

1 State of Arkansas As Engrossed: S2/21/19 H2/27/19

2 92nd General Assembly

# A Bill

3 Regular Session, 2019

SENATE BILL 336

4

5 By: Senators Rice, Bledsoe, Bond, E. Cheatham, L. Chesterfield, J. Cooper, L. Eads, Elliott, J. English,  
6 Flippo, S. Flowers, J. Hendren, K. Ingram, Irvin, B. Johnson, M. Johnson, G. Leding, M. Pitsch, Rapert,  
7 G. Stubblefield, J. Sturch, D. Wallace

8 By: Representatives Holcomb, Shepherd, Berry, Breau, Brown, Christiansen, Coleman, Crawford, M.  
9 Davis, Hollowell, Kelly, Lowery, Lynch, McNair, Richmond, Rye, Slape, Wardlaw, Wooten

10

11

## For An Act To Be Entitled

12

AN ACT TO PROVIDE ADDITIONAL REVENUE TO MAINTAIN AND

13

REPAIR HIGHWAYS, STREETS, AND BRIDGES IN THE STATE;

14

TO LEVY A WHOLESALE SALES TAX ON MOTOR FUEL AND

15

DISTILLATE SPECIAL FUEL; TO IMPOSE ADDITIONAL VEHICLE

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REGISTRATION FEES ON HYBRID AND ELECTRIC MOTOR

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VEHICLES; TO DESIGNATE SPECIAL REVENUES TO BE USED TO

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MAINTAIN AND REPAIR HIGHWAYS, STREETS, AND BRIDGES IN

19

THE STATE; TO TRANSFER FUNDS NEEDED TO PAY FOR THE

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REPAIR AND MAINTENANCE OF HIGHWAYS, STREETS, AND

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BRIDGES IN THE STATE; AND FOR OTHER PURPOSES.

22

23

24

## Subtitle

25

TO PROVIDE ADDITIONAL REVENUE FOR THE

26

MAINTENANCE AND REPAIR OF HIGHWAYS,

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STREETS, AND BRIDGES IN THE STATE.

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30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

31

32 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

33 (a) The General Assembly finds that additional revenue will be

34 available to the state resulting from anticipated savings generated by the

35 transformation of state government, the creation of cabinet positions, and

36 other reductions in state government, and from the growth of casino gambling



1 resulting from the adoption of The Arkansas Casino Gaming Amendment of 2018,  
2 Arkansas Constitution, Amendment 100.

3 (b) The General Assembly intends to use a portion of the anticipated  
4 savings described in subsection (a) of this section to make additional  
5 revenues available for use in maintaining and repairing public highways,  
6 streets, and bridges in the state.

7  
8 SECTION 2. Arkansas Code § 19-5-202(b)(2)(B), concerning the General  
9 Revenue Fund Account, is amended to read as follows:

10 (B) From the net general revenue, after adding the advance  
11 transfer, if any, the Treasurer of State shall make the following  
12 distributions and shall notify the Auditor of State and the Chief Fiscal  
13 Officer of the State:

14 (i) First, the Treasurer of State shall deduct one  
15 percent (1%), which shall be transferred to the Constitutional Officers Fund,  
16 as created in § 19-5-205(c). An appropriate percentage of not less than two  
17 percent (2%) and not to exceed three percent (3%), as determined from time to  
18 time by the Chief Fiscal Officer of the State as being the amount required to  
19 support the estimated commitments and expenditures of the State Central  
20 Services Fund for the current fiscal year, shall be transferred to the State  
21 Central Services Fund, as created in § 19-5-205(e);

22 (ii) Next, any revenue deposited into the General  
23 Revenue Fund Account of the State Apportionment Fund from the net casino  
24 gaming receipts tax under § 5(c) of Section 1 of The Arkansas Casino Gaming  
25 Amendment of 2018, Arkansas Constitution, Amendment 100, that exceeds thirty-  
26 one million two hundred thousand dollars (\$31,200,000) in a fiscal year shall  
27 be held in a subaccount to be transferred on the last business day of the  
28 fiscal year from the General Revenue Fund Account of the State Apportionment  
29 Fund to the State Highway and Transportation Department Fund;

