

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

# A Bill

HOUSE BILL 1376

4  
5 By: Representatives House, Pace, Anderson, Burkes, Edwards, Hardwick, Harris, D. Hutchinson,  
6 Kenney, King, M. Martin, Wagner, Woods  
7 By: Senators Hendren, Madison

## For An Act To Be Entitled

11 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS  
12 CODE TO PROVIDE THAT CERTAIN COUNTY TAXES ON  
13 AVIATION FUEL BE REMITTED DIRECTLY TO THE  
14 REGIONAL AIRPORT LOCATED IN THE TAXING COUNTY;  
15 AND FOR OTHER PURPOSES.

## Subtitle

18 AN ACT TO AMEND VARIOUS SECTIONS OF THE  
19 ARKANSAS CODE TO PROVIDE THAT TAXES ON  
20 AVIATION FUEL BE REMITTED DIRECTLY TO  
21 THE REGIONAL AIRPORT.

22  
23  
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25  
26 SECTION 1. Arkansas Code § 14-164-336, pertaining to the Local Sales  
27 and Use Tax Trust Fund, is amended to add an additional subdivision to read  
28 as follows:

29 (d)(1) With the exception of revenue derived from taxes under (d)(2)  
30 of this section, revenue derived from a tax on aviation fuel by a city where  
31 a regional airport as described by the Regional Airport Act, § 14-362-101 et  
32 seq., is located shall be remitted by the Treasurer of State directly to the  
33 regional airport located within the levying city.

34 (2) Revenue derived from a tax on aviation fuel in effect on  
35 December 30, 1987, is not subject to this section.  
36



1 SECTION 2. Arkansas Code § 26-74-214 is amended to read as follows:  
 2 26-74-214. Disposition of funds.

3 (a)(1) The Director of the Department of Finance and Administration  
 4 shall maintain a record of the total amount of tax collected pursuant to this  
 5 subchapter and other subchapters authorizing county sales and use taxes in  
 6 each county and shall deposit all such revenues with the Treasurer of State.

7 (2)(A) Upon receipt of the funds, the Treasurer of State shall  
 8 deduct three percent (3%) of the funds as a charge by the state for its  
 9 services as specified in this subchapter and all other subchapters  
 10 authorizing county sales and use taxes, and shall credit the three percent  
 11 (3%) to the Constitutional and Fiscal Agencies Fund.

12 (B) In addition, the Treasurer of State may retain in the  
 13 Local Sales and Use Tax Trust Fund an amount not to exceed five percent (5%)  
 14 of the total amount received from the tax levied by each county, to be used  
 15 by the Treasurer of State to:

- 16 (i) Make remittances to the county for rebates made
- 17 by the county for taxes in excess of amounts specified by the particular
- 18 county ordinances paid by a taxpayer on a single transaction;
- 19 (ii) Make refunds for overpayment of the taxes; and
- 20 (iii) Redeem dishonored checks and drafts received
- 21 and deposited in the Local Sales and Use Tax Trust Fund.

22 (b)(1) Except as set forth in subsections (f) and (g) of this section,  
 23 ~~All all~~ funds received by the Treasurer of State from the sales tax levied by  
 24 each county ~~after deducting the three percent (3%) for the Constitutional and~~  
 25 ~~Fiscal Agencies Fund~~ subject to the charge deducted as cash funds under § 26-  
 26 74-214 (a)(2)(A) shall be deposited into the Local Sales and Use Tax Trust  
 27 Fund and shall be credited to the account of the county in which it was  
 28 collected.

29 (2)(A)(i) The Treasurer of State shall monthly transmit to the  
 30 county treasurer and to the city treasurer of each municipality located in a  
 31 county levying the tax authorized in this subchapter and all other  
 32 subchapters authorizing county sales and use taxes their per capita share, if  
 33 any, of the moneys received by the Treasurer of State from all of the sales  
 34 taxes levied by the county and credited to the account of the county in the  
 35 Local Sales and Use Tax Trust Fund.

36 (ii) The county treasurer of any county that has

1 levied a sales tax pursuant to this subchapter and that rebates taxes paid on  
 2 a single transaction in excess of a specified amount shall monthly certify to  
 3 the Treasurer of State the total amount of rebates paid since the preceding  
 4 certification, and the Treasurer of State shall remit that amount to the  
 5 county treasurer from the Local Sales and Use Tax Trust Fund.

6 (B)(i) If the ballot is silent on the method of  
 7 distribution, it shall be per capita among the county and each municipality  
 8 located within the county unless an interlocal agreement is executed between  
 9 the affected county and its municipalities indicating a different  
 10 distribution.

