

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1889

Bill 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.

Basic Change :

Sponsor: Rep. Penzo

HB1889 would establish funding sources and reduced costs for the Arkansas Department of Transportation (ARDOT) to support Arkansas highways, roads and streets. The bill would provide for a sales and use tax exemption of materials purchases for certain highway construction projects; eliminate the deductions by the State Treasurer from tax and fee receipts; and transfer sales tax revenues collected on sales of motor vehicles.

The bill would establish a sales and use tax exemption on materials purchased and used in highway construction. To be eligible for the tax exemption, the construction project must be initiated by the ARDOT. Construction materials eligible for the exemption would include all tangible personal property and consumables used directly in the construction project that will remain part of the completed project or are consumed in the construction process. Construction materials for purposes of the exemption would 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 but do not remain part of the completed construction project or are not consumed during the construction process. The tax exemption would apply to direct purchases by the ARDOT and to purchases by contractors conducting a construction project that has been initiated by the ARDOT.

The bill would also initiate a phased-in transfer of existing sales and use tax revenues resulting from sales of motor vehicles, trailers and semitrailers to support state, city and county highways, streets and roads. On September 1st of each year, the Chief Fiscal Officer of the State would determine as a monthly allocation, an amount equivalent to the percentages provided below after making deductions provided in existing Arkansas Law from total net general revenue concerning sales and use tax collections on new or used motor vehicles, trailers, or semitrailers:

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

The Chief Fiscal Officer of the State would phase in, over the course of ten (10) years, the new distribution of funds by the following percentages:

- Beginning September 1, 2019, ten percent (10%)
- Beginning September 1, 2020, twenty percent (20%)
- Beginning September 1, 2021, thirty percent (30%)
- Beginning September 1, 2022, forty percent (40%)
- Beginning September 1, 2023, fifty percent (50%)
- Beginning September 1, 2024, sixty percent (60%)
- Beginning September 1, 2025, seventy percent (70%)
- Beginning September 1, 2026, eighty percent (80%)
- Beginning September 1, 2027, ninety percent (90%); and

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- Beginning September 1, 2028, and thereafter, one hundred percent (100%).

The bill would also amend Arkansas law to provide additional funding for highways by eliminating the reduction by the State Treasurer from the tax receipts for motor fuels, natural gas severance tax, motor vehicle licensing fees, motor vehicle title transfer fees and search fees. Under current law, the State Treasurer deducts from the taxes and fees 2.1% for deposit to the State Central Services Fund and 1% for Constitutional Officers prior to the subsequent distributions under the Arkansas Highway Revenue Distribution Law.

The bill includes an emergency clause and the provisions of the act would be effective on and after July 1, 2019.

Revenue Impact :

1. Sales Tax Exemption on Construction Materials

FY2020

-\$17.28 Total Loss to State Revenues

(11 months reduced tax collections)

- -\$11.59 million --- State General Revenue (4.5%)
- -\$ 2.25 million --- Educational Adequacy (.875% tax)
- -\$ 1.29 million --- Property Tax Relief Trust Fund (.5%)
- -\$.32 million --- Conservation Tax (.125%)
- -\$ 1.29 million --- Highway Fund (.5%)
- -\$.36 million --- State Central Services
- -\$.17 million --- Constitutional Officers

FY2021

-\$19.42 Total Loss to State Revenues

- -\$11.24 million --- State General Revenue (4.5%)
- -\$ 2.53 million --- Educational Adequacy (.875% tax)
- -\$ 1.45 million --- Property Tax Relief Trust Fund (.5%)
- -\$.36 million --- Conservation Tax (.125%)
- -\$ 1.45 million --- Highway Fund (.5%)
- -\$ 1.64 million --- Educational Excellence Trust Fund
- -\$.14 million --- Educational Adequacy (GR transfer)
- -\$.41 million --- State Central Services
- -\$.19 million --- Constitutional Officers

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2. Elimination of State Treasurer Deductions for State Central Services Fund and Constitutional Officers Funds from Highway Tax and Fee Revenues

FY2020

-\$14.10 Million --- Loss to State Central Services Fund
-\$ 6.70 Million --- Loss to Constitutional Officers Fund
+\$14.53 Million --- Gain to State Highway and Transportation Department Fund (70%)
+\$ 3.11 Million --- Gain to Municipal Aid Fund (15%)
+\$ 3.11 Million --- Gain to County Aid Fund (15%)

FY2021

-\$14.90 Million --- Loss to State Central Services Fund
-\$ 7.10 Million --- Loss to Constitutional Officers Fund
+\$15.43 Million --- Gain to State Highway and Transportation Department Fund (70%)
+\$ 3.31 Million --- Gain to Municipal Aid Fund (15%)
+\$ 3.31 Million --- Gain to County Aid Fund (15%)

3. Transfer of Sales and Use Tax on Motor Vehicles, Trailers and Semitrailers

FY2020

-\$25.9 Million Total Loss to State General Revenue
+\$25.9 Million Gain to Highway, Road and Street Funding
\$18.1 Million Gain State Highway and Transportation Department Fund
\$3.9 Million Gain County Aid Fund
\$3.9 Million Gain Municipal Aid Fund