30 (iii)(a) On the last business day of the fiscal year  
31 ending June 30, 2020, and on the last business day of each following fiscal  
32 year, the Chief Fiscal Officer of the State shall transfer on his or her  
33 books and those of the Treasurer of State and the Auditor of State an amount  
34 not to exceed thirty-five million dollars (\$35,000,000) from the funds  
35 available in the Restricted Reserve Fund and from any other funds designated  
36 by the Governor to the State Highway and Transportation Department Fund.

1                                    (b) The amount to be transferred under this  
2 subdivision (b)(2)(B)(iii) shall be calculated to provide the total sum of  
3 thirty-five million dollars (\$35,000,000) to the State Highway and  
4 Transportation Department Fund when combined with the funds transferred in  
5 that fiscal year from the General Revenue Fund Account of the State  
6 Apportionment Fund under subdivision (b)(2)(B)(ii) of this section;

7                                    (iv) Next, the Treasurer of State shall deduct an  
8 amount sufficient to pay for cash rebates which have been paid or approved  
9 for payment during the current month upon applications filed therefor as  
10 authorized in §§ 26-51-601 – 26-51-608 [repealed] and deduct an amount  
11 sufficient to pay for refunds made during that month to taxpayers from  
12 overpayment of the income tax as certified by the Chief Fiscal Officer of the  
13 State and transfer that amount to the Individual Income Tax Withholding Fund,  
14 Corporate Income Tax Withholding Fund, and Home Owners Tax Relief Fund, as  
15 applicable; and

16                                    ~~(iii)~~(v) The remaining revenue, known as general  
17 revenues available for distribution, in the General Revenue Fund Account of  
18 the State Apportionment Fund shall be distributed as provided by this chapter  
19 to the various funds and fund accounts as created and established in § 19-5-  
20 301 et seq. and to any other fund or fund account as may be authorized by  
21 law. The Treasurer of State, after distributing the general revenues  
22 available for distribution due each fund or fund account, shall deduct the  
23 amount of any advance transfers made during the month from the distribution  
24 to each applicable fund or fund account.

25  
26                    SECTION 3. Arkansas Code § 19-5-1263, concerning the Restricted  
27 Reserve Fund, is amended to add an additional subsection to read as follows:

28                    (e) The funds available in the Restricted Reserve Fund may be  
29 transferred as provided in § 19-5-202(b)(2)(B)(iii).

30  
31                    SECTION 4. Arkansas Code § 19-6-301, concerning the enumeration of  
32 special revenues, is amended to add additional subdivisions to read as  
33 follows:

34                    (263) The wholesale sales tax on motor fuel levied under § 26-64-101;  
35                    (264) The wholesale sales tax on distillate special fuel levied under  
36 § 26-64-102; and

1           (265) Additional registration fees for electric vehicles and hybrid  
2 vehicles under § 27-14-614.

3  
4           SECTION 5. Arkansas Code § 19-6-405 is amended to read as follows:

5           19-6-405. State Highway and Transportation Department Fund.

6           The State Highway and Transportation Department Fund shall consist of:

7                   (1) That part of the special revenues as specified in § 19-6-  
8 301(2)-(4), (22), (81), (105)-(107), (182), and (256), known as “highway  
9 revenue”, as distributed under the Arkansas Highway Revenue Distribution Law,  
10 § 27-70-201 et seq., and § 27-70-103 and § 27-72-301 et seq.;

11                   (2) Those special revenues specified in § 19-6-301(10), (152),  
12 (187), (239), and (241);

13                   (3) Fifty percent (50%) of § 19-6-301(26);

14                   (4) That portion of § 19-6-301(2) as set out in § 27-14-  
15 601(a)(3)(H)(ii)(f) ;

