

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1260

By: Representative D. Douglas

For An Act To Be Entitled

AN ACT TO DEDICATE REVENUES TO BE USED BY THE STATE AND LOCAL GOVERNMENTS TO IMPROVE, CONSTRUCT, AND MAINTAIN THE HIGHWAYS, ROADS, STREETS, AND BRIDGES IN THE STATE; TO DEDICATE AT LEAST A PORTION OF THE SALES AND USE TAXES COLLECTED ON THE SALE OR PURCHASE OF A NEW OR USED MOTOR VEHICLE, TRAILER, OR SEMITRAILER TO BE USED TO IMPROVE, CONSTRUCT, AND MAINTAIN THE HIGHWAYS, ROADS, STREETS, AND BRIDGES IN THE STATE; TO LEVY A WHOLESALE SALES TAX ON MOTOR FUEL AND DISTILLATE SPECIAL FUEL TO PROVIDE ADDITIONAL FUNDING FOR THE IMPROVEMENT, CONSTRUCTION, AND MAINTENANCE OF THE HIGHWAYS, ROADS, STREETS, AND BRIDGES IN THE STATE; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO DEDICATE REVENUES TO BE USED BY THE STATE AND LOCAL GOVERNMENTS TO IMPROVE, CONSTRUCT, AND MAINTAIN THE HIGHWAYS, ROADS, STREETS, AND BRIDGES IN THE STATE; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 19-6-301, concerning the enumeration of special revenues, is amended to add additional subdivisions to read as follows:



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(263) The wholesale sales tax on motor fuel levied under § 26-64-101; and

(264) The wholesale sales tax on distillate special fuel levied under § 26-64-102.

SECTION 2. Arkansas Code § 26-52-107 is amended to read as follows:

26-52-107. Disposition of taxes, interest, and penalties.

All (a) Except as provided in §§ 26-52-510 and 26-53-126, all taxes, interest, penalties, and costs received by the Director of the Department of Finance and Administration under the provisions of this chapter shall be and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., are general revenues and shall be deposited into the State Treasury to the credit of the State Apportionment Fund.

(b) The Treasurer of State shall allocate and transfer the same taxes, interest, penalties, and costs deposited under subsection (a) of this section to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by, and to be used for the respective purposes set forth stated in, the Revenue Stabilization Law, § 19-5-101 et seq.

SECTION 3. Arkansas Code § 26-52-510, concerning the direct payment of sales tax by a purchaser of a new or used motor vehicle, trailer, or semitrailer, is amended to add an additional subsection to read as follows:

(h)(1) When the annual gross collection of general revenue of sales and use tax exceeds two billion five hundred million dollars (\$2,500,000,000), the Chief Fiscal Officer of the State shall determine the monthly total net general revenues enumerated in § 19-6-201(1) and (2) that were collected as sales and use taxes under § 26-52-301, § 26-52-302(a), § 26-52-302(b)(1), § 26-52-303, § 26-52-607, § 26-53-106, § 26-53-107(a), and § 26-53-107(b)(1), on the sale of new or used motor vehicles, trailers, or semitrailers required to be licensed in this state.

(2) After making the deductions required under § 19-5-202(b)(2)(B)(i), on the last day of each month the Chief Fiscal Officer of the State shall certify the amount determined under subdivision (h)(1) of this section to the Treasurer of State, who shall transfer the certified amount, up to the following annual amounts, from general revenues to the

State Highway and Transportation Department Fund:

(A) For the first year after gross collection of general revenue of sales and use tax exceeds two billion five hundred million dollars (\$2,500,000,000), thirty million dollars (\$30,000,000);

(B) For the second year after gross collection of general revenue of sales and use tax exceeds two billion five hundred million dollars (\$2,500,000,000), sixty million dollars (\$60,000,000);

(C) For the third year after gross collection of general revenue of sales and use tax exceeds two billion five hundred million dollars (\$2,500,000,000), ninety million dollars (\$90,000,000); and

(D) For each year after the third year after gross collection of general revenue of sales and use tax exceeds two billion five hundred million dollars (\$2,500,000,000), one hundred twenty million dollars (\$120,000,000).

