined under subdivision (c)(1)  
14 of this section has been collected as determined under this subsection (d).

15 (2)(A) Except as other provided in § 26-82-106, to provide for  
16 the accomplishment of the administrative duties of the director, the local  
17 sales and use tax shall terminate on the first day of the calendar quarter  
18 after the expiration of ninety (90) days from the date there is filed with  
19 the director a written statement signed by the chief executive officer of the  
20 city or county levying the local sales and use tax and identifying the local  
21 sales and use tax to be terminated.

22 (B) In the statement described in subdivision (d)(2)(A) of  
23 this section, the city or county levying the local sales and use tax shall  
24 certify that it has received the maximum amount of revenue stated in the  
25 levying ordinance.

26 (3) The chief executive officer of the city or county shall file  
27 the certification required under this subsection (d) not later than thirty  
28 (30) days after the receipt of the maximum amount of revenue stated in the  
29 levying ordinance.

30 (4) Upon the termination of a local sales and use tax under this  
31 subsection (d), any surplus tax collections that may have accumulated from  
32 the local sales and use tax shall be transferred to the general fund of the  
33 city or county.

34  
35 26-82-104. Election.

36 (a)(1) Within thirty (30) days following the adoption of an ordinance

1 levying a local sales and use tax under this chapter, the levying entity by  
2 ordinance shall provide for the calling of a special election on the question  
3 of whether to levy the local sales and use tax under §§ 7-11-201-7-11-205.

4 (2) The date for the special election may be the same as the  
5 date for the next regular municipal election or county election.

6 (3) The governing body of the levying entity shall:

7 (A) Notify the county board of election commissioners that  
8 the question has been referred to the vote of the people; and

9 (B) Submit a copy of the ballot title to the county board  
10 of election commissioners.

11 (4) The election shall be conducted in the manner provided by  
12 law for all other municipal and county elections unless otherwise provided in  
13 this chapter.

14 (b)(1) Except as otherwise provided in this subsection, the ballot  
15 title to be used at the election shall be in substantially the following  
16 form:

17 “[ ] FOR adoption of a . . . percent (. . . %) local sales and  
18 use tax within . . . . . (name of local entity) for economic  
19 development projects not to exceed \$ . . . (maximum amount of revenue to be  
20 generated) to be terminated on the first day of the calendar quarter  
21 following the expiration of ninety (90) days after . . . . .  
22 (name of local entity) certifies it has received \$ . . . (maximum amount of  
23 revenue to be generated).”

24 “[ ] AGAINST adoption of a . . . percent (. . . %) local sales  
25 and use tax within . . . . . (name of local entity) for  
26 economic development projects not to exceed \$ . . . (maximum amount of  
27 revenue to be generated) to be terminated on the first day of the calendar  
28 quarter following the expiration of ninety (90) days after . . . . .  
29 . . . (name of local entity) certifies it has received \$ . . . (maximum  
30 amount of revenue to be generated).”

31 (2)(A) The ordinance levying the local sales and use tax may  
32 contain an expiration date.

33 (B) If the ordinance contains an expiration date under  
34 subdivision (b)(2)(A) of this section, the ballot title shall include the  
35 expiration date for the levy of the tax.

36 (C) If the ordinance is adopted in the form described in

1 this subsection, the local sales and use tax shall cease to be levied on the  
2 date stated on the ballot.

3 (D) The expiration date shall be the last day of a  
4 calendar quarter.

5 (E) An expiration date included under this subsection does  
6 not extend the effective period of the local sales and use tax beyond the  
7 expiration date provided under § 26-82-103.

8 (3)(A)(i) Except as provided in § 26-82-103, the governing body  
9 of the levying entity may refer to the voters a change in the expiration date  
10 for the local sales and use tax approved by the voters to extend the levy of  
11 the local sales and use tax beyond the expiration date previously approved.

12 (ii) The proposed expiration date shall be the last  
13 day of a calendar quarter.

14 (B) If the governing body of the levying entity refers to the  
15 voters a change in the expiration date for a local existing sales and use tax  
16 levied under this chapter, the governing body shall:

17 (i) Notify the county board of election  
18 commissioners that the measure has been referred to the voters; and

19 (ii) Submit a copy of the ballot title to the county  
20 board of election commissioners.

21 (C)(i) An election to change the expiration date for a  
22 sales and use tax levied under this chapter shall be conducted in the manner  
23 provided by law for all other municipal and county elections.

