

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representatives Schexnayder, Miller, and Angel
5 By: Senators Bradford and Edwards

A Bill

HOUSE BILL 2160

For An Act To Be Entitled

8 "AN ACT TO PROVIDE THE ARKANSAS HIGHWAY COMMISSION AND
9 MUNICIPAL AND COUNTY GOVERNMENTS IN ARKANSAS A PROGRAM OF
10 FINANCIAL AID TO ASSIST THEM IN CONSTRUCTING FOUR-LANED
11 STATE HIGHWAYS AND LOCAL CONNECTING ROADS AND STREETS TO
12 IMPROVE ECONOMIC DEVELOPMENT AND TRANSPORTATION CORRIDORS;
13 TO PROVIDE FUNDING FOR THE PROGRAM BY LEVYING A WHOLESAL
14 EXCISE TAX ON GROSS RECEIPTS OF MOTOR FUEL SOLD BY
15 POSITION HOLDERS AND ON THE PURCHASE PRICE OF MOTOR FUEL
16 IMPORTED INTO ARKANSAS; TO AMEND ARKANSAS CODE ANNOTATED
17 § 26-52-401 TO CLARIFY DETAILS OF THE GASOLINE EXEMPTION
18 FROM SALE TAXES; TO DECLARE AN EMERGENCY; AND FOR OTHER
19 PURPOSES."

Subtitle

22 "TO PROVIDE THE STATE AND ITS CITY AND
23 COUNTY GOVERNMENTS A PROGRAM OF
24 FINANCIAL AID TO ASSIST THEM IN
25 CONSTRUCTING 4-LANED HIGHWAYS AND LOCAL
26 ROADS AND STREETS FOR ECONOMIC
27 DEVELOPMENT."

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

31 SECTION 1. This Act may be known and cited as the "Arkansas Highway
32 Infrastructure - Local Road and Street Program for Economic Development Act".

34 SECTION 2. (a) There is established a program of the State of
35 Arkansas to provide a program of highway construction and state assistance to

1 connect the state highway system to local roads and streets to expand the
2 efforts of the State of Arkansas to develop a program of highway
3 infrastructure construction to promote the economic development of various
4 parts and regions of Arkansas. The program is to be called the Arkansas
5 Highway Infrastructure - Local Road and Street Program for Economic
6 Development. The program shall consist of financial support to:

7 (1) construct four-laned highways in Arkansas intended to aid
8 economic development in various regions of Arkansas by improving the
9 development of the highway infrastructure and transportation corridors,
10 including specific use for matching federal funds for the proposed
11 interstates;

12 (2) accelerate the completion and aid in the construction of the
13 1991 Arkansas State Highway Commission road program where gasoline tax
14 revenues have fallen short of forecasts;

15 (3) aid cities and counties to construct and connect parts of
16 the state highway system to county roads and city streets in improve
17 industrial development potentials for cities and those county farm-to-market
18 roads; and

19 (4) financially aid city and county governments for
20 construction, reconstruction, and improvements to county roads and city
21 streets to improve traffic flows and develop new trade routes where funding
22 for city and county roads are inadequate to meet the needs of rapidly growing
23 areas or where local resources can not adequately meet the local
24 transportation funding needs.

25 (b) Nothing in this Act shall be construed to deprive or diminish the
26 powers and duties of the county judge of any county in the exercise of his
27 constitutional control over county roads.

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29 SECTION 3. Title 26, Chapter 57 of the Arkansas Code Annotated is
30 amended to add a new subchapter as follows:

31 "26-57-1101. Definitions. As used in this act:

32 (a) Director means the Director of the Department of Finance and
33 Administration.

34 (b) Export means with respect to a position holder or his agent, or
35 with respect to an exporter, or his agent, the delivery of motor fuel out of

1 this state.

2 (c) Exporter means any person who acquires motor fuel Arkansas for
3 the purpose of transporting or delivering the fuel to another state or
4 country.

5 (d) Gross receipts or gross proceeds means:

6 (1) the total amount of consideration for the sale of motor fuel
7 including federal motor fuel excise tax less deductions for state motor fuel
8 gallonage tax levied and collected pursuant to Title 26, Chapter 55 and
9 transportation charges; and,

10 (2) the value of motor fuel, including any federal motor fuel
11 excise tax, withdrawn from the stock of a position holder for distribution or
12 use by the position holder. The value is deemed equal to the price per
13 gallon, including any federal motor fuel excise tax, allocated to the
14 withdrawal by the position holder as reflected on the bill of lading or
15 manifest.