SECTION 4. Arkansas Code § 26-53-126, concerning the payment and collection of use tax on a new or used motor vehicle, trailer, or semitrailer, is amended to add an additional subsection to read as follows:

(g)(1) When the annual gross collection of general revenue of sales and use tax exceeds two billion five hundred million dollars (\$2,500,000,000), the Chief Fiscal Officer of the State shall determine the monthly total net general revenues enumerated in § 19-6-201(1) and (2) that were collected as sales and use taxes under § 26-52-301, § 26-52-302(a), § 26-52-302(b)(1), § 26-52-303, § 26-52-607, § 26-53-106, § 26-53-107(a), and § 26-53-107(b)(1), on the sale of new or used motor vehicles, trailers, or semitrailers required to be licensed in this state.

(2) After making the deductions required under § 19-5-202(b)(2)(B)(i), on the last day of each month the Chief Fiscal Officer of the State shall certify the amount determined under subdivision (g)(1) of this section to the Treasurer of State, who shall transfer the certified amount, up to the following annual amounts, from general revenues to the State Highway and Transportation Department Fund:

(A) For the first year after gross collection of general revenue of sales and use tax exceeds two billion five hundred million dollars (\$2,500,000,000), thirty million dollars (\$30,000,000);

(B) For the second year after gross collection of general

revenue of sales and use tax exceeds two billion five hundred million dollars (\$2,500,000,000), sixty million dollars (\$60,000,000);

(C) For the third year after gross collection of general revenue of sales and use tax exceeds two billion five hundred million dollars (\$2,500,000,000), ninety million dollars (\$90,000,000); and

(D) For each year after the third year after gross collection of general revenue of sales and use tax exceeds two billion five hundred million dollars (\$2,500,000,000), one hundred twenty million dollars (\$120,000,000).

SECTION 5. Arkansas Code Title 26 is amended to add an additional chapter to read as follows:

CHAPTER 64

WHOLESALE SALES TAX ON FUEL

26-64-101. Wholesale sales tax on motor fuel.

(a) As used in this section:

(1) "Average wholesale selling price" means the United States Gulf Coast regular average wholesale selling price of motor fuel as published in an index by the Energy Information Administration within the United States Department of Energy or other similar reliable index if the index published by the Energy Information Administration within the United States Department of Energy is no longer available; and

(2) "Motor fuel" means the same as defined in § 26-55-202.

(b) Beginning April 1, 2020, in addition to the taxes levied in §§ 26-55-205, 26-55-1002, 26-55-1006, 26-55-1201, and 26-56-601, there is levied a wholesale sales tax upon the average wholesale selling price per gallon of motor fuel at the rate determined in subsection (c) of this section.

(c)(1)(A) By March 1, 2020, the wholesale sales tax levied under this section shall be determined by multiplying the twelve-month average wholesale selling price of motor fuel for the period of January 1, 2019, through December 31, 2019, by three and five-tenths percent (3.5%).

(B) To make the collection of the wholesale sales tax levied under this section more efficient, the Director of the Department of Finance and Administration shall determine the wholesale sales tax under subdivision (c)(1)(A) of this section and convert the wholesale sales tax to

a cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

(2)(A)(i) Beginning April 1, 2021, and each April 1 thereafter, the wholesale sales tax levied under this section for the twelve-month period beginning on April 1 of each year shall be determined by multiplying the twelve-month average wholesale selling price of motor fuel for the period of January 1 through December 31 of the immediately preceding year by three and five-tenths percent (3.5%).

(ii) If the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section is less than the twelve-month average wholesale selling price determined in subdivision (c)(1)(A) of this section, then the twelve-month average wholesale selling price determined in subdivision (c)(1)(A) of this section shall be substituted for the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section and shall be used in lieu of the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section in determining the amount of wholesale sales tax due on motor fuel for the twelve-month period described in subdivision (c)(2)(A)(i) of this section.

(B) To make the collection of the wholesale sales tax levied under this section more efficient, the director shall determine the wholesale sales tax under subdivision (c)(2)(A) of this section and convert the wholesale sales tax to a cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

(d) The Department of Finance and Administration shall publish the cent-per-gallon amount to be collected from retailers under this section and shall notify fuel wholesalers of the published amount.