24 (ii) The results of the election under this  
25 subsection shall be certified, proclaimed, and subject to challenge under §  
26 26-82-105.

27 (D)(i) To extend the local sales and use tax levied under  
28 this chapter to a new expiration date, the levying entity shall notify the  
29 Director of the Department of Finance and Administration of the new  
30 expiration date approved by the voters:

31 (a) After publication of the proclamation has  
32 occurred; and

33 (b) At least ninety (90) days before the  
34 current expiration date of the local sales and use tax.

35 (ii) The local sales and use tax extended under this  
36 subdivision (b)(3) shall continue to be levied until the new expiration date.

1           (E)(i) If the voters do not approve a change in the  
2 expiration date for the local sales and use tax levied under this chapter,  
3 the local sales and use tax shall continue to be collected until the  
4 expiration date previously approved by the voters.

5           (ii) However, the expiration date shall not be  
6 extended beyond the expiration date provided under § 26-82-103.

7           (F) An election to change the expiration date for a local  
8 sales and use tax levied under this chapter is not an election on the levy of  
9 the sales and use tax.

10  
11           26-82-105. Requirements – Effective dates.

12           To provide time to prepare for an election required under this chapter  
13 and to provide time for the Director of the Department of Finance and  
14 Administration to accomplish his or her duties, the following requirements  
15 apply to an ordinance levying a local sales and use tax under this chapter:

16           (1)(A) The ordinance levying the local sales and use tax under  
17 this chapter is not effective until after the election under § 26-82-104 has  
18 been held.

19           (B)(i) Following the election, the mayor or the county  
20 judge of the levying entity shall issue his or her proclamation of the  
21 results of the election with reference to the local sales and use tax.

22           (ii) The proclamation described in subdivision  
23 (1)(B)(i) of this section shall be published one (1) time in a newspaper  
24 having general circulation within the levying entity.

25           (C) A person desiring to challenge the results of an  
26 election as published in the proclamation shall file the challenge in the  
27 circuit court of the county in which the levying entity is located within  
28 thirty (30) days of the date of publication of the proclamation;

29           (2) The local sales and use tax shall not go into effect until  
30 the governing body of the levying entity has adopted a written plan stating  
31 the following:

32           (A) A description of the economic development project to  
33 be financed by the revenues from the local sales and use tax;

34           (B) A description of the economic impact and the cost-  
35 benefit analysis of the proposed economic development project;

36           (C) An estimate of the amount of revenue from the local



1 sales and use tax necessary to defray costs for the economic development  
2 project and a budget of the costs;

3 (D)(i) A certification by the mayor or county judge of the  
4 levying entity that each economic development project to benefit from the  
5 expenditure of the revenues from the local sales and use tax consists of an  
6 investment in the region that satisfies at least three (3) of the criteria in  
7 § 26-82-102(4).

8 (ii) The certification described in subdivision  
9 (2)(D)(i) of this section shall state with specificity which criteria under §  
10 26-82-102(4) the economic development project satisfies; and

11 (E) A tentative time schedule stating the period of time  
12 during which the sum requested is to be expended;

13 (3)(A) As directed by the governing body of the levying entity  
14 and after the written plan has been approved by the governing body of the  
15 levying entity under subdivision (2) of this section, the mayor or county  
16 judge of the levying entity shall notify the director of the rate change:

17 (i) After publication of the proclamation has  
18 occurred; and

19 (ii)(a) Ninety (90) days before the effective date  
20 of the local sales and use tax.

21 (b) The effective date of the local sales and  
22 use tax shall be the first day of a calendar quarter.

23 (B) The ordinance shall become effective no earlier than  
24 the first day of the calendar quarter after the:

25 (i) Director gives to sellers a minimum notice  
26 period of sixty (60) days; and

27 (ii) Expiration of the full thirty-day period of  
28 challenge under subdivision (1) of this section.

29 (C) The rate change on a purchase from a printed catalog  
30 in which the purchaser computed the tax based upon local tax rates published  
31 in the catalog are effective on the first day of a calendar quarter after a  
32 minimum of one hundred twenty (120) days' notice by the director to the  
33 sellers; and

34 (4) If an election contest occurs under subdivision (1) of this  
35 section, the local sales and use tax shall be collected under this chapter  
36 unless enjoined by a court order.

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26-82-106. Abolition of tax.