11 (ii) If an interlocal agreement is used, a copy of  
 12 the interlocal agreement shall be furnished to the Treasurer of State and the  
 13 distribution of the tax shall be as agreed upon in the interlocal agreement.

14 (iii) The ballot shall specify the method of  
 15 distribution contained in the interlocal agreement if any method of  
 16 distribution other than a per capita share is to be used.

17 (iv) A copy of the ballot shall be furnished to the  
 18 Treasurer of State.

19 (c)(1) Funds received by the counties and municipalities pursuant to  
 20 the provisions of this subchapter may be used by the counties and  
 21 municipalities for any purpose for which the county general funds or the city  
 22 general funds may be used, subject to designations set forth in the ballot,  
 23 if any.

24 (2)(A) The ballot for the tax may provide for distribution to a  
 25 public entity in the county other than a municipality or a county.

26 (B) In the case of allocations other than to a county or  
 27 municipality, the Treasurer of State shall transmit funds to the county  
 28 treasurer, and the county treasurer shall promptly transmit the funds to the  
 29 designated public entity.

30 (3) If the funds received are as a result of a ballot dedicating  
 31 all or a portion of a tax to a technical college, community college, two-year  
 32 college, or satellite campus of a community college for capital improvements  
 33 or for maintenance and operation, the Treasurer of State shall transmit tax  
 34 funds for the college to the county treasurer, and the county treasurer shall  
 35 promptly transmit the funds to the college for which the tax was approved.

36 (d) The Treasurer of State may make refunds for overpayment of the

1 county sales tax and redeem dishonored checks and drafts issued in payment of  
2 the county sales tax from the Local Sales and Use Tax Trust Fund.

3 (e)(1) When any tax adopted by a county pursuant to this subchapter is  
4 abolished, the director shall retain in the account of that county in the  
5 Local Sales and Use Tax Trust Fund for a period of one (1) year an amount  
6 equal to five percent (5%) of the final remittance to the county and  
7 municipalities in the county at the time of termination of the collection of  
8 the tax to:

- 9 (A) Cover possible rebates by the county;
  - 10 (B) Cover refunds for overpayment of taxes; and
  - 11 (C) Redeem dishonored checks and drafts deposited to the
- 12 credit of the Local Sales and Use Tax Trust Fund.

13 (2) After one (1) year has elapsed after the effective date of  
14 the abolition of the tax in any county, the director shall transfer the  
15 balance in that county's account to the county and municipalities in the  
16 county and shall close the account.

17 (f)(1) As indicated by a certified copy of an ordinance of the quorum  
18 court of the county previously filed with the director and the Treasurer of  
19 State, any moneys collected that are pledged to secure lease rentals or the  
20 payment of bonds authorized by this subchapter shall not be deposited in the  
21 State Treasury but shall be deposited by the Treasurer of State in a bank or  
22 banks designated by the county, as cash funds, and transmitted to the county  
23 subject to the charges payable and retainage authorized in this section.

24 (2) Charges deducted shall be transmitted to the Treasurer of State and  
25 amounts retained shall be retained by the director as cash funds.

26 (g)(1) Except for revenue collected under subdivision (g)(2) of this  
27 section, money collected that is derived from a tax on aviation fuel levied  
28 by a county where a regional airport as described by the Regional Airport  
29 Act, § 14-362-101 et seq. is located, shall not be deposited into the State  
30 Treasury but shall be deposited as cash funds by the Treasurer of State in a  
31 bank or banks designated by the regional airport located within the levying  
32 county and transmitted to the regional airport, subject to the charge  
33 deducted as cash funds under Arkansas Code § 26-74-214 (a)(2)(A).

34 (2) Revenue derived from a tax on aviation fuel in effect on  
35 December 30, 1987 is not subject to this section.

36

1 SECTION 3. Arkansas Code § 26-74-313, pertaining to the disposition of  
 2 county sales and use tax, is amended to read as follows:

3 26-74-313. Disposition of funds.

4 (a) The director shall maintain a record of the total amount of tax  
 5 collected pursuant to this subchapter and other subchapters authorizing  
 6 county sales and use taxes in each county. The director shall determine the  
 7 population of the unincorporated area of each of the counties and shall  
 8 furnish the information to the State Treasurer.

9 (b) Except as set forth in ~~subsection~~ subsections (c) and (e) of this  
 10 section, any tax collected by the director under this subchapter on behalf of  
 11 any county shall be deposited with the State Treasurer in trust and shall be  
 12 kept in a separate suspense account.