(e) The wholesale sales tax levied under this section shall be paid by retailers of motor fuel to wholesalers who shall collect, report, and remit the wholesale sales tax in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of motor fuel taxes, including §§ 26-55-210 – 26-55-212 and § 26-55-230(a)(1)(F).

26-64-102. Wholesale sales tax on distillate special fuel.

(a) As used in this section:

(1) "Average wholesale selling price" means the United States Gulf Coast regular average wholesale selling price of distillate special fuel

as published in an index by the Energy Information Administration within the United States Department of Energy or other similar reliable index if the index published by the Energy Information Administration within the United States Department of Energy is no longer available; and

(2)(A) "Distillate special fuel" means the same as defined in § 26-56-102.

(B) However, "distillate special fuel" does not include distillate special fuel used for off-road purposes as identified in § 26-56-224.

(b) Beginning April 1, 2020, in addition to the taxes levied in §§ 26-56-201, 26-56-502, and 26-56-601, there is levied a wholesale sales tax upon the average wholesale selling price per gallon of distillate special fuel at the rate determined in subsection (c) of this section.

(c)(1)(A) By March 1, 2020, the wholesale sales tax levied under this section shall be determined by multiplying the twelve-month average wholesale selling price of distillate special fuel for the period of January 1, 2019, through December 31, 2019, by three and five-tenths percent (3.5%).

(B) To make the collection of the wholesale sales tax levied under this section more efficient, the Director of the Department of Finance and Administration shall determine the wholesale sales tax under subdivision (c)(1)(A) of this section and convert the wholesale sales tax to a cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

(2)(A)(i) Beginning April 1, 2021, and continuing each April 1 thereafter, the wholesale sales tax levied under this section for the twelve-month period beginning on April 1 of each year shall be determined by multiplying the twelve-month average wholesale selling price of distillate special fuel for the period of January 1 through December 31 of the immediately preceding year by three and five-tenths percent (3.5%).

(ii) If the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section is less than the twelve-month average wholesale selling price determined in subdivision (c)(1)(A) of this section, then the twelve-month average wholesale selling price determined in subdivision (c)(1)(A) of this section shall be substituted for the twelve-month average wholesale selling price calculated in subdivision (c)(2)(A)(i) of this section and shall be used in lieu of the twelve-month average wholesale selling price calculated in subdivision

(c)(2)(A)(i) of this section in determining the amount of wholesale sales tax due on distillate special motor fuel for the twelve-month period covered by subdivision (c)(2)(A)(i) of this section.

(B) To make the collection of the wholesale sales tax levied under this section more efficient, the director shall determine the wholesale sales tax under subdivision (c)(2)(A) of this section and convert the wholesale sales tax to a cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

(d) The Department of Finance and Administration shall publish the cent-per-gallon amount to be collected from retailers under this section and shall notify fuel wholesalers of the published amount.

(e) The wholesale sales tax levied under this section shall be paid by retailers of distillate special fuel to wholesalers who shall collect, report, and remit the wholesale sales tax in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of distillate special fuel taxes.

26-64-103. Disposition of revenues.

The wholesale sales taxes collected under this chapter shall be distributed as follows:

- (1) Seventy percent (70%) to the State Highway and Transportation Department Fund;
- (2) Fifteen percent (15%) to the County Aid Fund; and
- (3) Fifteen percent (15%) to the Municipal Aid Fund.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the highways, roads, streets, and bridges of this state are in dire need of construction, reconstruction, and maintenance; that well-maintained highways, roads, streets, and bridges are necessary for economic development in this state; that dedicating the sales and use taxes from the sale of new and used motor vehicles, trailers, and semitrailers is necessary to help pay for the construction, reconstruction, and maintenance of the highways, roads, streets, and bridges in the state; that levying a sales tax on motor fuel and distillate special fuel will help provide the necessary additional funding needed for the construction, reconstruction, and maintenance of the highways, roads,

streets, and bridges in the state; and that the construction, reconstruction, and maintenance of the highways, roads, streets, and bridges in the state is essential to the public health, welfare, and safety of the people of this state. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.