(a)(1) Except under subsection (b) of this section, the levying entity may abolish all or a portion of the local sales and use tax authorized under this chapter by:

(A) A roll call vote of two-thirds (2/3) of all members elected to the governing body of the levying entity, excluding the mayor and county judge, if the governing body of the levying entity has determined that the purposes of the local sales and use tax cannot be fulfilled or cannot continue to be fulfilled; or

(B) An election called by:

(i) Action of the governing body of the levying entity; or

(ii) A petition of the qualified voters in the levying entity.

(2) A petition of the qualified voters and the calling and holding of an election concerning the abolition of the local sales and use tax under this subsection are governed by the initiative procedures in Arkansas Constitution, Article 5, § 1, and any ordinances of the levying entity governing initiative procedures.

(3) The governing body of the levying entity may call for an election under this subsection subject to the same procedures stated in this chapter for the calling of the initial election.

(4)(A) The ballot title for use in an election under this subsection shall be in substantially the following form:

“[ ] FOR abolition of the . . . percent (. . . %) local sales and use tax within . . . . . (name of local entity) for economic development projects.”

“[ ] AGAINST abolition of the . . . percent (. . . %) local sales and use tax within . . . . . (name of local entity) for economic development projects.”

(B) However, a ballot title that contains a question for qualified voters on whether to continue the levy of a local sales and use tax complies with this subdivision (a)(4).

(b)(1) In a levying entity in which a local sales and use tax has been adopted under this chapter and all or a portion is pledged to secure the

1 payment of bonds, the portion of the local sales and use tax pledged to the  
2 payment of bonds shall not be repealed, abolished, or reduced while the bonds  
3 are outstanding.

4 (2) The bonds are not outstanding to the extent that sufficient  
5 tax revenues have been set aside to pay the bonds when due.

6 (c) The effective date of an affirmative vote of the qualified voters  
7 to abolish the local sales and use tax under subsection (a) of this section  
8 shall be the first day of the calendar quarter after the expiration of ninety  
9 (90) days from the date of publication of the election proclamation.

10 (d)(1) The effective date of an affirmative vote by the governing body  
11 of the levying entity to abolish the local sales and use tax under subsection  
12 (a) of this section shall be on the first day of the calendar quarter after  
13 the expiration of ninety (90) days from the date a written statement signed  
14 by the mayor or county judge of the levying entity abolishing the tax is  
15 filed with the Director of the Department of Finance and Administration  
16 certifying that the governing body of the levying entity has adopted an  
17 ordinance abolishing the local sales and use tax.

18 (2) A copy of the ordinance abolishing the local sales and use  
19 tax shall be attached to the certificate.

20  
21 26-82-107. Notice of adoption or abolition of tax.

22 No later than ten (10) days following each of the events stated in the  
23 ordinance with reference to the procedure for the adoption or abolition of  
24 the local sales and use tax and the effective dates of the action under this  
25 chapter, the clerk of the levying entity shall notify the Director of the  
26 Department of Finance and Administration of the event.

27  
28 26-82-108. Collection of tax.

29 (a)(1)(A) In each levying entity in which a local sales and use tax  
30 has been levied under this chapter, each seller shall add the tax imposed by  
31 the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., the Arkansas  
32 Compensating Tax Act of 1949, § 26-53-101 et seq., and the tax imposed under  
33 this chapter to the sale price of the product or service, and when added, the  
34 combined tax shall:

35 (i) Constitute a part of the price;

36 (ii) Be a debt of the purchaser to the seller until

1 paid; and

2 (iii) Be recoverable at law in the same manner as  
3 the purchase price.

4 (B) When the sale price in the levying entity involves a  
5 fraction of a dollar, the two (2) combined taxes shall be added to the sale  
6 price.

7 (C) A seller is entitled to the same discount with respect  
8 to tax remitted under this chapter as is authorized for the collection and  
9 remission of gross receipts taxes to the state under § 26-52-503.

10 (2) If the General Assembly or the electors of the state  
11 increase or decrease the rate of the state gross receipts tax, the combined  
12 rate of the state gross receipts tax and the sales and use tax by the levying  
13 entity shall be the sum of the two (2) rates.

14 (b) The local sales and use tax levied under this chapter on new and  
15 used motor vehicles shall be collected by the Director of the Department of  
16 Finance and Administration directly from the purchaser under § 26-52-510.

17  
18 26-82-109. Administration of tax.

19 (a) On and after the effective date of a local sales and use tax  
20 imposed under this chapter, the Director of the Department of Finance and  
21 Administration shall perform all functions incidental to the administration,  
22 collection, enforcement, and operation of the tax.

