

RESOLUTION NO. 23- 8851

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF PLUMAS DECLARING AN EMERGENCY UNDER
PROPOSITION 218, CALLING FOR THE PLACEMENT OF A SPECIAL
TAX MEASURE ON THE BALLOT OF THE MARCH 5, 2024 ELECTION
TO ADOPT A TRANSACTIONS AND USE TAX, AND REQUESTING
THAT IT BE CONSOLIDATED WITH THE STATEWIDE PRIMARY
ELECTION TO BE HELD ON MARCH 5, 2024**

WHEREAS, the Board of Supervisors of the County of Plumas ("County") holds the authority to levy a Transactions and Use Tax for special purposes pursuant to California Revenue and Taxation Code section 7285, subject to approval by a 2/3 vote of the electorate pursuant to Article XIIC, Section 2 of the California Constitution ("Proposition 218"); and

WHEREAS, the Board of Supervisors would like to submit to the voters a measure introducing a Transactions and Use Tax ("Sales Tax") of three fourth percent (3/4%) on the sale of all tangible personal property sold at retail in the County; and

WHEREAS, the Sales Tax is a special tax, the revenue of which will be utilized to provide the Citizens of Plumas County Sheriff services through the Plumas County Sheriff's Office; and

WHEREAS, like many other Counties, the County has been undergoing a financial crisis due to the economic downturn and takeaways by the state. The County Administrative Officer also identified in her Mid-Year Budget Review FY 22/23 report to the Board of Supervisors, that Plumas County has had unique fiscal restraints from the North Complex Fire, The Dixie Fire, and has a high vacancy rate due, in large part, to the lack of competitive wages the County can afford to pay; and

WHEREAS, the County has historically worked diligently to make all possible cuts to its budget; and

WHEREAS, the County has evaluated the impacts of financial constraints on the County's ability to provide vital services to the public, including evaluation and implementation of measures to reduce costs, as well as measures to increase revenue; and

WHEREAS, the Plumas County Sheriff's Office has had to reduce patrols throughout the County due to lack of staffing within the Sheriff's Office, which directly leads to, amongst other crimes, an increase of property crimes and violent crimes to the citizens in Plumas County. The decrease in patrols is due to a lack of staffing, which is directly linked to the lack of funding provided to the Sheriff's Office. This current fiscal emergency inhibits the ability of the Sheriff to attract and retain qualified personnel, and purchase equipment to better serve the community; and

WHEREAS, the County believes only a locally-approved voter funding source would guarantee that new revenue stays in the County to help County residents have better Sheriff services; and

WHEREAS, without immediate voter approval of the proposed Sales Tax, the County will face serious financial shortfalls and be required to reduce essential municipal services, which will endanger the health, safety, and general welfare of the County and its residents and, as such, there is a need to adopt the Sales Tax in order to maintain adequate Sheriff's Office services for the health, safety, and general welfare of the residents of the County; and

WHEREAS, pursuant to Proposition 218 any special tax measure submitted to the voters must be consolidated with a regularly scheduled general election for members of the Board of Supervisors except in cases of emergency, as determined by a unanimous vote of the Board of Supervisors; and

WHEREAS, the next regularly scheduled general election at which Board of Supervisors members are to be elected is not until November 5, 2024; and

WHEREAS, the health, safety, and general welfare of the citizens of the County would be endangered if the County was unable to place the Sales Tax before its voters until November 5, 2024, as the County requires additional financial resources in order to continue to preserve and maintain essential County services at current levels; and

WHEREAS, there is a Statewide primary election scheduled for March 5, 2024, with this election being conducted in Plumas County by the Plumas County Registrar of Voters; and

WHEREAS, the Board of Supervisors unanimously finds and declares that the financial circumstances of the County require immediate and urgent enactment of the Sales Tax to increase revenues to the County to preserve the public peace, health, safety, and welfare of the community, to avoid work stoppages and Sheriff service disruptions, and to continue to provide valued community services; and

WHEREAS, all circumstances described above create an emergency situation warranting the placement of a measure on the next available special election ballot to permit the voters to decide on the Sales Tax pursuant to Proposition 218; and

WHEREAS, the Board of Supervisors desires to consolidate the Sales Tax ballot measure with the Statewide primary election to be held on March 5, 2024;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PLUMAS:

Section 1. That pursuant to California Constitution Article XIII C, section 2(b),

the Board of Supervisors hereby unanimously declares the existence of an emergency in that there are imminent financial risks and dangers, as described in the Recitals, to the public welfare and the County's financial ability to provide essential municipal services without disruption, so that a special election is necessary to address such risks and dangers.