16 (e) Import means with respect to a position holder or his agent, or
17 with respect to an importer or his agent, the delivery of motor fuel into
18 Arkansas from out of state.

19 (f) Importer means any person who imports motor fuel to a location
20 in Arkansas other than to position holder at a terminal or refinery.

21 (g) Motor fuel means all products commonly or commercially known or
22 sold as gasoline regardless of their classification or uses. This definition
23 includes casinghead, absorption, and natural gasoline and condensate when
24 used without blending as a motor fuel or is sold for use in motors directly,
25 or is sold to those who blend for their own use. However, this definition
26 shall not include casinghead, absorption, and natural gasoline and condensate
27 when sold to be blended or compounded with other less volatile liquids in the
28 manufacture of commercial gasoline for motor fuel;

29 (h) Person includes any individual, company, partnership, joint
30 venture, joint agreement, mutual or other association, corporation, limited
31 liability company, estate, trust, business trust, receiver, or trustee
32 appointed by any state, federal, or other court, syndicate, this state, any
33 county, city, municipality, school district, or any other political
34 subdivision of this state or group or combination acting as a unit, in the
35 plural or singular number;

1 (i) Position holder means a person that imports or acquires
2 immediately upon import into Arkansas motor fuel by pipeline, marine vessel
3 or other form of delivery from within a state, territory or possession of the
4 United States into a terminal or refinery or that imports motor fuel into
5 Arkansas from a foreign country, or that produces, manufactures, or refines
6 motor fuel within Arkansas or that owns motor fuel in the pipeline and
7 terminal distribution system in Arkansas and is subject to the general taxing
8 or police jurisdiction of Arkansas and in any case is also registered under
9 Internal Revenue Code §4101 as in effect on the effective date of this Act
10 for transactions in taxable motor fuel in the bulk distribution system. A
11 terminal operator shall not be considered a position holder merely because
12 the terminal operator handles motor fuel or distillate special fuel consigned
13 to it within a terminal.

14 (j) Purchase price means the total consideration for the purchase of
15 motor fuel including federal motor fuel excise tax less deductions for state
16 motor fuel gallonage tax levied and collected pursuant to Title 26, Chapter
17 55 and transportation charges.

18 (k) Rack means a dock, platform, or an open bay with a series of
19 metered pumps and hoses for delivering motor fuel from a refinery or terminal
20 into a motor vehicle or other means of conveyance.

21 (l) Terminal means a fuel storage and distribution facility that is
22 supplied by pipeline, marine vessel or other source, and from which motor
23 fuel may be removed at a rack.

24 (m) Terminal Operator means the person who by ownership or
25 contractual agreement is charged with the responsibility and physical control
26 over the operation of a terminal. However, there shall be only one (1)
27 person charged with responsibility as operator at each terminal for purposes
28 of this Act.

29 26-57-1102. There is hereby levied a wholesale excise tax of six and
30 five tenths percent (6.5%) on:

31 (a) the gross receipts or gross proceeds derived from all sales of
32 motor fuel by position holders to any person in the State of Arkansas; and,

33 (b) the purchase price of motor fuel purchased by an importer for
34 sale, storage, use, distribution or consumption within this state.

35 26-57-1103 There is specifically exempted from the tax imposed by this

1 Act the following:

2 (a) The gross receipts or gross proceeds derived from sales to the
3 United States government.

4 (b) The gross receipts or gross proceeds derived from sales for export
5 outside of Arkansas.

6 (c) Motor fuel imported into Arkansas in the fuel tank of a motor
7 vehicle.

8 26-57-1104. (a) The importer or position holder subject to the taxes
9 levied by this Act shall file a monthly return and remit the tax for the
10 month to the director on or before the fifteenth day of the month next
11 following the month in which the sale was made.

12 (b) The returns shall be made upon forms prescribed and furnished by
13 the director and signed by the person required to collect and remit the tax
14 or his agent. The return shall contain such information as the director
15 shall require for the proper administration of this subchapter.

16 (c) This act is to be administered in all respects in accordance with
17 the Arkansas Tax Procedure Act, §26-18-101 et seq., unless otherwise
18 provided.

19 26-57-1105. Every importer and position holder subject to the tax
20 levied by this Act shall register with the Director and obtain a tax
21 reporting number."

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23 SECTION 4. Ark. Code Ann. §26-52-401(11) is amended to read as
24 follows:

25 "(11) Gross receipts or gross proceeds derived from the sale of
26 gasoline or motor vehicle fuel on which the motor vehicle fuel or gasoline
27 tax has been paid to the State of Arkansas and special fuel or petroleum
28 products sold for consumption by vessels, barges, and other commercial
29 watercraft and railroads. Nothing in this subsection shall exempt gasoline
30 from the wholesale gross receipts tax imposed pursuant to §26-57-1101, et
31 seq."