23 (b) In addition to the state gross receipts tax and compensating tax,  
24 the director shall collect the additional tax under this chapter on the  
25 receipts from the sale at retail or on the sale price or lease or rental  
26 price on the storage, use, distribution, or other consumption of all taxable  
27 items and services subject to the Arkansas Gross Receipts Act of 1941, § 26-  
28 52-101 et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et  
29 seq.

30 (c)(1) The local sales and use tax imposed under this chapter and the  
31 tax imposed under the gross receipts tax and compensating tax shall be  
32 collected together and reported upon the forms and under the administrative  
33 rules that are prescribed by the director and that are not inconsistent with  
34 this chapter.

35 (2) Each vendor who is liable for one (1) or more sales or use  
36 taxes levied under this chapter, the Arkansas Gross Receipts Act of 1941, §

1 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101  
2 et seq., shall report a combined city and county sales tax and a combined  
3 city and county use tax on his or her sales and use tax report.

4 (3) The combined city sales tax or county sales tax is equal to  
5 the sum of all sales taxes levied by a city or county under this chapter and  
6 the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

7 (4) The combined city or county use tax is equal to the sum of  
8 all use taxes levied by a city or county under this chapter and the Arkansas  
9 Compensating Tax Act of 1949, § 26-53-101 et seq.

10 (5) This subsection applies only to a tax collected by the  
11 director.

12 (d) On and after the effective date of an ordinance to abolish a local  
13 sales and use tax in any levying entity, the director shall comply with the  
14 ordinance under this chapter.

15  
16 26-82-110. Applicability of tax.

17 (a) A local sales and use tax levied under this chapter applies to  
18 sales of items and services sold by a business and shall be administered  
19 under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the  
20 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

21 (b) When a direct pay permit holder purchases tangible personal  
22 property or taxable services either from an Arkansas vendor or an out-of-  
23 state vendor for use, storage, consumption, or distribution in Arkansas, the  
24 permit holder shall accrue and remit the local sales and use tax, if any,  
25 under the sourcing rules in §§ 26-52-521 and 26-52-522.

26  
27 26-82-111. Disposition of funds.

28 (a)(1)(A) The Treasurer of State shall transmit to the treasurer or  
29 financial officer of each levying entity the levying entity's share of local  
30 sales and use taxes collected under this chapter.

31 (B) Transmittals required under this chapter shall be made  
32 at least monthly in each state fiscal year.

33 (C) Funds transmitted under this chapter may be used by  
34 the levying entity for any purpose authorized under this chapter.

35 (2) Before transmitting the funds, the Treasurer of State shall  
36 deduct three percent (3%) of the sum collected from each levying entity

1 during the period as a charge by the state for its services specified in this  
2 chapter, and the amount deducted shall be deposited by the Treasurer of State  
3 to the credit of the account of the Constitutional Officers Fund and the  
4 State Central Services Fund.

5 (b)(1)(A) The Treasurer of State may retain in the suspense account of  
6 any levying entity a portion of the levying entity's share of the local sales  
7 and use tax collected under this chapter.

8 (B) A balance retained in the suspense account shall not  
9 exceed five percent (5%) of the amount remitted to the levying entity.

10 (2) The Treasurer of State may make refunds from the suspense  
11 account of any levying entity:

12 (A) For overpayments made to the account after the refunds  
13 have been approved by the Director of the Department of Finance and  
14 Administration; and

15 (B) To redeem dishonored checks and drafts deposited to  
16 the credit of the suspense account of the levying entity.

17 (c)(1) When any city or county adopts a local sales and use tax and  
18 then abolishes the tax, the Treasurer of State shall retain in the suspense  
19 account of the levying entity for a period of one (1) year five percent (5%)  
20 of the final remittance to the levying entity at the time of termination of  
21 collection of the tax within the levying entity to cover possible refunds for  
22 overpayment of the tax and to redeem dishonored checks and drafts deposited  
23 to the credit of the account.

24 (2)(A) After one (1) year has elapsed after the effective date  
25 of abolishment of the local sales and use tax, the Treasurer of State shall:

26 (i) Remit the balance of the account to the levying  
27 entity; and

28 (ii) Close the account.

29 (B) A refund shall not be allowed after the one-year  
30 period under subdivision (c)(2)(A) has lapsed and the account is closed.

31  
32 26-82-112. Enforcement and penalties.

