

Department of Finance and Administration

Amended Legislative Impact Statement

Bill: SB244

Bill Subtitle: TO AMEND THE DEFINITION OF "INSTRUCTIONAL MATERIALS" FOR PURPOSES OF THE SALES TAX EXEMPTION FOR INSTRUCTIONAL MATERIALS PURCHASED BY A SCHOOL; AND TO DECLARE AN EMERGENCY.

Basic Change :

Sponsors: Sen. K. Hammer and Rep. Evans

SB244 expands the current exemption for instructional materials to include the electronic equipment required to make use of technology-based educational materials and electronic software. Under current law, the purchase of certain instructional materials are exempt from sales and use tax when they are sold to: (1) an Arkansas school district or Arkansas public school that receives state funding; or (2) the State of Arkansas for free distribution to Arkansas school districts or Arkansas public schools ("Arkansas-funded schools"). Technology-based educational materials and electronic software that require the use of electronic equipment in order to be used in the learning process are exempt from sales tax when sold to Arkansas-funded schools. SB244 expands the exemption to include the equipment required to use the technology-based educational materials and electronic software.

SB244 has an emergency clause and provides an effective date of July 1, 2021.

Revenue Impact :

FY2022

Total Approximate State Sales and Use Tax Loss	\$ - 4,200,000
General Revenue - 4.5%	\$ - 2,817,554
Property Tax Relief - .5%	\$ - 313,062
Conservation Fund - .125%	\$ - 78,265
Educational Adequacy Fund - .875%	\$ - 547,858
Highway Fund - .5%	\$ - 313,062
Educational Excellence Trust Fund -	\$ - .000
Educational Adequacy (GR Transfer) -	\$ - .000
State Central Services -	\$ - 88,200
Constitutional Officers -	\$ - 42,000
Total Approximate Local City and County Sales and Use Tax Loss	\$ - 1,400,000

FY2023

Total Approximate State Sales and Use Tax Loss	\$ - 4,300,000
General Revenue - 4.5%	\$ - 2,451,017
Property Tax Relief - .5%	\$ - 320,515
Conservation Fund - .125%	\$ - 80,129
Educational Adequacy Fund - .875%	\$ - 560,902
Highway Fund - .5%	\$ - 320,515
Educational Excellence Trust Fund -	\$ - 398,402
Educational Adequacy (GR Transfer) -	\$ - 35,219

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State Central Services -	\$ - 90,300
Constitutional Officers -	\$ - 43,000
Total Approximate Local City and County Sales and Use Tax Loss	\$ - 1,433,333

[Statistical data derived using information provided by the Arkansas Department of Education regarding Technical Supplies and Equipment purchases for Arkansas Public Schools.]

Taxpayer Impact :

Arkansas school districts or Arkansas public schools that receive state funding and the State of Arkansas would no longer be responsible for paying sales and use tax on the purchase of equipment required to make use of technology-based educational materials and electronic software.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Updates to the Sales and Use Tax Rules will need to be promulgated.

Other Comments :

In order to comply with current Arkansas Law with regards to the DFA's requirement to notify all registered businesses of this tax change within the prescribed timeframe, the bill may need to be amended to reflect an effective date no sooner than the first day of the calendar quarter following the effective date of the act.

Legal Analysis :

The State of Arkansas is a full member state under the Streamlined Sales and Use Tax Agreement (SSUTA). If the State of Arkansas was determined to be in violation of the SSUTA, sanctions may be imposed and future collections of sales taxes from out-of-state sellers would be in jeopardy. A member state may enact an entity- or product-based exemption for a product if Part II of the SSUTA Library of Definitions has a definition for such product and the member state utilizes the product definition in the exemption in a manner consistent with Part II of the Library of Definitions. A member state may enact an entity- or product-based exemption without restriction if Part II of the Library of Definitions does not have a definition for such product.

The exemption for instructional materials under current law, as expanded under SB244, is both an

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entity-based exemption and a product-based exemption. However, "instructional materials" is not a defined term under Part II of the Library of Definitions, so the definition set forth in SB244 would not put the State of Arkansas out of compliance with the SSUTA.

SB244 contains an emergency clause, which would make the bill effective July 1, 2021. If this bill is enacted into law prior to May 1, 2021, this date would comply with a separate SSUTA requirement, which limits the effective date of a rate change to the first day of a calendar quarter after sixty days' notice to sellers.