Section 2. That the Board of Supervisors, pursuant to its right and authority, does call a Special Municipal Election and orders submitted to the voters at a Special Municipal Election to be held and consolidated with the Statewide primary election on Tuesday, March 5, 2024, the following questions:

BALLOT MEASURE # _____	Yes
Shall Ordinance No. 23- _____ of the County of Plumas, authorizing the County of Plumas to impose a special transaction and use tax in the total amount of three fourth percent (3/4%) to be used solely for purpose of providing the citizens with Sheriff services through the Plumas County Sheriff's Office be approved?	No

Section 3. That the proposed complete text of the County's Transactions and Use Tax Ordinance submitted to the voters is attached hereto as Attachment "A".

Section 4. That the vote requirement for the measure to pass is 2/3 (66.666%) of the votes cast.

Section 5. That the Board of Supervisors of the County of Plumas is hereby requested to, and consent and agree to, the consolidation of the election on this ballot measure with the Statewide primary election to be held on March 5, 2024, and to direct the Plumas County Registrar of Voters to take any and all necessary steps to conduct the consolidated election.

Section 6. That the Registrar of Voters of the County of Plumas is authorized to canvass the returns of the election. The election shall be held in all respects as if there were only one election, and only public form of ballot shall be used. The election will be held and conducted in the manner prescribed in Elections Code section 10418.

Section 7. That the County recognizes that additional costs will be incurred by the County by reason of this consolidation and pay its share of the costs.

Section 8. That notice of the time and place of holding the election is hereby given, and the Clerk of the Board of Supervisors is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law.

Section 9. That the Registrar of Voters of the County of Plumas is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

Section 10. That the Clerk of the Board of Supervisors is hereby directed to file a certified copy of this Resolution with the Registrar of Voters of the County of Plumas.

Section 11. That arguments in favor of and in opposition to the ballot measure and rebuttal arguments shall be permitted, and the County hereby adopts the provisions of Elections Code sections 9167 and 9170, regarding the acceptance of arguments relating to ballot measures. The Clerk of the Board of Supervisors shall fix the dates for submittal of arguments and rebuttals as provided for in the Elections Code, and in conjunction with the Plumas County Registrar of Voters.

Section 12. That, pursuant to Elections Code section 9160, the Clerk of the Board of Supervisors is hereby directed to transmit a copy of the measure to the County Counsel. The County Counsel shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the Clerk of the Board of Supervisor within ten (10) days following the adoption of this Resolution.

Section 13. That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 14. That the Clerk of the Board of Supervisors shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

Section 15. That this Resolution shall take effect from and after its adoption by a unanimous vote of the members of the Board of Supervisors.


PASSED AND ADOPTED by the Board of Supervisors of the County of Plumas this 29th day of September, 2023, by the following vote:

AYES: Supervisors: Ceresola, McGowan, Goss, Engel and Hagwood

NOES:


ABSTAIN:

ABSENT:



Greg Hagwood, Chair of the Board of Supervisors

ATTEST:



Kristina Rogers, Deputy Clerk of the Board of Supervisors

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF PLUMAS, IMPOSING A TRANSACTIONS AND USE TAX OF THREE FOURTH PERCENT (3/4%) TO BE USED SOLELY FOR INCREASE SHERIFF OFFICE SERVICES AND TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, SUBJECT TO APPROVAL OF A 2/3 MAJORITY OF THE ELECTORS VOTING ON THE TAX MEASURE AT THE ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2024

Section 1. TITLE. This Ordinance shall be known as the County of Plumas Transactions and Use Tax Ordinance. The County of Plumas hereinafter shall be called "County." This Ordinance shall be applicable in the unincorporated and incorporated territory of the County.

Section 2. OPERATIVE DATE. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance, the date of such adoption being as set forth below.

Section 3. PURPOSE. This Ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with section 7251) of Division 2 of the Revenue and Taxation Code, and section 7285.5 of Part 1.7 of Division 2 which authorizes the County to adopt this tax Ordinance which shall be operative if a 2/3rds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California, insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore, that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this Ordinance.