13 (c) Any moneys collected by the director, as indicated by a certified  
 14 copy of an ordinance of the quorum court of the county, previously filed with  
 15 the director and the Treasurer of State, which are pledged to secure the  
 16 payment of lease rentals or bonds authorized by this subchapter shall not be  
 17 deposited in the State Treasury but shall be deposited by the Treasurer of  
 18 State in banks designated by the county, as cash funds, and transmitted to  
 19 the county subject to the charges payable to the State of Arkansas set forth  
 20 in subsection (d) of this section. Charges deducted shall be transmitted to  
 21 the Treasurer of State.

22 (d)(1) The Treasurer of State shall transmit to the treasurer or  
 23 financial officer of each city and county their per capita share, after  
 24 deducting the amount required for claims, overpayments, and bad checks, as  
 25 certified by the director.

26 (2)(A) Except as is otherwise provided in subdivision (8) of  
 27 this subsection, the last official federal decennial census or later special  
 28 census which included the county as a whole shall be used in computing the  
 29 per capita share that each city and county shall receive from the proceeds of  
 30 the tax. Every county that is petitioned by, and city or town located in that  
 31 county for, a countywide special census to be conducted shall request a  
 32 countywide special census on the condition that the city or town requesting  
 33 the census post adequate bond with the county clerk to cover the cost of the  
 34 census. Further, the cost of conducting the census shall be borne by the  
 35 several taxing units within the county in the same proportion that they will  
 36 receive an increase in the distribution of a countywide sales tax as a result

1 of the special census.

2 (B) However, in the case of those counties in which an  
 3 official census has been conducted in a municipality therein since the last  
 4 federal decennial census and before April 7, 1987, the proceeds from the  
 5 countywide sales tax shall continue to be distributed in the manner and under  
 6 the same formula as was used for the distribution of funds prior to April 7,  
 7 1987, until such time as a countywide census is conducted in that county.

8 (3) Transmittals shall be made at least quarterly in each fiscal  
 9 year. Funds so transmitted may be used by the cities and counties for any  
 10 purpose for which the city's general funds or county's general funds may be  
 11 used. Before transmitting these funds, the Treasurer of State shall deduct  
 12 three percent (3%) of the sum collected as a charge by the state for its  
 13 services specified in this subchapter, and the amount so deducted shall be  
 14 deposited by the Treasurer of State to the credit of the Constitutional  
 15 Officers Fund and the State Central Services Fund or to any successor State  
 16 Treasury fund or funds established by law to replace the Constitutional  
 17 Officers Fund and the State Central Services Fund.

18 (4) The director is authorized to retain in the suspense account  
 19 a balance not to exceed five percent (5%) of the amount remitted to the local  
 20 governments. The director is authorized to make refunds from the suspense  
 21 account of any overpayments made and to redeem dishonored checks and drafts  
 22 deposited to the credit of the suspense account.

23 (5) When any tax adopted pursuant to this subchapter is  
 24 thereafter abolished, the director shall retain in the suspense account for a  
 25 period of one (1) year five percent (5%) of the final remittance to the local  
 26 governments at the time of termination of collection of the tax to:

27 (A) Cover possible refunds for overpayment of the tax; and

28 (B) Redeem dishonored checks and drafts deposited to the  
 29 credit of the suspense account.

30 (6) After one (1) year has elapsed after the effective date of  
 31 the abolishment of the tax, the director shall remit the balance of the  
 32 account to the governing bodies of the cities and counties and close the  
 33 account.

34 (7) The restriction of the use of the last federal decennial  
 35 census referred to in this subsection shall not apply in the case of  
 36 annexation, nor shall it affect the taking of a special census for any

1 purpose other than the distribution of a countywide sales tax.

2 (8) It is the intention of this subsection that the proceeds  
 3 from the countywide gross receipts tax shall be allocated and distributed to  
 4 each county and the municipalities therein on the basis of the last federal  
 5 decennial census or the last countywide special census, whichever is the most  
 6 recent. However, in those counties in which one (1) or more municipalities  
 7 had a special census before April 7, 1987, and the proceeds of the tax were  
 8 distributed on the basis of the special census, the proceeds of the tax shall  
 9 continue to be allocated and distributed in the same manner as those funds  
 10 were distributed before April 7, 1987, until a special countywide census or a  
 11 federal decennial census is conducted in the county.

12 (e)(1) Except for revenue collected under (e)(2) of this  
 13 section, money collected that is derived from a tax on aviation fuel levied  
 14 by a county where a regional airport as described by the Regional Airport  
 15 Act, § 14-362-101 et seq. is located shall not be deposited in the State  
 16 Treasury but shall be deposited as cash funds by the Treasurer of State in a  
 17 bank or banks designated by the regional airport located within the levying  
 18 county and transmitted to the regional airport, subject to the charge  
 19 deducted as cash funds under § 26-74-214 (a)(2)(A).

