

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 1889

By: Representative Penzo

## For An Act To Be Entitled

AN ACT TO PROVIDE FUNDING FOR THE MAINTENANCE, REPAIR, AND CONSTRUCTION OF HIGHWAYS, ROADS, STREETS, AND BRIDGES IN THE STATE; TO CREATE A SALES AND USE TAX EXEMPTION FOR CONSTRUCTION MATERIALS USED BY THE ARKANSAS DEPARTMENT OF TRANSPORTATION IN PUBLIC CONSTRUCTION PROJECTS; TO DEDICATE AN INCREASING PORTION OF THE SALES AND USE TAXES COLLECTED ON THE SALES AND PURCHASES OF NEW AND USED MOTOR VEHICLES TO PROVIDE FUNDING FOR THE MAINTENANCE, REPAIR, AND CONSTRUCTION OF HIGHWAYS, ROADS, STREETS, AND BRIDGES IN THE STATE; TO AMEND THE DISTRIBUTION OF FUNDS UNDER THE ARKANSAS HIGHWAY REVENUE DISTRIBUTION LAW; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO PROVIDE FUNDING FOR THE MAINTENANCE, REPAIR, AND CONSTRUCTION OF HIGHWAYS, ROADS, STREETS, AND BRIDGES IN THE STATE THROUGH CHANGES IN THE TAX LAWS AND MOTOR VEHICLES LAWS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended to add an additional section to read as follows:

26-52-452. Construction materials for public construction projects.



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(a) As used in this section:

(1)(A) "Eligible construction material" means tangible personal property used directly as part of a public construction project, including without limitation construction materials and consumables that are used in a public construction project that will remain part of the completed public construction project or are consumed in the construction process.

(B) "Eligible construction material" does not include construction equipment and tools, motor vehicle fuel, and other tangible personal property that may be used for purposes of a public construction project that do not remain part of the public construction project or are not consumed during the construction process;

(2)(A) "Public construction project" means a construction project initiated by the Arkansas Department of Transportation and paid for with public funds.

(B) "Public construction project" includes only the portion of the construction project that is paid for with public funds;

(3) "Public entity" means the state, a political subdivision of the state, and the United States Government; and

(4) "Public funds" means funds or guarantees from a public entity.

(b) The gross receipts or gross proceeds derived from the sale of an eligible construction material are exempt from the gross receipts tax levied under this chapter and the compensating use tax levied under the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

SECTION 2. Arkansas Code § 26-52-510, concerning the payment of sales tax on a new or used motor vehicle, trailer, or semitrailer, is amended to add additional subsections to read as follows:

(h)(1) By September 1 of each year, the Chief Fiscal Officer of the State shall determine as a monthly allocation an amount equivalent to the percentages stated in subsection (i) of this section of the total net general revenues enumerated in § 19-6-201(1) and (2) that were collected as sales and use tax 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 allocation determined under subdivision (h)(1) of this section to the Treasurer of State, who shall transfer the certified allocation as follows:

(A) Seventy percent (70%) credited to the State Highway and Transportation Department Fund, which shall be used for the construction, reconstruction, and maintenance of highways, roads, streets, bridges, and extensions of highways, roads, streets, and bridges located within the state;

(B) Fifteen percent (15%) credited to the County Aid Fund, which shall be used for the construction, reconstruction, and maintenance of highways, roads, streets, bridges, and extensions of highways, roads, streets, and bridges located within the county; and

(C) Fifteen percent (15%) credited to the Municipal Aid Fund, which shall be used for the construction, reconstruction, and maintenance of highways, roads, streets, bridges, and extensions of highways, roads, streets, and bridges located within the municipality.

(i) In making a determination under subsection (h) of this section, the Chief Fiscal Officer of the State shall use the following percentages:

- (1) Beginning September 1, 2019, ten percent (10%);
- (2) Beginning September 1, 2020, twenty percent (20%);
- (3) Beginning September 1, 2021, thirty percent (30%);
- (4) Beginning September 1, 2022, forty percent (40%);
- (5) Beginning September 1, 2023, fifty percent (50%);
- (6) Beginning September 1, 2024, sixty percent (60%);
- (7) Beginning September 1, 2025, seventy percent (70%);
- (8) Beginning September 1, 2026, eighty percent (80%);
- (9) Beginning September 1, 2027, ninety percent (90%); and
- (10) Beginning September 1, 2028, and thereafter, one hundred percent (100%).