Section 4. CONTRACT WITH STATE. Prior to the operative date, the County shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax Ordinance; provided, that if the County shall not have contracted with the California Department of Tax and

Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 5. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the unincorporated and incorporated territory of the County, at the rate of three fourth percent (3/4%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory, on and after the operative date of this Ordinance.

Section 6. PLACE OF SALE. For the purposes of this Ordinance, all retail sales are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination, or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

Section 7. USE TAX RATE. An excise tax is hereby imposed on the storage, use, or other consumption in the County of tangible personal property purchased from any retailer on and after the operative date of this Ordinance for storage, use, or other consumption in said territory, at the rate of three fourth percent (3/4%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 8. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this Ordinance, and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this Ordinance as though fully set forth herein.

Section 9. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this County shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California.

2. The result of that substitution would require action to be taken by or against this County, or any agency, officer, or employee thereof, rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use, or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that Code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code.

B. The word "County" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203, and in the definition of that phrase in Section 6203.

1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this State or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to section 267(b) of Title 26 of the United States Code and the regulations thereunder.

Section 10. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this Ordinance.

Section 11. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax, the amount of any sales tax or use tax imposed by the State of California or by any City, County and City, or County pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax, the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made, and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the County which is shipped to a point outside the County, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the County shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code,

and undocumented vessels registered under Division 3.5 (commencing with section 9840) of the Vehicle Code by registration to an out-of-County address, and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-County, and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this Ordinance, the storage, use, or other consumption in this County of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft, and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience, and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the County shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the County, or participates within the County in making the sale of the property, including, but not limited to,

soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.

7. "A retailer engaged in business in the County" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the County.

D. Any person subject to use tax under this Ordinance, may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code, with respect to the sale to the person of the property the storage, use, or other consumption of which is subject to the use tax.

Section 12. AMENDMENTS. All amendments subsequent to the effective date of this Ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes, and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Ordinance.

Section 13. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate, or other legal or equitable process, shall issue in any suit, action, or proceeding in any court against the State or the County, or against any officer of the State or the County, to prevent or enjoin the collection under this Ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 14. USE OF TAX PROCEEDS. All net revenues when received, and all interest on said revenues, shall be placed in separate accounts and apart from the general fund, and shall be designated for use and used in the providing of Sheriff Services through the Plumas County Sheriff's Office, and the net revenues derived here from shall be used in addition to, and not to supplant, or in any way replace or serve as a substitute for, the level of funding for the Plumas County Sheriff's Office that was provided from other revenue sources by the Plumas County for the 2022-2023 fiscal year.

Sheriff Services through the Plumas County Sheriff's Office shall include: obtaining, furnishing, operating, and/or maintaining public safety protection equipment or apparatus as the Sheriff determines is needed; paying the salaries and benefits of Sheriff personnel; and such other Sheriff protection service expenses as deemed.

To ensure that the use of transactions and use tax revenues and the level of funding requirements of this article are met, the County shall secure an annual compliance examination with attestation opinion.

Section 14. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 15. EFFECTIVE DATE. This Ordinance relates to the levying and collecting of the County transactions and use taxes, and shall take effect immediately.

Section 16. SALES TAX OVERSIGHT BOARD. The Board of Supervisors will appoint a five-member standing oversight committee to be made up of the Plumas County residents, not County employees, to serve up to three (3) two-year (2) terms. Each Board of Supervisor Member will appoint one (1) of the five (5) members of the advisory committee.

These members will serve as the independent Sales Tax Oversight Board to review the expenditure of funds collected pursuant to the tax imposed by this Ordinance, and ensure that the money is being spent to supplement the Sheriff's Office provision of public safety to the community.

Section 17. TERMINATION DATE. The authority to levy the tax imposed by this Ordinance shall continue until this Ordinance is repealed by a majority vote of the voters of the County.

I hereby certify that the County of Plumas Supplemental Transactions and Use Tax Ordinance was PASSED, APPROVED, AND ADOPTED by the People of the County of Plumas on the 5th day of March, 2024.

Greg Hagwood, Chair of the Board of Supervisors

ATTEST:

Kristina Rogers
Deputy Clerk of the Board of Supervisors