

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1965

Bill Subtitle: TO REPEAL PROVISIONS REGARDING THE USE OF SALES AND USE TAX REVENUES FROM REMOTE SELLERS; TO DEPOSIT SALES AND USE TAX REVENUES FROM REMOTE SELLERS INTO A FUND TO BE USED BY THE GENERAL ASSEMBLY; AND TO DECLARE AN EMERGENCY.

Basic Change :

Sponsor: Representative Jett

The bill would create a miscellaneous fund to be known as the "Arkansas 21st Century Fund" and provide for distribution of certain sales and use tax proceeds. The bill would also delete provisions from the Arkansas Code regarding future impact when federal authority is granted requiring remote sellers that do not have physical presence to begin collecting Arkansas sales and use taxes.

For the fiscal year beginning July 1, 2017 and ending June 30, 2018, all state general revenue sales and use tax revenues collected in excess of the forecasted \$2,441,100,000 would be deposited into the Arkansas 21st Century Fund. The fund would be used by the General Assembly for any purpose with any moneys remaining in the fund at the end of a fiscal year being carried-forward for subsequent use.

The bill also deletes existing code provisions regarding the distribution of sales and use tax revenues that would be received from sellers having no physical presence in Arkansas from the date Federal law is adopted authorizing the collection of state and local sales taxes. Provisions deleted from the Code include those that would reduce the state sales and use tax rate on food and food ingredients to zero percent and the provisions that would reduce income taxes for filers subject to the 4.5% income tax rate. The bill also repeals § 26-51-205(e) requiring sales taxes collected from remote sellers in excess of \$70 million be used to reduce the 4.5% individual income tax rate.

The bill contains an emergency clause and would be effective as of the date of its approval by the Governor.

Revenue Impact :

Sales and Use Tax General Revenues collected during FY2018 in excess of state forecast would be deposited to the Arkansas 21st Century Fund.

Taxpayer Impact :

None.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

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Procedural Changes :

This proposal would result in an accounting adjustment transfer to administer the cap threshold of sales and use tax general revenue collections in excess of the state forecast amount for FY2018.

Other Comments :

The bill creates a one-time set-aside of money during FY2018 that exceeds the sales tax forecast representing new sales and use tax revenues resulting from the possible collection of sales and use taxes from remote sellers having no physical presence in the state.

The potential set-aside of revenues into the Arkansas 21st Century Fund in FY2018 is a one-time transfer. Beginning again in FY2019, all general revenue sales tax collections will remain in the general revenue fund.

The \$2,441.1 million threshold is based on the November 9, 2016 General Revenue Forecast for FY2018 sales tax collections. If general revenue sales tax collections in FY2018 fall below the threshold no revenues would be deposited to the Arkansas 21st Century Fund. If general revenue sales tax collections in FY2018 exceed the threshold but other general revenue collections fall below forecast, total overall general revenues could possibly fall short of forecast.

Legal Analysis :

HB1965 amends existing law regarding the distribution and use of certain sales and use tax revenues from sellers that do not have a physical presence in the state. The bill is amended to add a new section under § 19-5-12 which creates a miscellaneous fund to be titled "Arkansas 21st Century Fund." The fund will consist of funds authorized or provided under Arkansas law and shall be used for purposes determined to be appropriate by the General Assembly. Moneys remaining in the fund at the end of each fiscal year will be carried forward from year to year.

The bill repeals existing provisions of Arkansas law related to the use of sales and use tax revenues from remote sellers concerning income tax levied on individuals, trust, and estates, and sales and use tax levied on food and food ingredients.

The bill also creates a fund, which is not to be codified, consisting of sales and use tax revenues received from all remote sellers, in excess of two billion four hundred forty-one million one hundred thousand dollars (\$2,441,100,000), for deposit into the Arkansas 21st Century Fund for fiscal year beginning July 1, 2017 and ending June 30, 2018.