20 (2) Revenue derived from a tax on aviation fuel in effect on  
 21 December 30, 1987, is not subject to this subsection.

22  
 23 SECTION 4. Arkansas Code § 26-74-409 is amended to read as follows:  
 24 26-74-409. Disposition of funds.

25 (a)(1) The director shall maintain a record of the total amount of tax  
 26 collected pursuant to this subchapter and all other subchapters authorizing a  
 27 county sales and use tax in each county and shall deposit all such revenues  
 28 with the Treasurer of State.

29 (2)(A) Upon receipt of the funds, the Treasurer of State shall  
 30 deduct three percent (3%) thereof as a charge by the state for its services  
 31 as specified in this subchapter and shall credit the three percent (3%) to  
 32 the Constitutional Officers Fund and the State Central Services Fund.

33 (B) In addition, the Treasurer of State is authorized to  
 34 retain in the Local Sales and Use Tax Trust Fund an amount not to exceed five  
 35 percent (5%) of the total amount received from the tax levied by each county,  
 36 to be used by the Treasurer of State to:

1 (i) Make remittances to the county for rebates made  
 2 by the county for taxes in excess of amounts specified by the particular  
 3 county ordinances paid by a taxpayer on a single transaction;

4 (ii) Make refunds for overpayment of the taxes; and

5 (iii) Redeem dishonored checks and drafts received  
 6 and deposited in the Local Sales and Use Tax Trust Fund.

7 (3) Furthermore, the Treasurer of State shall determine which  
 8 cities or towns within the county do not levy a local sales tax and remit to  
 9 those cities or towns a percentage of the tax based upon the population of  
 10 the city or town versus the population of the county.

11 (b)(1) Except as set forth in subsection (g) of this section, All all  
 12 funds received by the Treasurer of State from the sales tax levied by each  
 13 county, after deducting the amounts required by subsection (a) of this  
 14 section, shall be credited to the account of the county in which collected.

15 (c) Funds received by the counties pursuant to the provisions of this  
 16 subchapter may be used by the counties for any purpose for which the county  
 17 general fund or county road fund may be used, including allocating portions  
 18 to municipalities located therein.

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

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

28 (1) Cover possible rebates by the county;

29 (2) Cover refunds for overpayment of taxes; and

30 (3) Redeem dishonored checks and drafts deposited to the credit  
 31 of the Local Sales and Use Tax Trust Fund.

32 (f) After one (1) year has elapsed after the tax ceases in any county,  
 33 the director shall transfer the balance in that county's account to the  
 34 county and shall close the account.

35 (g)(1) Except for revenue collected under subdivision (g)(2) of this  
 36 section, money collected that is derived from a tax on aviation fuel levied



1 by a county where a regional airport as described by the Regional Airport  
2 Act, § 14-362-101 et seq., is located shall not be deposited into the State  
3 Treasury but shall be deposited as cash funds by the Treasurer of State in a  
4 bank or banks designated by the regional airport located within the levying  
5 county and transmitted to the regional airport, subject to the charge  
6 deducted as cash funds under § 26-74-214 (a)(2)(A).

7 (2) Revenue derived from a tax on aviation fuel in effect on  
8 December 30, 1987 is not subject to this section.

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10  
11 SECTION 5. Arkansas Code § 26-75-217, pertaining to the disposition of  
12 municipal sales and use tax, is amended to add an additional subsection to  
13 read as follows:

14 (e)(1) Except for revenue collected under subdivision (e)(2) of this  
15 section, money collected from a tax on aviation fuel by a county in which a  
16 regional airport as described by the Regional Airport Act, § 14-362-101 et  
17 seq. is located shall not be deposited into the State Treasury but shall be  
18 deposited as cash funds by the Treasurer of State in a bank or banks  
19 designated by the regional airport located within the levying county and  
20 transmitted to the regional airport, subject to the charge deducted as cash  
21 funds under § 26-74-214 (a)(2)(A).

22 (2) Revenue derived from a tax on aviation fuel in effect on  
23 December 30, 1987, is not subject to this subsection.