16                   (5) That portion of § 19-6-301(222);

17                   (6) Those designated revenues as set out in § 26-56-201(e)(1),  
18 which consist of the additional total of four cents (4¢) distillate special  
19 fuel taxes to be distributed as provided in the Arkansas Highway Financing  
20 Act of 1999, § 27-64-201 et seq.;

21                   (7) Federal revenue sharing funds as set out in § 19-5-1005;

22                   (8) The special revenues specified in § 26-64-103, which consist  
23 of the wholesale sales taxes on motor fuel and distillate special fuel;

24                   (9) The special revenues specified in § 27-14-614, which consist  
25 of the additional registration fees on electric vehicles and hybrid vehicles;

26 and

27                   ~~(8)~~(10) Any federal funds that may become available,  
28 there to be used for the maintenance, operation, and improvement required by  
29 the Arkansas Department of Transportation in carrying out the functions,  
30 powers, and duties as set out in Arkansas Constitution, Amendment 42, and §§  
31 27-65-102 – 27-65-107, 27-65-110, 27-65-122, and 27-65-124, and the other  
32 laws of this state prescribing the powers and duties of the department and  
33 the State Highway Commission.

34  
35           SECTION 6. Arkansas Code Title 26 is amended to add an additional  
36 chapter to read as follows:

## CHAPTER 64

WHOLESALE SALES TAX ON FUEL

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

(a) As used in this section:

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

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

(b) In addition to the taxes levied in §§ 26-55-205, 26-55-1002, 26-55-1006, 26-55-1201, and 26-56-601, there is levied a wholesale sales tax upon the average wholesale selling price of motor fuel at the rate determined under this section.

(c)(1) On or before October 1, 2019, the Director of the Department of Finance and Administration shall determine the rate of the wholesale sales tax levied under this section by multiplying the twelve-month average wholesale selling price of motor fuel for the period of January 1, 2018, through December 31, 2018, by one and six-tenths percent (1.6%).

(2) The wholesale sales tax rate determined under this subsection is effective for the period of October 1, 2019, through September 30, 2020.

(3) To make the collection of the wholesale sales tax levied under this subsection more efficient, the director shall convert the wholesale sales tax calculated under subdivision (c)(1) of this section to a cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

(d)(1) Beginning July 1, 2020, and each July 1 thereafter, the director shall calculate the wholesale sales tax levied under this section by multiplying the twelve-month average wholesale selling price of motor fuel for the period of January 1 through December 31 of the immediately preceding year by one and six-tenths percent (1.6%).

(2) The wholesale sales tax rate calculated under this subsection is effective for the twelve-month period beginning on October 1 of the year in which the calculation is made under this subsection.

1           (3) To make the collection of the wholesale sales tax levied  
2 under this subsection more efficient, the director shall convert the  
3 wholesale sales tax calculated under subdivision (d)(1) of this section to a  
4 cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

5           (4)(A) If the twelve-month average wholesale selling price  
6 calculated in subdivision (d)(1) of this section is more than the twelve-  
7 month average wholesale selling price of the year preceding that calculation,  
8 the director shall convert the resulting wholesale sales tax to a cent-per-  
9 gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

10           (B) If the wholesale sales tax rate calculated in  
11 subdivision (d)(1) of this section would result in an increase in the  
12 wholesale sales tax of more than one-tenth of one cent (0.1¢) per gallon of  
13 motor fuel when converted to a cent-per-gallon amount and rounded to the  
14 nearest one-tenth of one cent (0.1¢), the percentage used in the calculation  
15 of the wholesale sales tax rate under subdivision (d)(1) of this section  
16 shall be limited to the highest percentage that results in a cents-per-gallon  
17 amount that does not exceed one-tenth of one cent (0.1¢) for that twelve-  
18 month period when rounded to the nearest one-tenth of one cent (0.1¢).