33 (a) The procedures and penalties used by the Director of the  
34 Department of Finance and Administration in enforcing a local sales and use  
35 tax imposed under this chapter shall be the same as for the state gross  
36 receipts tax and compensating tax unless otherwise provided in this chapter.

1           (b)(1) When property is seized by the director under any statute  
2 authorizing seizure of property of a taxpayer who is delinquent in payment of  
3 the taxes imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et  
4 seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and  
5 when the taxpayer is also delinquent in payment of any tax imposed under this  
6 chapter, the director shall sell sufficient property to pay the delinquent  
7 taxes and penalties due to any levying entity under this chapter in addition  
8 to the amount required to pay any taxes due to the state under the Arkansas  
9 Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating  
10 Tax Act of 1949, § 26-53-101 et seq.

11           (2) The proceeds of a sale under subdivision (b)(1) of this  
12 section shall be applied first to all sums due to the state, and the  
13 remainder, if any, shall be applied to all sums due to the levying entity.  
14

15           26-82-113. Trust funds – Administration.

16           (a)(1)(A) Money reported as local sales and use taxes that was  
17 collected in local taxing jurisdictions that is not immediately identifiable  
18 and money collected in local jurisdictions that have no tax shall be  
19 deposited into the Identification Pending Trust Fund for Local Sales and Use  
20 Taxes.

21           (B) When a local tax jurisdiction is identified for money  
22 that has been deposited into the Identification Pending Trust Fund for Local  
23 Sales and Use Taxes, the money shall be transferred to the Local Sales and  
24 Use Tax Trust Fund.

25           (C) If the total amount in the Identification Pending  
26 Trust Fund for Local Sales and Use Taxes exceeds fifty thousand dollars  
27 (\$50,000), the Treasurer of State shall transfer any amount in excess of  
28 fifty thousand dollars (\$50,000) to general revenues.

29           (2)(A)(i) Money reported as local sales and use taxes that was  
30 collected by an out-of-state vendor and that is not identifiable shall be  
31 deposited into the Identification Pending Trust Fund for Local Sales and Use  
32 Taxes.

33           (ii) Any funds deposited under subdivision (a)(2)(A)  
34 of this section shall not be included for computation of transfer to general  
35 revenue in subdivision (a)(1) of this section.

36           (B) The Treasurer of State shall distribute unidentified

1 local sales and use taxes collected by out-of-state vendors to the county  
2 treasurers and city treasurers as determined by their proportionate share of  
3 distribution from the Local Sales and Use Tax Trust Fund on a monthly basis.

4 (b)(1) The Treasurer of State shall review the flow of moneys through  
5 the Local Sales and Use Tax Trust Fund in the state treasury for the purpose  
6 of estimating the amount of the moneys that may be surplus to the immediate  
7 requirements of the Local Sales and Use Tax Trust Fund.

8 (2)(A) After making an estimate under subdivision (b)(1) of this  
9 section, the Treasurer of State shall invest the estimated surplus amount in  
10 certificates of deposit issued by any financial institution located in the  
11 state.

12 (B) All interest income derived from the certificates of  
13 deposit shall be credited as trust fund income to the Local Sales and Use Tax  
14 Trust Fund.

15 (3) The Treasurer of State shall transmit monthly to the county  
16 treasurers and city treasurers their proportionate share of the interest  
17 derived from the investment of the Local Sales and Use Tax Trust Fund under  
18 this subsection.

19  
20 26-82-114. Effect of change in city boundaries.

21 If a city in which a local sales and use tax has been imposed under  
22 this chapter changes or alters its boundaries, a tax imposed under this  
23 chapter shall be effective in the added territory or abolished in the  
24 detached territory on the first day of the first calendar month following the  
25 expiration of thirty (30) days from the date that the annexation or  
26 detachment becomes effective.

27  
28 26-82-115. Maximum tax limitation.

29 (a) A sales and use tax levied under this chapter shall be levied and  
30 collected only on the first two thousand five hundred dollars (\$2,500) of  
31 gross receipts, gross proceeds, or sales price on the sale of:

32 (1) Motor vehicles;

33 (2) Aircraft;

34 (3) Watercraft;

35 (4) Modular homes;

36 (5) Manufactured homes; or



1           (6) Mobile homes.

2           (b)(1)(A) For a taxpayer not subject to the levy of a use tax on  
3 taxable services or tangible personal property brought into the state for  
4 storage until the property is subsequently initially used in the state, the  
5 use tax portion of the local sales and use tax authorized under this chapter  
6 shall be computed on each purchase of the property by the taxpayer as if all  
7 the property was subject upon purchase to the use tax.