SECTION 3. Arkansas Code § 26-53-126, concerning the payment of use tax on new or used motor vehicles, trailers, or semitrailers, is amended to add additional subsections to read as follows:

(g)(1) By September 1 of each year, the Chief Fiscal Officer of the State shall determine as a monthly allocation an amount equivalent to the

percentages stated in subsection (h) of this section of the total net general revenues enumerated in § 19-6-201(1) and (2) that were collected as sales and use tax 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 allocation determined under subdivision (g)(1) of this section to the Treasurer of State, who shall transfer the certified allocation as follows:

(A) Seventy percent (70%) credited to the State Highway and Transportation Department Fund, which shall be used for the construction, reconstruction, and maintenance of highways, roads, streets, bridges, and extensions of highways, roads, streets, and bridges located within the state;

(B) Fifteen percent (15%) credited to the County Aid Fund, which shall be used for the construction, reconstruction, and maintenance of highways, roads, streets, bridges, and extensions of highways, roads, streets, and bridges located within the county; and

(C) Fifteen percent (15%) credited to the Municipal Aid Fund, which shall be used for the construction, reconstruction, and maintenance of highways, roads, streets, bridges, and extensions of highways, roads, streets, and bridges located within the municipality.

(h) In making a determination under subsection (g) of this section, the Chief Fiscal Officer of the State shall use the following percentages:

- (1) Beginning September 1, 2019, ten percent (10%);
- (2) Beginning September 1, 2020, twenty percent (20%);
- (3) Beginning September 1, 2021, thirty percent (30%);
- (4) Beginning September 1, 2022, forty percent (40%);
- (5) Beginning September 1, 2023, fifty percent (50%);
- (6) Beginning September 1, 2024, sixty percent (60%);
- (7) Beginning September 1, 2025, seventy percent (70%);
- (8) Beginning September 1, 2026, eighty percent (80%);
- (9) Beginning September 1, 2027, ninety percent (90%); and
- (10) Beginning September 1, 2028, and thereafter, one hundred percent (100%).

SECTION 4. Arkansas Code § 27-70-206 is amended to read as follows:

27-70-206. Distribution to state funds.

Excluding the interest income classified as special revenue under § 27-70-204(b)(1), all highway revenues ~~which~~ that are available for distribution during each fiscal year shall be transferred to the following State Treasury funds, and in the order specified, with transfers to be made monthly until all available revenues have been transferred:

(1) ~~First, except as provided by § 19-5-207, three percent (3%) of the amount thereof to the Constitutional Officers Fund and the State Central Services Fund, there to be used for the purposes specified for each fund by the Revenue Stabilization Law, § 19-5-101 et seq.;~~

~~(2) Next~~ First, to the Gasoline Tax Refund Fund, such amount as the Director of the Department of Finance and Administration ~~shall, from time to time, certify~~ certifies to the Treasurer of State as being necessary to pay approved gasoline tax refund claims under ~~the provisions of §§ 26-55-301 - 26-55-321 [Repealed] and §§ 26-55-401 - 26-55-408,~~ or other applicable law. However, the aggregate total amount of all transfers under this ~~paragraph~~ subdivision shall not exceed two million five hundred thousand dollars (\$2,500,000) during any fiscal year; and

~~(3)~~ (2) ~~After~~ Next, after meeting the requirements ~~set out~~ stated in ~~subdivisions (1) and (2)~~ subdivision (1) of this section, all remaining highway revenues ~~which~~ that are available for distribution during each fiscal year shall be transferred in the following manner: Fifteen percent (15%) of the amount thereof to the County Aid Fund; fifteen percent (15%) of the amount thereof to the Municipal Aid Fund; and seventy percent (70%) of the amount thereof to the State Highway and Transportation Department Fund.

SECTION 5. 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 roadways are necessary for economic development in this state; that exempting certain purchases of the Arkansas Department of Transportation from sales and use taxes will enable the department to dedicate more funds toward constructing, reconstructing, and maintaining the roadways in the state; that dedicating a portion of the sales

and use taxes on the sale of new and used motor vehicles, trailers, and semitrailers is necessary to help pay for the construction, reconstruction, and maintenance of our roadways; and that in order to lessen the loss of this money from general revenue, the transfer of the sales and use taxes will be phased in over a ten-year period. 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.