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33 SECTION 5. (a) The additional excise tax collected pursuant to
34 Arkansas Code § 26-57-1101, et seq. shall be classified as special revenues
35 and shall be deposited in the State Treasury. After deducting the amount to

1 be credited to the Constitutional Officers Fund and the State Central
2 Services Fund as provided under the Revenue Stabilization Law, Arkansas Code
3 §§ 19-5-101 et seq., the State Treasurer shall transfer on the last business
4 day of each month:

5 (1) *Fifteen percent (15%)* of the amount thereof to the County
6 Aid Fund;

7 (2) *Fifteen percent (15%)* of the amount thereof to the Municipal
8 Aid Fund; and

9 (3) *Seventy percent (70%)* of the amount thereof to the State
10 Highway and Transportation Department Fund.

11 (b) The funds shall be used for the purposes as set out in Sections 6
12 and 7 of this Act and also may be used for the same purposes as set out in
13 the Arkansas Highway Revenue Distribution Law, Arkansas Code §§ 27-70-201 et
14 seq.

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16 SECTION 6. (a) The Arkansas State Highway Commission and the Highway
17 and Transportation Department shall use its portion of the motor vehicle fuel
18 sales tax revenues received under this program primarily to construct four-
19 laned highways in Arkansas intended to aid economic development in various
20 geographic regions of Arkansas by improving the development of the highway
21 infrastructure and transportation corridors, including specific use for
22 matching federal funds for proposed interstate projects and to accelerate the
23 completion and aid in the construction of the 1991 Arkansas State Highway
24 Commission road program of three and four-laned roads where gasoline tax
25 revenues have fallen short of forecasts. Funds received under this program
26 by the State Highway Commission which are in excess of the Commission's needs
27 for these purposes may be used in any manner and on any other projects within
28 the Commission's discretion.

29 (b) Additionally, the Arkansas Highway and Transportation Department
30 shall aid cities and counties in planning and engineering for a program to
31 construct and connect parts of the state highway system to county roads and
32 city streets, thus improving industrial development potentials for those
33 cities and those farm-to-market roads in the counties.

34 (c) Nothing in this Act shall be construed to deprive or diminish the
35 powers and duties of the Arkansas State Highway Commission in the exercise of

1 its constitutional control over the state highway system.

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3 SECTION 7. (a) Each county and each municipality in Arkansas is
4 authorized to develop a program of construction, reconstruction, and
5 improvements of county roads and city streets and purchases of highway right-
6 of-way for use or construction of state-aid highways to aid cities and
7 counties to construct and connect parts of the state highway system to county
8 roads and city streets in improving industrial development potentials for
9 cities and those farm-to-market roads for the counties. Additionally, each
10 county and each municipal program is intended to improve traffic flows and
11 the development of new trade routes where funding for city and county roads
12 are inadequate to meet the needs of rapidly growing areas or where local
13 resources cannot adequately meet the local transportation funding needs. The
14 county judges and the mayors are authorized to employ architects and other
15 like professional and technical assistance as determined to be necessary for
16 the designing, planning, developing, and constructing the road or street
17 improvement program for their respective counties or cities.

18 (b) The Arkansas Highway and Transportation Department shall advise
19 the county judges of the various counties and the mayors of the
20 municipalities on all matters connected with the designing, planning,
21 developing, and constructing the road or street improvement program for their
22 respective counties or cities.

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24 SECTION 8. All provisions of this act of general and permanent nature
25 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
26 Revision Commission shall incorporate the same in the Code.

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28 SECTION 9. If any provisions of this act or the application thereof to
29 any person or circumstance is held invalid, the invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provisions or application, and to this end the provisions of this
32 act are declared to be severable.

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34 SECTION 10. All laws and parts of laws in conflict with this act are
35 hereby repealed.

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SECTION 11. Emergency. It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that construction of four-laned highways in Arkansas will provide access to the highway transportation network of the rest of the United States and North America; that it is essential for the economic development of Arkansas for the highway infrastructure to be improved by construction and connection of the state highway system; that current sources of revenues for highway construction and the funding for construction of local roads often do not provide an adequate level of funding to finance state and local transportation needs; and that a need for a statewide program of four-laned highway construction and financial aid is needed for county and municipal road and street construction. Therefore, in order to promote the economic development of the different geographic regions of Arkansas, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

/s/Rep. Schexnayder, et al

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