

INTERIM STUDY PROPOSAL 2019-072

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

**A Bill**

HOUSE BILL 1889

5  
6 By: Representative Penzo

7 Filed with: House Committee on Revenue and Taxation  
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT TO PROVIDE FUNDING FOR THE MAINTENANCE,  
11 REPAIR, AND CONSTRUCTION OF HIGHWAYS, ROADS, STREETS,  
12 AND BRIDGES IN THE STATE; TO CREATE A SALES AND USE  
13 TAX EXEMPTION FOR CONSTRUCTION MATERIALS USED BY THE  
14 ARKANSAS DEPARTMENT OF TRANSPORTATION IN PUBLIC  
15 CONSTRUCTION PROJECTS; TO DEDICATE AN INCREASING  
16 PORTION OF THE SALES AND USE TAXES COLLECTED ON THE  
17 SALES AND PURCHASES OF NEW AND USED MOTOR VEHICLES TO  
18 PROVIDE FUNDING FOR THE MAINTENANCE, REPAIR, AND  
19 CONSTRUCTION OF HIGHWAYS, ROADS, STREETS, AND BRIDGES  
20 IN THE STATE; TO AMEND THE DISTRIBUTION OF FUNDS  
21 UNDER THE ARKANSAS HIGHWAY REVENUE DISTRIBUTION LAW;  
22 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

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25 **Subtitle**

26 TO PROVIDE FUNDING FOR THE MAINTENANCE,  
27 REPAIR, AND CONSTRUCTION OF HIGHWAYS,  
28 ROADS, STREETS, AND BRIDGES IN THE STATE  
29 THROUGH CHANGES IN THE TAX LAWS AND MOTOR  
30 VEHICLES LAWS; AND TO DECLARE AN  
31 EMERGENCY.

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34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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1 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended  
2 to add an additional section to read as follows:

3 26-52-452. Construction materials for public construction projects.

4 (a) As used in this section:

5 (1)(A) "Eligible construction material" means tangible personal  
6 property used directly as part of a public construction project, including  
7 without limitation construction materials and consumables that are used in a  
8 public construction project that will remain part of the completed public  
9 construction project or are consumed in the construction process.

10 (B) "Eligible construction material" does not include  
11 construction equipment and tools, motor vehicle fuel, and other tangible  
12 personal property that may be used for purposes of a public construction  
13 project that do not remain part of the public construction project or are not  
14 consumed during the construction process;

15 (2)(A) "Public construction project" means a construction  
16 project initiated by the Arkansas Department of Transportation and paid for  
17 with public funds.

18 (B) "Public construction project" includes only the  
19 portion of the construction project that is paid for with public funds;

20 (3) "Public entity" means the state, a political subdivision of  
21 the state, and the United States Government; and

22 (4) "Public funds" means funds or guarantees from a public  
23 entity.

24 (b) The gross receipts or gross proceeds derived from the sale of an  
25 eligible construction material are exempt from the gross receipts tax levied  
26 under this chapter and the compensating use tax levied under the Arkansas  
27 Compensating Tax Act of 1949, § 26-53-101 et seq.

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29 SECTION 2. Arkansas Code § 26-52-510, concerning the payment of sales  
30 tax on a new or used motor vehicle, trailer, or semitrailer, is amended to  
31 add additional subsections to read as follows:

32 (h)(1) By September 1 of each year, the Chief Fiscal Officer of the  
33 State shall determine as a monthly allocation an amount equivalent to the  
34 percentages stated in subsection (i) of this section of the total net general  
35 revenues enumerated in § 19-6-201(1) and (2) that were collected as sales and  
36 use tax under § 26-52-301, § 26-52-302(a), § 26-52-302(b)(1), § 26-52-303, §

1 26-52-607, § 26-53-106, § 26-53-107(a), and § 26-53-107(b)(1), on the sale of  
2 new or used motor vehicles, trailers, or semitrailers required to be licensed  
3 in this state.