24  
25 SECTION 6. Arkansas Code § 26-75-506, pertaining to the disposition of  
26 municipal sales and use tax, is amended to add an additional subsection to  
27 read as follows:

28 (c)(1) Except for revenue collected under subdivision (c)(2) of this  
29 section, money collected from a tax on aviation fuel levied by a county in  
30 which a regional airport as described by the Regional Airport Act, § 14-362-  
31 101 et seq., is located shall not be deposited into the State Treasury but  
32 shall be deposited as cash funds by the Treasurer of State in a bank or banks  
33 designated by the regional airport located within the levying county and  
34 transmitted to the regional airport, subject to the charge deducted as cash  
35 funds under § 26-74-214 (a)(2)(A).

36 (2) Revenue derived from a tax on aviation fuel in effect on

1 December 30, 1987 is not subject to this subsection.

2  
3 SECTION 7. Arkansas Code § 26-81-107 is amended to read as follows:

4 26-81-107. Record of collections - Deposit with the Treasurer of State.  
5 [Effective July 1, 2007.]

6 (a) The Director of the Department of Finance and Administration shall  
7 maintain a record of the total amount of tax collected pursuant to this  
8 chapter and other subchapters authorizing county sales and use tax in each  
9 county and shall deposit all such revenues with the Treasurer of State.

10 (b)(1) Upon receipt of the funds, the Treasurer of State shall deduct  
11 three percent (3%) of the funds as a charge by the state for its services as  
12 specified in this chapter and shall credit the three percent (3%) to the  
13 Constitutional and Fiscal Agencies Fund.

14 (2) In addition, the Treasurer of State is authorized to retain  
15 in the Local Sales and Use Tax Trust Fund an amount not to exceed five  
16 percent (5%) of the total amount received from the tax levied by each county,  
17 to be used by the Treasurer of State to:

18 ~~(1)(A)~~ Make remittances to the county for rebates made by  
19 the county for taxes, if any, in excess of amounts specified by the  
20 particular county ordinances paid by a taxpayer;

21 ~~(2)(B)~~ Make refunds for overpayment of the taxes; and

22 ~~(3)(C)~~ Redeem dishonored checks and drafts received and  
23 deposited in the Local Sales and Use Tax Trust Fund.

24 (c)(1) Except as set forth in subsection (d) of this section, All all  
25 funds received by the State Treasurer from the sales tax levied by each  
26 county after deducting the ~~three percent (3%) for the Constitutional and~~  
27 ~~Fiscal Agencies Fund~~ charges under § 26-74-214 shall be deposited in the  
28 Local Sales and Use Tax Trust Fund and shall be credited to the account of  
29 the county in which collected.

30 (2)(A) The Treasurer of State shall transmit monthly to the  
31 county treasurer and to the municipal treasurer of each municipality located  
32 in a county levying the tax authorized in this chapter their per capita share  
33 of the moneys received by the Treasurer of State from the tax levied by the  
34 county and credited to the account of the county in the Local Sales and Use  
35 Tax Trust Fund.

36 (B) The county treasurer of any county that has levied a

1 sales and use tax pursuant to this chapter and that rebates taxes paid in  
2 excess of a specified amount shall monthly certify to the Treasurer of State  
3 the total amount of rebates paid since the preceding certification, and the  
4 Treasurer of State shall remit that amount to the county treasurer from the  
5 Local Sales and Use Tax Trust Fund.

6 (d)(1) Except for revenue collected under subdivision (d)(2) of this  
7 section, money collected that is derived from a tax on aviation fuel levied  
8 by a county where a regional airport as described by the Regional Airport  
9 Act, § 14-362-101 et seq., is located shall not be deposited into the State  
10 Treasury but shall be deposited as cash funds by the Treasurer of State in a  
11 bank or banks designated by the regional airport located within the levying  
12 county and transmitted to the regional airport, subject to the charge  
13 deducted as cash funds under § 26-74-214 (a)(2)(A).

14 (2) Revenue derived from a tax on aviation fuel in effect on  
15 December 30, 1987, is not subject to this subsection.

16  
17 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the  
18 General Assembly that the current procedure for revenue distribution to the  
19 regional airport beneficiaries is cumbersome and inefficient; that the  
20 regional airport beneficiaries of the funds levied under the Regional Airport  
21 Act are suffering material adverse consequences under current procedures; and  
22 that accelerated receipt of those funds is appropriate. Therefore, an  
23 emergency is declared to exist and this act being immediately necessary for  
24 the preservation of the public peace, health, and safety shall become  
25 effective on:

26 (1) The date of its approval by the Governor;

27 (2) If the bill is neither approved nor vetoed by the Governor,  
28 the expiration of the period of time during which the Governor may veto the  
29 bill; or

30 (3) If the bill is vetoed by the Governor and the veto is  
31 overridden, the date the last house overrides the veto.