

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1024

Bill Subtitle: TO DESIGNATE THE REVENUES DERIVED FROM TAXES COLLECTED ON THE SALES OF NEW AND USED MOTOR VEHICLES AS SPECIAL REVENUES; AND TO CLARIFY THAT THE REVENUES DERIVED FROM THE TAXES COLLECTED BY REMOTE SELLERS ARE GENERAL REVENUES.

Basic Change :

Sponsor: Representative Rye

HB1024 provides that the first one hundred and fifty million dollars (\$150,000,000) of the tax revenues received on the sale of new and used motor vehicles, trailers, and semitrailers would be deemed special revenues for distribution under the Arkansas Highway Distribution Law, § 27-70-201 et seq. with fifteen percent (15%) of the amount to the County Aid Fund; fifteen percent (15%) of the amount to the Municipal Aid Fund; and seventy percent (70%) of the amount to the State Highway and Transportation Department Fund. Any remaining revenues collected in excess of the first one hundred and fifty million dollars (\$150,000,000) would continue to be deposited as general revenues to the credit of the State Apportionment Fund.

The bill also includes provisions directing that state sales and use taxes received from sellers having no physical presence in the state are to be general revenues and deposited to the credit of the State Apportionment Fund.

Revenue Impact :

FY2020

\$150 Million Change to Sales Tax Distribution of Motor Vehicle Sales Tax

- \$150.0 million --- Loss to State General Revenue
+\$105.0 million --- Gain to State Highway and Transportation Department Fund.
+\$ 22.5 million --- Gain to Municipal Aid Fund
+\$ 22.5 million --- Gain to County Aid Fund

FY2021

\$150 Million Change to Sales Tax Distribution of Motor Vehicle Sales Tax

-\$126.9 million --- Loss to State General Revenue
-\$ 21.2 million --- Loss to Educational Excellence Trust Fund
-\$ 1.9 million --- Loss to Educational Adequacy (GR transfer)
+\$105.0 million --- Gain to State Highway and Transportation Department Fund.
+\$ 22.5 million --- Gain to Municipal Aid Fund

Taxpayer Impact :

None.

Resources Required :

None.

Time Required :

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The bill does not provide an effective date of the tax distribution change but changes to computer systems to redirect the tax collections as provided in the bill could take six months for design, preparation, and testing.

Procedural Changes :

An update to the current distribution of revenue for these types of transactions will be required.

Other Comments :

The bill does not specify an effective date to begin re-distributions of the first \$150 million in sales tax collections on sales of new or used motor vehicles, trailers, or semi-trailers. It is recommended the bill be amended to provide an effective date for the change in the tax distribution.

The bill does not clearly state the frequency of the change in the tax distribution. It is also unclear whether the change in the distribution of the first \$150 million is a one-time occurrence or whether the distribution change is a continuous and annual transfer that will occur each fiscal year.

It is not clear if the determination as to meeting the \$150 million threshold is to include all state sales tax levies that when combined equal the 6.5% tax rate or to only include the general revenue portion when making the determination. The 6.5% state sales and use tax rate is deposited as follows: 4.5% State General Revenue; .875% for Educational Adequacy; .5% for the Property Tax Relief Trust Fund; .125% Conservation sales tax; and .5% for State Highways. The Conservation and Highways sales and use taxes are levied by Constitutional Amendment for specific purposes and the tax collections for those levies cannot be changed for deposit as special revenues in accordance with the provisions of the bill. It is recommended that additional clarification be added to the bill to provide the specific direction as to which state sales taxes are to be used in determining the \$150 million threshold and which are subject to the re-distribution as special revenues.

The sales and use tax collections on the sale of new or used motor vehicle, trailer, or semitrailer are deposited by DFA to the State Treasurer based on the specific Arkansas Code provisions that direct the use of the funds. The State Treasurer makes the deduction for the State Central Services Fund and the Constitutional Officers Fund and not the Director of the Department of Finance and Administration as provided in the bill. It is recommended this provision be amended to designate the proper party with that responsibility.

The bill also requires clarification as to the initial deposit of the \$150 million to the State Treasurer. If deposited as state general revenues with a subsequent re-deposit to special revenues, a doubling of the State Central Services Fund and the Constitutional Officers Fund will occur. The reduction would first occur when the deposit to the State Treasurer is to general revenues and will occur again when the funds are distributed as special revenues. The special revenue distribution includes the deduction for the State Central Services Fund and the Constitutional Officers Fund. After this **second** deduction of service charges, the funds are distribution under the Arkansas Highway Revenue Distribution Law, which is 70% to the Arkansas Highway and Transportation Department Fund, 15% to the County Aid Fund and 15% to the Municipal Aid Fund.

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Legal Analysis :

HB1024 amends § 26-52-107 to divert one hundred fifty million dollars (\$150,000,000) in sales and use taxes derived from the sale of new or used motor vehicles, trailers, and semitrailers required to be licensed in this state from general revenue. The bill attempts to offset the impact on general revenue by providing that all sales and use taxes, interest, penalties, and costs received from sellers who do not have a physical presence in the state will be general revenues.

From a practical standpoint, DFA has no knowledge as to the out of state sellers that have, or do not have, physical presence in the state. The term "physical presence" is not defined in the bill. To effectively administer the requirements of this bill, DFA would have to contact all out of state sellers and request information as to their physical presence status, and the accuracy of any information provided by such sellers could only be determined by audit.