19           (5) If the twelve-month average wholesale selling price used for  
20 the calculation in subdivision (d)(1) of this section is less than the  
21 twelve-month average wholesale selling price of the preceding year, the  
22 calculation under subdivision (d)(1) of this section shall not be made, and  
23 the wholesale sales tax rate for the twelve-month period beginning October 1  
24 shall be equal to the wholesale sales tax rate for the immediately preceding  
25 twelve-month period.

26           (e) The wholesale sales tax levied under this section shall be paid by  
27 motor fuel dealers to motor fuel distributors, who shall collect, report, and  
28 remit the tax in the same manner and at the same time as is prescribed by law  
29 for the collection, reporting, and payment of motor fuel taxes levied in  
30 Title 26, Chapter 55, of the Arkansas Code.

31           (f) By August 1 of each year, the Department of Finance and  
32 Administration shall publish the cent-per-gallon wholesale sales tax to be  
33 collected by motor fuel dealers and paid to motor fuel distributors beginning  
34 on October 1 of that year under this section and shall notify motor fuel  
35 dealers and motor fuel distributors of the published amount.

36

1 26-64-102. Wholesale sales tax on distillate special fuel.

2 (a) As used in this section:

3 (1) "Average wholesale selling price" means the United States  
4 Gulf Coast regular average wholesale selling price of distillate special fuel  
5 as published in an index by the Energy Information Administration within the  
6 United States Department of Energy or some other similar reliable index if  
7 the index published by the Energy Information Administration within the  
8 United States Department of Energy is no longer available; and

9 (2) "Distillate special fuel" means the same as defined in § 26-  
10 56-102, except that it does not include distillate special fuel used for off-  
11 road purposes as identified in § 26-56-224.

12 (b) In addition to the taxes levied in §§ 26-56-201, 26-56-502 and 26-  
13 56-601, there is levied a wholesale sales tax upon the average wholesale  
14 selling price of distillate special fuel at the rate determined under this  
15 section.

16 (c)(1) On or before October 1, 2019, the Director of the Department of  
17 Finance and Administration shall determine the rate of the wholesale sales  
18 tax levied under this section by multiplying the twelve-month average  
19 wholesale selling price of distillate special fuel for the period of January  
20 1, 2018, through December 31, 2018, by two and nine-tenths percent (2.9%).

21 (2) The wholesale sales tax rate determined under this  
22 subsection is effective for the period of October 1, 2019, through September  
23 30, 2020.

24 (3) To make the collection of the wholesale sales tax levied  
25 under this subsection more efficient, the director shall convert the  
26 wholesale sales tax calculated under subdivision (c)(1) of this section to a  
27 cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

28 (d)(1) Beginning July 1, 2020, and each July 1 thereafter, the  
29 director shall calculate the wholesale sales tax levied under this section by  
30 multiplying the twelve-month average wholesale selling price of distillate  
31 special fuel for the period of January 1 through December 31 of the  
32 immediately preceding year by two and nine-tenths percent (2.9%).

33 (2) The wholesale sales tax rate calculated under this  
34 subsection is effective for the twelve-month period beginning on October 1 of  
35 the year in which the calculation is made under this subsection.

36 (3) To make the collection of the wholesale sales tax levied

1 under this subsection more efficient, the director shall convert the  
2 wholesale sales tax calculated under subdivision (d)(1) of this section to a  
3 cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

4 (4)(A) If the twelve-month average wholesale selling price  
5 calculated in subdivision (d)(1) of this section is more than the twelve-  
6 month average wholesale selling price of the year preceding that calculation,  
7 the director shall convert the resulting wholesale sales tax to a cent-per-  
8 gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

9 (B) If the wholesale sales tax rate calculated in  
10 subdivision (d)(1) of this section would result in an increase in the  
11 wholesale sales tax of more than one-tenth of one cent (0.1¢) per gallon of  
12 distillate special fuel when converted to a cent-per-gallon amount and  
13 rounded to the nearest one-tenth of one cent (0.1¢), the percentage used in  
14 the calculation of the wholesale sales tax rate under subdivision (d)(1) of  
15 this section shall be limited to the highest percentage that results in a  
16 cents-per-gallon amount that does not exceed one-tenth of one cent (0.1¢) for  
17 that twelve-month period when rounded to the nearest one-tenth of one cent  
18 (0.1¢).

