

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

# A Bill

SENATE BILL 660

4 By: Senators Dowd, Bookout, Hoofman, Wilson, and Mahony  
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## For An Act To Be Entitled

8 "LEVIES A WHOLESALE EXCISE TAX OF SIX AND ONE-HALF PERCENT  
9 ON GROSS RECEIPTS OF MOTOR FUEL SOLD BY POSITION HOLDERS  
10 IN ARKANSAS AND ON PURCHASE PRICE OF MOTOR FUEL IMPORTED  
11 FOR SALE, USE, STORAGE, DISTRIBUTION, OR CONSUMPTION IN  
12 ARKANSAS; DESIGNATES THE TAX AS SPECIAL REVENUES FOR USE  
13 IN PARTIAL REPAYMENT OF GENERAL OBLIGATIONS BONDS FOR  
14 *HIGHWAY CONSTRUCTION AND FOR UTILIZATION BY THE COUNTIES*  
15 *AND MUNICIPALITIES ON COUNTY ROADS AND MUNICIPAL STREETS;*  
16 *TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."*

## Subtitle

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19 "LEVIES 6.5% WHOLESALE MOTOR FUEL EXCISE  
20 TAX ON SALE OF MOTOR FUEL BY POSITION  
21 HOLDERS AND IMPORTATION OF MOTOR FUEL BY  
22 IMPORTERS FOR PARTIAL REPAYMENT OF  
23 GENERAL OBLIGATION HIGHWAY BONDS."  
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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28 SECTION 1. Title 26, Chapter 57 of the Arkansas Code Annotated is  
29 amended to add a new subchapter as follows:

30 "26-57-1101. Definitions. As used in this act:

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

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

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

4 (d) Gross receipts or gross proceeds means:

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

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10 excise tax, withdrawn from the stock of a position holder for distribution or  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

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

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

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

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

35 (i) Position holder means a person that imports or acquires

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

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

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

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

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

28 26-57-1102. There is hereby levied a wholesale excise tax of 6.5% on:

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

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

33 26-57-1103 There is specifically exempted from the tax imposed by this  
34 Act the following:

35 (a) The gross receipts or gross proceeds derived from sales to the

1 United States government.

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

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

6 26-57-1104. (a) The importer or position holder subject to the taxes  
7 levied by this Act shall file a monthly return and remit the tax for the  
8 month to the director on or before the fifteenth day of the month next  
9 following the month in which the sale was made.

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

14 (c) This act is to be administered in all respects in accordance with  
15 the Arkansas Tax Procedure Act, §26-18-101 et seq., unless otherwise  
16 provided. 26-57-1105. Every importer and position holder subject to the  
17 tax levied by this Act shall register with the Director and obtain a tax  
18 reporting number.

19 *26-57-1106. Each retail dealer or bulk consumer purchasing motor fuel*  
20 *shall be entitled to a refund equal to two cents (\$0.02) per gallon on the*  
21 *total amount of motor fuel delivered during each calendar quarter into the*  
22 *dealer's or bulk consumer's tanks which are located in cities, incorporated*  
23 *towns or planned communities defined in § 26-55-210. Claims for refund shall*  
24 *be filed for each calendar quarter in such manner and on such forms as*  
25 *required by the director. The refunds shall be paid from the revolving*  
26 *account in the Gasoline Tax Refund Account."*

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28 SECTION 2. Ark. Code Ann. §26-52-401(11) is amended to read as  
29 follows:

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

1 seq."

