

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1418**

**Bill Subtitle: TO DEDICATE SALES AND USE TAX REVENUE FROM THE SALES OF NEW AND USED VEHICLES AND ROAD-USER ITEMS AND SERVICES FOR ROADWAY MAINTENANCE, CONSTRUCTION, AND RECONSTRUCTION; AND TO DECLARE AN EMERGENCY.**

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### **Basic Change :**

Representative Barnett

The bill provides for a redistribution of the general revenue portion of the state sales and use tax to provide additional funding for state and local highways, streets and roads. Of the existing 6% state sales and use tax rate (6.5% total rate beginning July 1, 2013) the General Revenue component of the levy is 4.5%

The proposal would provide for transfers from General Revenue to highways to begin on the first day of September following the issuance of an annual report by the State Treasurer to the Chief Fiscal Officer of the State indicating that the General Revenue portion of the state sales and use tax exceeded two billion two hundred million dollars (\$2,200,000,000) for the year. Upon reaching this threshold, a ten year phase-in of state sales and use taxes would begin.

The 10-year phase-in transfer of general revenues would apply to: (1) The actual sales and use taxes collected on sales of motor vehicles; and (2) An amount representing the revenues collected on auto related sales of parts, labor, installation, maintenance, and diagnostic services. The estimated amount of existing revenues representing auto parts and services begins at a transfer rate of six-tenths of one percent (0.6%) and grows through the 10-year phase-in period to 6% of total general revenues.

The ten-year phase-in transfer of the 4.5% General Revenue portion of the 6.5% state sales and use tax collected on motor vehicles and the estimated amount of tax collected on auto related parts and services would occur as follows:

#### Motor Vehicles

Year 1	--- 90% General Revenue	--- 10% to Highways
Year 2	--- 80% General Revenue	--- 20% to Highways
Year 3	--- 70% General Revenue	--- 30% to Highways
Year 4	--- 60% General Revenue	--- 40% to Highways
Year 5	--- 50% General Revenue	--- 50% to Highways
Year 6	--- 40% General Revenue	--- 60% to Highways
Year 7	--- 30% General Revenue	--- 70% to Highways
Year 8	--- 20% General Revenue	--- 80% to Highways
Year 9	--- 10% General Revenue	--- 90% to Highways
Year 10	--- 0% General Revenue	--- 100% to Highways

#### Percentage Transfer Representing Estimated Sales Tax on Auto Parts and Services

Year 1	--- 0.6% of State General Revenue
Year 2	--- 1.2% of State General Revenue
Year 3	--- 1.8% of State General Revenue
Year 4	--- 2.4% of State General Revenue
Year 5	--- 3.0% of State General Revenue
Year 6	--- 3.6% of State General Revenue
Year 7	--- 4.2% of State General Revenue
Year 8	--- 4.8% of State General Revenue

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Year 9 --- 5.4% of State General Revenue

Year 10 --- 6.0% of State General Revenue

The State General Revenue transfers would be distributed Fifteen percent (15%) to the County Aid Fund; Fifteen percent (15%) to the Municipal Aid Fund; and Seventy percent (70%) to the State Highway and Transportation Department Fund.

As drafted, the proposal contains numerous errors in referencing the code sections that establish the levy of the state General Revenue portion of the sales and use tax from which the transfers would occur. The bill currently provides that a portion of the state sales tax levy for Education Adequacy and Property Tax Relief would be transferred. The bill also fails to include all of the code sections that levy the General Revenue component of the state sales and use tax. Amendment of the bill is necessary to remove these conflicts and omissions.

### **Revenue Impact :**

The current General Revenue forecast projects general revenue sales and use tax collections of \$2.2239 billion in FY14. If the projection is met, the new transfers of sales and use taxes for highways would begin September 2014, impacting FY2015 General Revenue deposits.

### **Projected 10-Year Phase-in of State Sales Tax General Revenue Transfers**

	Projected Reduced State General Revenues	Reduced Funding to Educational Excellence Trust Fund	Total General Revenue Transfers to Highways
	(millions)	(millions)	(millions)
FY2015	\$ 33.0	\$ -	\$ 33.0
FY2016	76.9	4.7	81.6
FY2017	114.5	11.5	126.0
FY2018	155.3	17.8	173.1
FY2019	198.4	24.5	222.9
FY2020	244.0	31.5	275.5
FY2021	292.1	39.0	331.0
FY2022	342.8	46.8	389.7
FY2023	396.4	55.1	451.5
FY2024	452.9	63.8	516.7

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**Taxpayer Impact :**

None

**Resources Required :**

None

**Time Required :**

Adequate time is provided for implementation

**Procedural Changes :**

Modification of existing distributions of State General Revenues to the Highway Fund.

**Other Comments :**

The bill does not provide whether the annual percentage changes after the first year of implementation would occur each September or each July. The bill should specify the month of distribution change each year.

