

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
4

As Engrossed: H2/12/07

A Bill

HOUSE BILL 1376

5 By: Representatives House, Pace, Anderson, Burkes, Edwards, Hardwick, Harris, D. Hutchinson,
6 Kenney, King, M. Martin, Wagner, Woods
7 By: Senators Hendren, Madison
8
9

For An Act To Be Entitled

11 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
12 CODE TO PROVIDE THAT CERTAIN CITY AND COUNTY
13 TAXES ON AVIATION FUEL BE REMITTED DIRECTLY TO
14 THE REGIONAL AIRPORT LOCATED IN THE TAXING
15 COUNTY; AND FOR OTHER PURPOSES.
16

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 or
31 county where a regional airport as described by the Regional Airport Act, §
32 14-362-101 et seq., is located shall be remitted by the Treasurer of State
33 directly to the regional airport located within the levying city or county.

34 (2) Revenue derived from a tax on aviation fuel in effect on December
35 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 the State from the sales tax
24 levied by each county after deducting the three percent (3%) for the
25 Constitutional and Fiscal Agencies Fund shall be deposited into the Local
26 Sales and Use Tax Trust Fund and shall be credited to the account of the
27 county in which it was collected.

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

35 (ii) The county treasurer of any county that has
36 levied a sales tax pursuant to this subchapter and that rebates taxes paid on

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

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

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

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

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

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

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

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

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

35 (d) The Treasurer of State may make refunds for overpayment of the
36 county sales tax and redeem dishonored checks and drafts issued in payment of

1 the county sales tax from the Local Sales and Use Tax Trust Fund.

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

8 (A) Cover possible rebates by the county;

9 (B) Cover refunds for overpayment of taxes; and

10 (C) Redeem dishonored checks and drafts deposited to the
11 credit of the Local Sales and Use Tax Trust Fund.

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

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

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

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

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

35

36 SECTION 3. Arkansas Code § 26-74-313, pertaining to the disposition of

1 county sales and use tax, is amended to read as follows:

2 26-74-313. Disposition of funds.

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

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

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

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

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

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

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

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

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

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

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

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

33 (7) The restriction of the use of the last federal decennial
34 census referred to in this subsection shall not apply in the case of
35 annexation, nor shall it affect the taking of a special census for any
36 purpose other than the distribution of a countywide sales tax.

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

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

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

21
22 SECTION 4. Arkansas Code § 26-74-409 is amended to read as follows:
23 26-74-409. Disposition of funds.

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

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

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

36 (i) Make remittances to the county for rebates made

1 by the county for taxes in excess of amounts specified by the particular
2 county ordinances paid by a taxpayer on a single transaction;

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

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

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

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

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

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

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

27 (1) Cover possible rebates by the county;

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

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

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

34 (g)(1) Except for revenue collected under subdivision (g)(2) of this
35 section, money collected that is derived from a tax on aviation fuel levied
36 by a county where a regional airport as described by the Regional Airport

1 Act, § 14-362-101 et seq., is located shall not be deposited into the State
2 Treasury but shall be deposited as cash funds by the Treasurer of State in a
3 bank or banks designated by the regional airport located within the levying
4 county and transmitted to the regional airport, subject to the charges by the
5 state for its services as specified in this section.

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

8
9 SECTION 5. Arkansas Code § 26-75-217, pertaining to the disposition of
10 municipal sales and use tax, is amended to add an additional subsection to
11 read as follows:

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

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

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

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

36

1 SECTION 7. Arkansas Code § 26-81-107 is amended to read as follows:
2 26-81-107. Record of collections - Deposit with the Treasurer of
3 State. [Effective until July 1, 2007.]

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

8 (b) Upon receipt of the funds, the State Treasurer shall deduct three
9 percent (3%) thereof as a charge by the state for its services as specified
10 in this chapter and shall credit the three percent (3%) to the Constitutional
11 and Fiscal Agencies Fund. In addition, the State Treasurer is authorized to
12 retain in the Local Sales and Use Tax Trust Fund an amount not to exceed five
13 percent (5%) of the total amount received from the tax levied by each county,
14 to be used by the State Treasurer to:

15 (1) Make remittances to the county for rebates made by the
16 county for taxes, if any, in excess of amounts specified by the particular
17 county ordinances paid by a taxpayer on a single transaction;

18 (2) Make refunds for overpayment of the taxes; and

19 (3) Redeem dishonored checks and drafts received and deposited
20 in the Local Sales and Use Tax Trust Fund.

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

26 (2) The State Treasurer shall transmit monthly to the county
27 treasurer and to the municipal treasurer of each municipality located in a
28 county levying the tax authorized in this chapter their per capita share of
29 the moneys received by the State Treasurer from the tax levied by such county
30 and credited to the account of the county in the Local Sales and Use Tax
31 Trust Fund. The county treasurer of any county which has levied a sales and
32 use tax pursuant to this chapter and which rebates taxes paid on a single
33 transaction in excess of a specified amount shall monthly certify to the
34 State Treasurer the total amount of rebates paid since the preceding
35 certification, and the State Treasurer shall remit that amount to the county
36 treasurer from the Local Sales and Use Tax Trust Fund.

1 (d)(1) Except for revenue collected under subdivision (d)(2) of this
 2 section, money collected that is derived from a tax on aviation fuel levied
 3 by a county where a regional airport as described by the Regional Airport
 4 Act, § 14-362-101 et seq., is located shall not be deposited into the State
 5 Treasury but shall be deposited as cash funds by the Treasurer of State in a
 6 bank or banks designated by the regional airport located within the levying
 7 county and transmitted to the regional airport, subject to the charges by the
 8 state for its services as specified in this section.

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

11
 12 SECTION 8. Arkansas Code § 26-81-107 is amended to read as follows:

13 26-81-107. Record of collections - Deposit with the Treasurer of State.
 14 [Effective July 1, 2007.]

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

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

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

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

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

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

33 (c)(1) Except as set forth in subsection (d) of this section, ~~All~~ all
 34 funds received by the State Treasurer from the sales tax levied by each
 35 county after deducting the three percent (3%) for the Constitutional and
 36 Fiscal Agencies Fund shall be deposited in this Local Sales and Use Tax Trust

1 *Fund and shall be credited to the account of the county in which collected.*

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

8 (B) The county treasurer of any county that has levied a
9 sales and use tax pursuant to this chapter and that rebates taxes paid in
10 excess of a specified amount shall monthly certify to the Treasurer of State
11 the total amount of rebates paid since the preceding certification, and the
12 Treasurer of State shall remit that amount to the county treasurer from the
13 Local Sales and Use Tax Trust Fund.

14 (d)(1) Except for revenue collected under subdivision (d)(2) of this
15 section, money collected that is derived from a tax on aviation fuel levied
16 by a county where a regional airport as described by the Regional Airport
17 Act, § 14-362-101 et seq., is located shall not be deposited into the State
18 Treasury but shall be deposited as cash funds by the Treasurer of State in a
19 bank or banks designated by the regional airport, subject to the charges by
20 the state for its services as specified in this section.

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

23
24 SECTION 9. EMERGENCY CLAUSE. It is found and determined by the
25 General Assembly that the current procedure for revenue distribution to the
26 regional airport beneficiaries is cumbersome and inefficient; that the
27 regional airport beneficiaries of the funds levied under the Regional Airport
28 Act are suffering material adverse consequences under current procedures; and
29 that accelerated receipt of those funds is appropriate. Therefore, an
30 emergency is declared to exist and this act being immediately necessary for
31 the preservation of the public peace, health, and safety shall become
32 effective on:

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

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

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

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/s/ House, et al