19 (5) If the twelve-month average wholesale selling price used for  
20 the calculation in subdivision (d)(1) of this section is less than the  
21 twelve-month average wholesale selling price of the preceding year, the  
22 calculation under subdivision (d)(1) of this section shall not be made, and  
23 the wholesale sales tax rate for the twelve-month period beginning October 1  
24 shall be equal to the wholesale sales tax rate for the immediately preceding  
25 twelve-month period.

26 (e) The wholesale sales tax levied under this section shall be paid by  
27 distillate special fuel dealers to distillate special fuel suppliers, who  
28 shall collect, report, and remit the tax in the same manner and at the same  
29 time as is prescribed by law for the collection, reporting, and payment of  
30 distillate special motor fuel taxes levied in Title 26, Chapter 56, of the  
31 Arkansas Code.

32 (f) By August 1 of each year, the Department of Finance and  
33 Administration shall publish the cent-per-gallon wholesale sales tax to be  
34 collected by distillate special fuel dealers and paid to distillate special  
35 fuel suppliers beginning on October 1 of each year under this section and  
36 shall notify distillate special fuel dealers and distillate special fuel



1 suppliers of the published amount.

2  
3 26-64-103. Disposition of revenues.

4 The wholesale sales taxes collected under this chapter are special  
5 revenues and shall be distributed under § 27-70-206.

6  
7 26-64-104. Reporting and disclosure requirements.

8 (a)(1) Each city and county that expends revenues distributed under  
9 this chapter shall submit a report to the Director of the Department of  
10 Finance and Administration no later than June 30 of each year detailing the:

11 (A) Amount of revenues received under this chapter;

12 (B) Expenditures made from the revenues received under  
13 this chapter; and

14 (C) Projects funded using revenues received under this  
15 chapter.

16 (2) The director may undertake an investigation of the  
17 expenditures reported by the cities and counties under subdivision (a)(1) of  
18 this section, including without limitation using the audit procedures under  
19 the Arkansas Tax Procedure Act, § 26-18-101 et seq., to verify compliance  
20 with this chapter.

21 (b) The Arkansas Department of Transportation shall make a report  
22 available to the Governor and the Legislative Council no later than November  
23 1 of each year detailing the expenditures of the revenues distributed to the  
24 department under this chapter, including without limitation the expenditures  
25 made from the revenues received under this chapter and the projects funded  
26 using revenues received under this chapter.

27  
28 SECTION 7. Arkansas Code Title 27, Chapter 14, Subchapter 6, is amended  
29 to add an additional section to read as follows:

30 27-14-614. Additional fee for electric vehicles and hybrid vehicles.

31 (a) As used in this section:

32 (1) "Electric vehicle" means a vehicle that:

33 (A) Is propelled by an electric motor powered by a battery  
34 or other electrical device incorporated into the vehicle; and

35 (B) Is not propelled by an internal combustion engine; and

36 (2) "Hybrid vehicle" means a vehicle that draws propulsion

1 energy from both an internal combustion engine and an energy storage device.

2 (b) In addition to the other fees required to be paid to register a  
3 vehicle under this subchapter, there is levied an annual fee of:

4 (1) Two hundred dollars (\$200) for each electric vehicle  
5 registered; and

6 (2) One hundred dollars (\$100) for each hybrid vehicle  
7 registered.

8 (c) The revenues collected under this section are special revenues and  
9 shall be distributed to the State Highway and Transportation Department Fund.

10  
11 SECTION 8. EFFECTIVE DATE. Sections 4-7 of this act are effective on  
12 the first day of the calendar quarter following the effective date of this  
13 act.

14  
15  
16 /s/Rice

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19 **APPROVED: 3/11/19**  
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