FY2021

-\$58.9 Million Total Loss to State General Revenue
+\$58.9 Million Gain to Highway, Road and Street Funding
\$41.3 Million Gain State Highway and Transportation Department Fund
\$8.8 Million Gain County Aid Fund
\$8.8 Million Gain Municipal Aid Fund

FY2022

-\$92.9 Million Total Loss to State General Revenue
+\$92.9 Million Gain to Highway, Road and Street Funding
\$65.0 Million Gain State Highway and Transportation Department Fund
\$13.9 Million Gain County Aid Fund
\$13.9 Million Gain Municipal Aid Fund

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FY2023

-\$130.9 Million Total Loss to State General Revenue
+\$130.9 Million Gain to Highway, Road and Street Funding
\$91.7 Million Gain State Highway and Transportation Department Fund
\$19.6 Million Gain County Aid Fund
\$19.6 Million Gain Municipal Aid Fund

FY2024

-\$171.5 Million Total Loss to State General Revenue
+\$171.5 Million Gain to Highway, Road and Street Funding
\$120.1 Million Gain State Highway and Transportation Department Fund
\$25.7 Million Gain County Aid Fund
\$25.7 Million Gain Municipal Aid Fund

FY2025

-\$213.8 Million Total Loss to State General Revenue
+\$213.8 Million Gain to Highway, Road and Street Funding
\$149.7 Million Gain State Highway and Transportation Department Fund
\$32.1 Million Gain County Aid Fund
\$32.1 Million Gain Municipal Aid Fund

FY2026

-\$257.8 Million Total Loss to State General Revenue
+\$257.8 Million Gain to Highway, Road and Street Funding
\$180.4 Million Gain State Highway and Transportation Department Fund
\$38.7 Million Gain County Aid Fund
\$38.7 Million Gain Municipal Aid Fund

FY2027

-\$305.8 Million Total Loss to State General Revenue
+\$305.8 Million Gain to Highway, Road and Street Funding
\$214.1 Million Gain State Highway and Transportation Department Fund
\$45.9 Million Gain County Aid Fund
\$45.9 Million Gain Municipal Aid Fund

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FY2028

- \$359.4 Million Total Loss to State General Revenue
+ \$359.4 Million Gain to Highway, Road and Street Funding
\$251.5 Million Gain State Highway and Transportation Department Fund
\$53.9 Million Gain County Aid Fund
\$53.9 Million Gain Municipal Aid Fund

FY2029

- \$417.6 Million Total Loss to State General Revenue
+ \$417.6 Million Gain to Highway, Road and Street Funding
\$292.3 Million Gain State Highway and Transportation Department Fund
\$62.6 Million Gain County Aid Fund
\$62.6 Million Gain Municipal Aid Fund

FY2030

- \$437.5 Million Total Loss to State General Revenue
+ \$437.5 Million Gain to Highway, Road and Street Funding
\$306.2 Million Gain State Highway and Transportation Department Fund
\$65.6 Million Gain County Aid Fund
\$65.6 Million Gain Municipal Aid Fund

Taxpayer Impact :

The Arkansas Department of Transportation and contractors conducting highway construction projects initiated by Department of Transportation would no longer pay sales and use tax on their purchases of highway construction materials.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Updates to the sales tax rules will need to be promulgated and with changes to the state's tax database and Treasurer's Office to allocate for this new fund distribution method.

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Other Comments :

None.

Legal Analysis :

The bill provides a sales and use tax exemption for tangible personal property used directly as part of a public construction project. Exempt property includes materials and consumables that will remain part of the completed project or that are consumed in the construction process. Tools, construction equipment, motor vehicle fuel, and property that does not remain part of the completed project or are not consumed in the construction process remain taxable. It is unclear what is intended with the use of "consumables" as there is no existing definition in Arkansas Sales and Use Tax laws for that phrase.

The bill also requires DFA to determine an amount of state general revenue collections received each month from the general revenue component of state sales and use tax on the sale of new or used motor vehicles, trailers, or semitrailers required to be licensed for use in this state. This general revenue component is 4.5% of the current 6.5% state sales and use tax rate.

Beginning September 1, 2019, 10% of the general revenue collected from the state sales and use tax on vehicles, trailers, and semi-trailers shall be certified each month by DFA to the State Treasurer who is to transmit 70% of that amount to the State Highway and Transportation Department Fund, 15% to the County Aid Fund, and 15% to the Municipal Aid Fund. The amounts transmitted by the State Treasurer are to be used by AHTD, counties, and municipalities for construction, maintenance and repair of roads, streets and bridges. The amount certified by DFA to the State Treasurer shall increase to 20% on September 1, 2020, 30% on September 1, 2021, 40% on September 1, 2022, 50% on September 1, 2023, 60% on September 1, 2024, 70% on September 1, 2025, 80% on September 1, 2026, 90% on September 1, 2027, and 100% on and after September 1, 2028.

The bill also provides that highway revenues distributed under § 27-70-206 will no longer be subject to the current withholding for the Constitutional Officers Fund and the State Central Services Fund. This includes fuel tax collections on gasoline and diesel fuel which are currently subject to that withholding.