

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

HOUSE BILL 1260

5 By: Representative D. Douglas  
6

## For An Act To Be Entitled

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

## Subtitle

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24 TO DEDICATE REVENUES TO BE USED BY THE  
25 STATE AND LOCAL GOVERNMENTS TO IMPROVE,  
26 CONSTRUCT, AND MAINTAIN THE HIGHWAYS,  
27 ROADS, STREETS, AND BRIDGES IN THE STATE;  
28 AND TO DECLARE AN EMERGENCY.  
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32 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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34 SECTION 1. Arkansas Code § 19-6-301, concerning the enumeration of  
35 special revenues, is amended to add additional subdivisions to read as  
36 follows:



1           (263) The wholesale sales tax on motor fuel levied under § 26-  
 2 64-101; and

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

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

7           26-52-107. Disposition of taxes, interest, and penalties.

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

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

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

24           (h)(1) When the annual gross collection of general revenue of sales  
 25 and use tax exceeds two billion five hundred million dollars  
 26 (\$2,500,000,000), the Chief Fiscal Officer of the State shall determine the  
 27 monthly total net general revenues enumerated in § 19-6-201(1) and (2) that  
 28 were collected as sales and use taxes under § 26-52-301, § 26-52-302(a), §  
 29 26-52-302(b)(1), § 26-52-303, § 26-52-607, § 26-53-106, § 26-53-107(a), and §  
 30 26-53-107(b)(1), on the sale of new or used motor vehicles, trailers, or  
 31 semitrailers required to be licensed in this state.

32           (2) After making the deductions required under § 19-5-  
 33 202(b)(2)(B)(i), on the last day of each month the Chief Fiscal Officer of  
 34 the State shall certify the amount determined under subdivision (h)(1) of  
 35 this section to the Treasurer of State, who shall transfer the certified  
 36 amount, up to the following annual amounts, from general revenues to the

1 State Highway and Transportation Department Fund:

2 (A) For the first year after gross collection of general  
 3 revenue of sales and use tax exceeds two billion five hundred million dollars  
 4 (\$2,500,000,000), thirty million dollars (\$30,000,000);

5 (B) For the second year after gross collection of general  
 6 revenue of sales and use tax exceeds two billion five hundred million dollars  
 7 (\$2,500,000,000), sixty million dollars (\$60,000,000);

8 (C) For the third year after gross collection of general  
 9 revenue of sales and use tax exceeds two billion five hundred million dollars  
 10 (\$2,500,000,000), ninety million dollars (\$90,000,000); and

11 (D) For each year after the third year after gross  
 12 collection of general revenue of sales and use tax exceeds two billion five  
 13 hundred million dollars (\$2,500,000,000), one hundred twenty million dollars  
 14 (\$120,000,000).

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

19 (g)(1) When the annual gross collection of general revenue of sales  
 20 and use tax exceeds two billion five hundred million dollars  
 21 (\$2,500,000,000), the Chief Fiscal Officer of the State shall determine the  
 22 monthly total net general revenues enumerated in § 19-6-201(1) and (2) that  
 23 were collected as sales and use taxes under § 26-52-301, § 26-52-302(a), §  
 24 26-52-302(b)(1), § 26-52-303, § 26-52-607, § 26-53-106, § 26-53-107(a), and §  
 25 26-53-107(b)(1), on the sale of new or used motor vehicles, trailers, or  
 26 semitrailers required to be licensed in this state.

27 (2) After making the deductions required under § 19-5-  
 28 202(b)(2)(B)(i), on the last day of each month the Chief Fiscal Officer of  
 29 the State shall certify the amount determined under subdivision (g)(1) of  
 30 this section to the Treasurer of State, who shall transfer the certified  
 31 amount, up to the following annual amounts, from general revenues to the  
 32 State Highway and Transportation Department Fund:

33 (A) For the first year after gross collection of general  
 34 revenue of sales and use tax exceeds two billion five hundred million dollars  
 35 (\$2,500,000,000), thirty million dollars (\$30,000,000);

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

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

3 (C) For the third year after gross collection of general  
 4 revenue of sales and use tax exceeds two billion five hundred million dollars  
 5 (\$2,500,000,000), ninety million dollars (\$90,000,000); and

6 (D) For each year after the third year after gross  
 7 collection of general revenue of sales and use tax exceeds two billion five  
 8 hundred million dollars (\$2,500,000,000), one hundred twenty million dollars  
 9 (\$120,000,000).

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

13 CHAPTER 64

14 WHOLESALE SALES TAX ON FUEL

15  
 16 26-64-101. Wholesale sales tax on motor fuel.

17 (a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

32  
33 26-64-102. Wholesale sales tax on distillate special fuel.

34 (a) As used in this section:

35 (1) “Average wholesale selling price” means the United States  
36 Gulf Coast regular average wholesale selling price of distillate special fuel

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

5 (2)(A) "Distillate special fuel" means the same as defined in §  
6 26-56-102.

7 (B) However, "distillate special fuel" does not include  
8 distillate special fuel used for off-road purposes as identified in § 26-56-  
9 224.

10 (b) Beginning April 1, 2020, in addition to the taxes levied in §§ 26-  
11 56-201, 26-56-502, and 26-56-601, there is levied a wholesale sales tax upon  
12 the average wholesale selling price per gallon of distillate special fuel at  
13 the rate determined in subsection (c) of this section.

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

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

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

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

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

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

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

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

17  
18 26-64-103. Disposition of revenues.

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

21 (1) Seventy percent (70%) to the State Highway and  
22 Transportation Department Fund;

23 (2) Fifteen percent (15%) to the County Aid Fund; and

24 (3) Fifteen percent (15%) to the Municipal Aid Fund.

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

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

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