8           (B) However, the use tax portion of the local sales and  
9 use tax authorized under this chapter shall be computed only on the first two  
10 thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or  
11 sales price on the sale of:

12                   (i) Motor vehicles;

13                   (ii) Aircraft;

14                   (iii) Watercraft;

15                   (iv) Modular homes;

16                   (v) Manufactured homes; or

17                   (vi) Mobile homes.

18           (2) The taxes computed under subdivision (b)(1) shall be  
19 aggregated on a monthly basis, and the aggregate monthly amount shall be  
20 divided by the sum of the total purchases of the property on which the taxes  
21 are computed, and the quotient shall be multiplied by the amount of the  
22 taxpayer's property subsequently initially used and subject to levy of the  
23 use tax within the city or county during the month for which the monthly  
24 aggregate tax figure was computed, and the product shall be the amount of the  
25 use tax liability for the taxpayer for the month computed.

26  
27           26-82-116. Reporting.

28           Vendors collecting, reporting, and remitting sales and use taxes levied  
29 under this chapter shall collect, report, and pay the sales and use taxes in  
30 the same manner and at the same time as is prescribed by law for the  
31 collection, reporting, and payment of other local sales and use taxes.

32  
33           26-82-117. Capital improvement bonds.

34           (a) All or a specific portion of the local sales and use tax under  
35 this chapter may be pledged to bonds issued under §§ 14-164-301-14-164-340.

36           (b) If pledged under §§ 14-164-301-14-164-340, §§ 14-164-337 and 14-

1 164-339 apply to the disposition of the revenues from local sales and use tax  
2 so pledged.

3 (c) The local sales and use tax may not be repealed, abolished, or  
4 reduced while any bonds secured by a pledge of the local sales and use tax  
5 are outstanding.

6  
7 26-82-118. No effect on existing taxes.

8 The imposition of a local sales and use tax under this subchapter does  
9 not affect any existing local sales and use taxes levied by a city or county  
10 for economic development purposes.

11  
12 26-82-119. Rules.

13 The Director of the Department of Finance and Administration may  
14 promulgate reasonable rules to implement the enforcement, administration, and  
15 collection of the taxes authorized in this chapter.

16  
17 SECTION 2. Arkansas Code § 14-164-336(c), concerning the Local Sales  
18 and Use Tax Trust Fund, is amended to read as follows:

19 (c) The Treasurer of State shall transmit monthly to the treasurer of  
20 the municipality or county, as the case may be, or in the alternative, to a  
21 bank or other depository designated by the municipality or county, the moneys  
22 of the municipality or county held in the Local Sales and Use Tax Trust Fund  
23 established by this subchapter, subject to the charges payable and retainage  
24 authorized by §§ 26-74-201 – 26-74-219, § 26-74-221, §§ 26-74-315 – 26-74-  
25 317, §§ 26-75-201 – 26-75-221, § 26-75-223, § 26-75-317, ~~and~~ § 26-75-318, and  
26 the Local Sales and Use Tax Economic Development Project Funding Act, § 26-  
27 82-101 et seq.

28  
29 SECTION 3. Arkansas Code § 14-164-337(f)(3), concerning the pledge of  
30 preexisting sales and use tax to the retirement of bonds, is amended to read  
31 as follows:

32 (3) The Treasurer of State shall transmit monthly to the  
33 treasurer of the municipality or county, as the case may be, or, in the  
34 alternative, to a bank or other depository designated by the municipality or  
35 county, the moneys of the municipality or county held in the Local Sales and  
36 Use Tax Trust Fund established by this subchapter, subject to the charges

1 payable and retainage authorized by §§ 26-74-201 – 26-74-219, § 26-74-221, §§  
2 26-74-315 – 26-74-317, §§ 26-75-201 – 26-75-221, § 26-75-223, § 26-75-317,  
3 ~~and § 26-75-318,~~ and the Local Sales and Use Tax Economic Development Project  
4 Funding Act, § 26-82-101 et seq.