4 (2) After making the deductions required under § 19-5-  
5 202(b)(2)(B)(i), on the last day of each month the Chief Fiscal Officer of  
6 the State shall certify the allocation determined under subdivision (h)(1) of  
7 this section to the Treasurer of State, who shall transfer the certified  
8 allocation as follows:

9 (A) Seventy percent (70%) credited to the State Highway  
10 and Transportation Department Fund, which shall be used for the construction,  
11 reconstruction, and maintenance of highways, roads, streets, bridges, and  
12 extensions of highways, roads, streets, and bridges located within the state;

13 (B) Fifteen percent (15%) credited to the County Aid Fund,  
14 which shall be used for the construction, reconstruction, and maintenance of  
15 highways, roads, streets, bridges, and extensions of highways, roads,  
16 streets, and bridges located within the county; and

17 (C) Fifteen percent (15%) credited to the Municipal Aid  
18 Fund, which shall be used for the construction, reconstruction, and  
19 maintenance of highways, roads, streets, bridges, and extensions of highways,  
20 roads, streets, and bridges located within the municipality.

21 (i) In making a determination under subsection (h) of this section,  
22 the Chief Fiscal Officer of the State shall use the following percentages:

- 23 (1) Beginning September 1, 2019, ten percent (10%);
- 24 (2) Beginning September 1, 2020, twenty percent (20%);
- 25 (3) Beginning September 1, 2021, thirty percent (30%);
- 26 (4) Beginning September 1, 2022, forty percent (40%);
- 27 (5) Beginning September 1, 2023, fifty percent (50%);
- 28 (6) Beginning September 1, 2024, sixty percent (60%);
- 29 (7) Beginning September 1, 2025, seventy percent (70%);
- 30 (8) Beginning September 1, 2026, eighty percent (80%);
- 31 (9) Beginning September 1, 2027, ninety percent (90%); and
- 32 (10) Beginning September 1, 2028, and thereafter, one hundred  
33 percent (100%).

34

1 SECTION 3. Arkansas Code § 26-53-126, concerning the payment of use  
2 tax on new or used motor vehicles, trailers, or semitrailers, is amended to  
3 add additional subsections to read as follows:

4 (g)(1) By September 1 of each year, the Chief Fiscal Officer of the  
5 State shall determine as a monthly allocation an amount equivalent to the  
6 percentages stated in subsection (h) of this section of the total net general  
7 revenues enumerated in § 19-6-201(1) and (2) that were collected as sales and  
8 use tax under § 26-52-301, § 26-52-302(a), § 26-52-302(b)(1), § 26-52-303, §  
9 26-52-607, § 26-53-106, § 26-53-107(a), and § 26-53-107(b)(1), on the sale of  
10 new or used motor vehicles, trailers, or semitrailers required to be licensed  
11 in this state.

12 (2) After making the deductions required under § 19-5-  
13 202(b)(2)(B)(i), on the last day of each month the Chief Fiscal Officer of  
14 the State shall certify the allocation determined under subdivision (g)(1) of  
15 this section to the Treasurer of State, who shall transfer the certified  
16 allocation as follows:

17 (A) Seventy percent (70%) credited to the State Highway  
18 and Transportation Department Fund, which shall be used for the construction,  
19 reconstruction, and maintenance of highways, roads, streets, bridges, and  
20 extensions of highways, roads, streets, and bridges located within the state;

21 (B) Fifteen percent (15%) credited to the County Aid Fund,  
22 which shall be used for the construction, reconstruction, and maintenance of  
23 highways, roads, streets, bridges, and extensions of highways, roads,  
24 streets, and bridges located within the county; and

25 (C) Fifteen percent (15%) credited to the Municipal Aid  
26 Fund, which shall be used for the construction, reconstruction, and  
27 maintenance of highways, roads, streets, bridges, and extensions of highways,  
28 roads, streets, and bridges located within the municipality.