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3 SECTION 3. (a) There is hereby created on the books of the Treasurer  
4 of the State a special account within the State Highway and Transportation  
5 Department Fund to be designated as the 1995 Arkansas Highway Construction  
6 and Improvement Bond Account. The additional excise tax collected pursuant  
7 to Ark. Code Ann. §26-57-1101, et seq. shall be classified as special  
8 revenues pursuant to Ark. Code Ann. §19-6-301 and shall be deposited into the  
9 State Treasury and shall be distributed pursuant to Ark. Code Ann. § 27-70-  
10 206; provided, however, that notwithstanding the provisions of Ark. Code Ann.  
11 § 27-70-206 (3), seventy percent (70%) of such revenues available after the  
12 deposits required by Ark. Code Ann. § 27-70-206(1) and (2) shall be deposited  
13 in the 1995 Arkansas Highway Construction and Improvement bond Account of the  
14 State Highway and Transportation Department Fund, fifteen percent (15%) of  
15 such revenues, after such deposits, shall be transferred to the County Aid  
16 Fund for distribution and utilization pursuant to Ark. Code Ann. §27-70-207,  
17 and fifteen percent (15%) of such revenues, after such deposits, shall be  
18 transferred to the Municipal Aid Fund for distribution and utilization  
19 pursuant to Ark. Code Ann. § 27-70-207.

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21 SECTION 4. EFFECTIVE DATE. The taxes levied by Ark. Code Ann. §26-57-  
22 1101, et seq. shall not become effective until after a majority of the  
23 qualified electors of the state voting on the question approve the issuance  
24 of highway construction and improvement general obligation bonds to be repaid  
25 in part by the taxes levied by Ark. Code Ann. §26-57-1101, et seq. and  
26 deposited to the 1995 Arkansas Highway Improvement Bond Account in the State  
27 Highway and Transportation Department Fund in accordance with the Arkansas  
28 Highway General Obligation Bond Act of 1995. If such election is called by  
29 the Governor and the bond issue approved, the taxes levied by Ark. Code Ann.  
30 § 26-57-1101, et seq. shall be effective on the first day of the calendar  
31 month following ninety (90) days after publication of the Governor\_s  
32 proclamation of the election results.

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34 SECTION 5. TERMINATION OF TAX.

35 a. If bonds are issued pursuant to the Arkansas Highway General

1 Obligation Bond Act of 1995 (the "1995 Act"), the taxes levied by Ark. Code  
2 Ann. §26-57-1101, et seq. shall be abolished when there are no bonds  
3 outstanding to which tax collections are pledged as provided in the 1995 Act.

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

11           (A) The trustee certifies that the trustee has or will have sufficient  
12 funds set aside to pay the principal of and interest on the bonds when due at  
13 maturity or at redemption prior to maturity and the Governor certifies that  
14 the tax is not pledged to any other bonds; or

15           (B) The Governor certifies that there are no longer any bonds  
16 outstanding payable from tax collections.

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

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22           SECTION 7. If any provision of this act or the application thereof to  
23 any person or circumstance is held invalid, such invalidity shall not affect  
24 other provisions or applications of the act which can be given effect without  
25 the invalid provision or application, and to this end the provisions of this  
26 act are declared to be severable.

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28           SECTION 8. All laws and parts of laws in conflict with this act are  
29 hereby repealed.

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31           SECTION 9. EMERGENCY CLAUSE. It is hereby found and determined that  
32 the Arkansas state highway system is in desperate need of improvement,  
33 repair, and expansion; that the county road systems and municipal street  
34 systems are in desperate need of improvement, rehabilitation, and repair;  
35 that the Arkansas State Highway and Transportation Department is without

1 *sufficient funds for state-wide highway improvement projects; that necessary*  
2 *funding may be obtained by the issuance of bonds secured by an increase in*  
3 *fuel excise taxes for such highway projects; that necessary funding may also*  
4 *be obtained by an increase in such fuel excise taxes for county road and*  
5 *municipal street projects; and, that this act is designed to provide the*  
6 *necessary revenues for such highway, road and street projects. Therefore, an*  
7 *emergency is declared to exist and this act, being necessary for the*  
8 *immediate preservation of the public peace, health, and safety, shall be in*  
9 *full force and effective from and after passage and approval.*

10 */s/Dowd et al*

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***As Engrossed: 3/22/95 3/30/95 4/6/95***

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