5  
6 SECTION 4. Arkansas Code § 14-164-338(c) and (d), concerning an  
7 alternative to the issuance of capital improvement bonds, is amended to read  
8 as follows:

9 (c) ~~The provisions of this~~ This section ~~shall~~ does not preclude or  
10 affect the ability of a municipality or county to levy a sales and use tax  
11 beyond the ~~twenty-four-month period~~ twenty-four-month period, unless so  
12 restricted on the ballot, or for less than the ~~twenty-four-month period~~  
13 twenty-four-month period, if stated on the ballot, under §§ 26-74-201 – 26-  
14 74-223, §§ 26-74-301 – 26-74-319, §§ 26-75-201 – 26-75-223, ~~and §§ 26-75-301~~  
15 ~~– 26-75-318,~~ and the Local Sales and Use Tax Economic Development Project  
16 Funding Act, § 26-82-101 et seq. and use all or a portion of the proceeds  
17 ~~thereof~~ to finance capital improvements of a public nature, with or without  
18 issuing bonds and with or without an election approving the use of the tax  
19 collections for capital improvements.

20 (d) ~~The purpose of this subsection is to clarify that this~~ This  
21 section does not ~~now, as amended, nor did it previously,~~ limit the authority  
22 of municipalities and counties to levy taxes for twenty-four (24) months only  
23 under §§ 26-74-201 – 26-74-223, §§ 26-74-301 – 26-74-319, §§ 26-75-201 – 26-  
24 75-223, ~~and §§ 26-75-301 – 26-75-318,~~ and the Local Sales and Use Tax  
25 Economic Development Project Funding Act, § 26-82-101 et seq. and use the  
26 proceeds ~~thereof~~ to finance capital improvements, and the General Assembly  
27 ~~hereby finds~~ and determines that §§ 26-74-201 – 26-74-223, §§ 26-74-301 – 26-  
28 74-319, §§ 26-75-201 – 26-75-223, ~~and §§ 26-75-301 – 26-75-318,~~ and the Local  
29 Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et  
30 seq., each provide for the levy of up to a one percent (1%) sales and use tax  
31 and the use ~~thereof~~ for any purpose for which the general funds of the  
32 municipality or county may be used unless restricted on the ballot to a  
33 specified purpose.

34  
35 SECTION 5. Arkansas Code § 14-164-339(e)(3), concerning the pledge of  
36 preexisting sales and use tax to the retirement of bonds, is amended to read

1 as follows:

2 (3) The Treasurer of State shall transmit monthly to the treasurer of  
3 the municipality or county, as the case may be, or in the alternative, to a  
4 bank or other depository designated by the municipality or county, the moneys  
5 of the municipality or county held in the Local Sales and Use Tax Trust Fund  
6 established by this subchapter, subject to the charges payable and retainage  
7 authorized by §§ 26-74-201 – 26-74-219, § 26-74-221, §§ 26-74-315 – 26-74-  
8 317, § 26-74-409, § 26-74-413, §§ 26-75-201 – 26-75-221, § 26-75-223, § 26-  
9 75-317, ~~and § 26-75-318,~~ and the Local Sales and Use Tax Economic Development  
10 Project Funding Act, § 26-82-101 et seq.

11

12 SECTION 6. Arkansas Code § 14-164-340(d) and (e)(1), concerning an  
13 alternative to the issuance of capital improvement bonds for criminal justice  
14 purposes, is amended to read as follows:

15 (d) ~~The provisions of this~~ This section ~~shall~~ does not preclude or  
16 affect the ability of a municipality or county to levy a sales and use tax  
17 beyond the thirty-six-month period, unless so restricted on the ballot, or  
18 for less than the thirty-six-month period, if stated on the ballot, under §§  
19 26-74-201 – 26-74-223, §§ 26-74-301 – 26-74-319, §§ 26-75-201 – 26-75-223,  
20 ~~and §§ 26-75-301 – 26-75-318,~~ and the Local Sales and Use Tax Economic  
21 Development Project Funding Act, § 26-82-101 et seq., and use all or a  
22 portion of the proceeds ~~thereof~~ to finance capital improvements for criminal  
23 justice purposes, with or without issuing bonds and with or without an  
24 election approving the use of the tax collections for capital improvements.

25 (e)(1) This section ~~shall~~ does not limit the authority of  
26 municipalities and counties to levy taxes for thirty-six (36) months or less  
27 only under §§ 26-74-201 – 26-74-223, §§ 26-74-301 – 26-74-319, §§ 26-75-201 –  
28 26-75-223, ~~and §§ 26-75-301 – 26-75-318,~~ and the Local Sales and Use Tax  
29 Economic Development Project Funding Act, § 26-82-101 et seq., and use the  
30 proceeds ~~thereof~~ to finance capital improvements, and the General Assembly  
31 ~~hereby finds~~ and determines that §§ 26-74-201 – 26-74-223, §§ 26-74-301 – 26-  
32 74-319, §§ 26-75-201 – 26-75-223, ~~and §§ 26-75-301 – 26-75-318,~~ and the Local  
33 Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et  
34 seq., each provide for the levy of up to a one percent (1%) sales and use tax  
35 and the use thereof for any purpose for which the general funds of the  
36 municipality or county may be used unless restricted on the ballot to a

1 specified purpose.