29 (h) In making a determination under subsection (g) of this section,  
30 the Chief Fiscal Officer of the State shall use the following percentages:

- 31 (1) Beginning September 1, 2019, ten percent (10%);
- 32 (2) Beginning September 1, 2020, twenty percent (20%);
- 33 (3) Beginning September 1, 2021, thirty percent (30%);
- 34 (4) Beginning September 1, 2022, forty percent (40%);
- 35 (5) Beginning September 1, 2023, fifty percent (50%);
- 36 (6) Beginning September 1, 2024, sixty percent (60%);

- 1           (7) Beginning September 1, 2025, seventy percent (70%);
- 2           (8) Beginning September 1, 2026, eighty percent (80%);
- 3           (9) Beginning September 1, 2027, ninety percent (90%); and
- 4           (10) Beginning September 1, 2028, and thereafter, one hundred
- 5 percent (100%).

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7           SECTION 4. Arkansas Code § 27-70-206 is amended to read as follows:

8           27-70-206. Distribution to state funds.

9           Excluding the interest income classified as special revenue under § 27-

10 70-204(b)(1), all highway revenues ~~which~~ that are available for distribution

11 during each fiscal year shall be transferred to the following State Treasury

12 funds, and in the order specified, with transfers to be made monthly until

13 all available revenues have been transferred:

14           (1) ~~First, except as provided by § 19-5-207, three percent (3%)~~

15 ~~of the amount thereof to the Constitutional Officers Fund and the State~~

16 ~~Central Services Fund, there to be used for the purposes specified for each~~

17 ~~fund by the Revenue Stabilization Law, § 19-5-101 et seq.;~~

18           (2) ~~Next~~ First, to the Gasoline Tax Refund Fund, such amount as

19 the Director of the Department of Finance and Administration ~~shall, from time~~

20 ~~to time, certify~~ certifies to the Treasurer of State as being necessary to

21 pay approved gasoline tax refund claims under ~~the provisions of §§ 26-55-301~~

22 ~~—26-55-321 [Repealed] and §§ 26-55-401 – 26-55-408,~~ or other applicable law.

23 However, the aggregate total amount of all transfers under this ~~paragraph~~

24 subdivision shall not exceed two million five hundred thousand dollars

25 (\$2,500,000) during any fiscal year; and

26           (3) ~~(2)~~ After Next, after meeting the requirements ~~set out~~ stated

27 in ~~subdivisions (1) and (2)~~ subdivision (1) of this section, all remaining

28 highway revenues ~~which~~ that are available for distribution during each fiscal

29 year shall be transferred in the following manner: Fifteen percent (15%) of

30 the amount thereof to the County Aid Fund; fifteen percent (15%) of the

31 amount thereof to the Municipal Aid Fund; and seventy percent (70%) of the

32 amount thereof to the State Highway and Transportation Department Fund.

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34           SECTION 5. EMERGENCY CLAUSE. It is found and determined by the

35 General Assembly of the State of Arkansas that the highways, roads, streets,

36 and bridges of this state are in dire need of construction, reconstruction,

1 and maintenance; that well-maintained roadways are necessary for economic  
2 development in this state; that exempting certain purchases of the Arkansas  
3 Department of Transportation from sales and use taxes will enable the  
4 department to dedicate more funds toward constructing, reconstructing, and  
5 maintaining the roadways in the state; that dedicating a portion of the sales  
6 and use taxes on the sale of new and used motor vehicles, trailers, and  
7 semitrailers is necessary to help pay for the construction, reconstruction,  
8 and maintenance of our roadways; and that in order to lessen the loss of this  
9 money from general revenue, the transfer of the sales and use taxes will be  
10 phased in over a ten-year period. Therefore, an emergency is declared to  
11 exist, and this act being necessary for the preservation of the public peace,  
12 health, and safety shall become effective on July 1, 2019.

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15 Referred requested by the Arkansas House of Representatives  
16 Prepared by: JLL/VJF

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