Section 2 -- Page 2 to Page 6 -- The code sections referenced as the source of General Revenues from state sales and use taxes are incorrect. The bill references §§ 26-52-301, 26-52-302(a), 26-52-29 302(d), 26-52-303, 26-52-317(c)(1)(A), 26-52-319(a)(4)(A), 26-53-106, 26-53-30 107(a), 26-53-107(d), 26-53-145(c)(1)(A), and 26-53-148(a)(4)(A). The references should be §§ 26-52-301, 26-52-302(a), 26-52-302(b)(1), 26-52-303, 26-52-317(c)(1)(A), 26-52-319(a)(5)(A), 26-52-319(c)(4), 26-52-607, 26-53-106, 26-53-107(a), 26-53-107(b)(1), 26-53-145(c)(1)(A), 26-53-148(a)(5)(A), and 26-53-148(c)(4).

Page 6 -- Lines 7 through Line 12 -- The language defining "road-user items and services" is not necessary for implementation of the General Revenue transfers and should be deleted.

Section 3 -- Pages 6 through Page 12 -- The references within this section to percentages of the state taxes, interest, penalties and costs that is General Revenue is stated as 76.6%. This is incorrect. Of the current 6% state sales and use tax, the 4.5% General Revenue portion is 75%. Beginning July 1, 2013, the percentage of the 6.5% state sales tax that is General Revenue will be 69.23%. All of the percentages within this section referencing the percentages of the state sales tax that is to be distributed to various funds (76.6% General Revenue, 8.5% to Property Tax Relief and 14.9% to Education Adequacy) are in error and should be deleted and replaced within the section with language that would apply the phase-in transfer percentage to the general revenue code sections for the state sales and use taxes that levy the tax. At each place within this section the General Revenue code sections of §§ 26-52-301, 26-52-302(a), 26-52-302(b)(1), 26-52-303, 26-52-317(c)(1)(A), 26-52-319(a)(5)(A), 26-52-319(c)(4), 26-52-607, 26-53-106, 26-53-107(a), 26-53-107(b)(1), 26-53-145(c)(1)(A), 26-53-148(a)(5)(A), and 26-53-148(c)(4) should be the source of revenue for the new distribution of sales taxes on motor vehicles being transferred for highways.

**Legal Analysis :**

HB1418 proposes to dedicate a portion of state sales and use tax revenues on sales of "road-user items and services" and of motor vehicles, trailers and semitrailers to construction, maintenance and

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improvement of highways, roads, streets and bridges. This funding scheme goes into effect beginning the first day of September following the issuance of an "annual report" by the State Treasurer to the Chief Fiscal Officer that gross collection of general revenue for sales and use tax exceeds \$2.2 billion. The bill does not define "gross collection," resulting in a lack of clarity as to whether the \$2.2 billion amount is the actual amount collected, or the amount net of refunds and other amounts distributed or attributable to the collection of the various taxes.

The first component of this funding scheme calls for a diversion of a percentage of the revenues generated from the state sales and use tax on certain items and services, to be distributed to the following Funds: County Aid Fund (15%); Municipal Aid Fund (15%); State Highway and Transportation Department Fund (70%). The amount of revenues generated from these sales is determined by taking a percentage of all sales and use tax collected. The percentage of all sales tax collected to be diverted increases over a 10-year phase-in period, with a starting percentage in year one of 0.6%, to an ending percentage in year ten and thereafter of 6%. The bill directs this diversion of tax revenues from the following: the general sales and use tax; the sales and use tax levied in border cities; the sales and use tax on food and food ingredients; and the sales and use tax on natural gas and electricity used by manufacturers. The language of the bill appears to suggest that the diversion of these revenues in the percentages listed actually constitutes the sales and use tax revenues generated from sales of road-user items and services, though the bill does not explain how this conclusion was reached.

The second component of this funding scheme calls for a diversion of a percentage of the revenues generated from the state sales and use tax on sales of motor vehicles, trailers, or semitrailers "required to be licensed" in Arkansas. Actually, only 76.6% of the revenues are diverted for highway and road purposes since the remaining 23.4% will continue to be deposited to the Property Tax Relief Fund (8.5%) and the Educational Adequacy Fund (14.9%). In the first year, 90% of the revenues will be deposited as general revenues, with the remaining 10% to be deposited as special revenues as follows: 15% to the County Aid Fund; 15% to the Municipal Aid Fund; and 70% to the State Highway and Transportation Fund. Gradually over the remainder of the 10-year phase-in period, less money will be deposited to general revenues and more to the other funds listed above, with 0% to be deposited to general revenues by year ten. The percentages of the remainder continue at 15% for the County Aid Fund, 15% for the Municipal Aid Fund, and 70% for the State Highway and Transportation Fund throughout the phase-in period and thereafter. The bill also amends Ark. Code Ann. § 19-6-301 (enumeration of special revenues) to reference the additions to special revenues provided by the bill. No new funds or accounts are created by this bill.

The bill has an emergency clause making it effective on July 1, 2013.