2

3 SECTION 7. Arkansas Code § 19-5-957(b), concerning the Identification  
4 Pending Trust Fund for Local Sales and Use Taxes, is amended to read as  
5 follows:

6 (b) ~~Such~~ The fund shall consist of money reported as local sales and  
7 use taxes collected in local taxing jurisdictions ~~which that~~ are not  
8 immediately identifiable and money collected in local jurisdictions that have  
9 no tax, ~~there~~ and the money in the fund is to be used for transfers to the  
10 Local Sales and Use Tax Trust Fund when a local tax jurisdiction is  
11 identified for money and for transfers to general revenues when the total  
12 amount in this fund exceeds fifty thousand dollars (\$50,000) as ~~set-out~~  
13 stated in §§ 26-74-221, ~~and 26-74-317, and 26-82-113~~, and shall also consist  
14 of vending devices sales taxes, § 26-57-1002(d)(2), and that portion of  
15 vending devices decal fees and penalties, §§ 26-57-1206 and 26-57-1208(b)(2),  
16 there to be distributed to cities and counties ~~as provided in~~ under §§ 26-74-  
17 221(a)(2)(C)(ii), ~~and 26-75-223(a)(2)(C)(ii), and 26-82-113(a)(2)(A)(ii).~~

18

19 SECTION 8. Arkansas Code § 19-6-301(124), concerning an enumeration of  
20 special revenues, is amended to read as follows:

21 (124) Three percent (3%) of local sales and use taxes, which are  
22 further identified as the three percent (3%) collection cost of the local  
23 sales and use taxes, imposed by ~~cities, as enacted by Acts 1981 (1st Ex. Sess.), No. 25,~~  
24 a city under § 26-75-217, and all laws amendatory thereto,  
25 ~~and imposed by counties, as enacted by Acts 1981, (1st Ex. Sess.), No. 26, a~~  
26 county under § 26-74-214, and all laws amendatory thereto a city or county  
27 under § 26-82-111;

28

29 SECTION 9. Arkansas Code § 26-57-1005(b), concerning the disposition  
30 of revenues from the vending devices sales tax, is amended to read as  
31 follows:

32 (b) All revenues derived from § 26-57-1002(d)(2) shall be deposited by  
33 the Treasurer of State into the Identification Pending Trust Fund for Local  
34 Sales and Use Taxes ~~in accordance with the provisions of~~ under §§ 26-74-221,  
35 ~~and 26-75-223, and 26-82-113~~, and all revenues deposited into that fund shall  
36 be distributed to the cities and counties of this state ~~in accordance with~~

1 ~~the provisions of under §§ 26-74-221(a)(2)(C)(ii), and 26-75-~~  
2 ~~223(a)(2)(C)(ii), and 26-82-113(a)(2)(A)(ii).~~

3  
4 SECTION 10. Arkansas Code § 26-57-1208(b)(2), concerning the  
5 disposition of revenues from the Vending Devices Decal Act of 1997, is  
6 amended to read as follows:

7 (2) Twenty percent (20%) of the fees collected under § 26-57-  
8 1206(a)(1)(B)-(E) and fifteen percent (15%) of the fees collected under § 26-  
9 57-1206(a)(1)(A) shall be deposited by the Treasurer of State into the  
10 Identification Pending Trust Fund for Local Sales and Use Taxes ~~in accordance~~  
11 ~~with the provisions of under §§ 26-74-221, and 26-75-223, and 26-82-113,~~ and  
12 all revenues deposited into that fund shall be distributed to the cities and  
13 counties of this state ~~in accordance with the provisions of under §§ 26-74-~~  
14 ~~221(a)(2)(C)(ii), and 26-75-223(a)(2)(C)(ii), and 26-82-113(a)(2)(A)(ii);~~ and  
15

16 SECTION 11. EFFECTIVE DATE. Sections 1 through 10 of this act are  
17 effective on the first day of the calendar quarter following the effective  
18 date of this act.

19  
20 /s/Ingram

21  
22  
23 **APPROVED: 03/30/2011**  
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