

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB181**

**Bill Subtitle: TO AMEND THE LAW CONCERNING THE SALES TAX HOLIDAY; TO EXEMPT CERTAIN ELECTRONIC DEVICES DURING THE SALES TAX HOLIDAY; AND TO DECLARE AN EMERGENCY.**

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### Basic Change :

**Sponsors: Sens. T. Garner and B. Davis  
Reps. McCollum and Pilkington**

§ 26-52-444 provides a sales tax holiday for purchases of clothing, clothing accessories or equipment, school art supplies, school instructional materials, and school supplies. SB181 expands the sales tax holiday to include sales of electronic devices. SB181 defines "electronic device" to include a:

- Calculator;
- Cellular phone;
- Computer mouse;
- Computer monitor;
- Computer keyboard;
- Desktop computer;
- E-reader;
- Laptop computer;
- Printer; and
- Tablet.

SB181 also provides that an "electronic device" that may not be purchased exempt during the sales tax holiday includes: a video game console, system or device; television; music or video player; or system, device, or peripheral designed or intended primarily for recreational use.

SB181 has an emergency clause and provides an effective date of July 1, 2021.

### Revenue Impact :

**FY2022**

**Total Approximate State Sales and Use Tax Loss \$ - 1,950,000**

General Revenue - 4.5%	\$ - 1,308,150
Property Tax Relief - .5%	\$ - 145,350
Conservation Fund - .125%	\$ - 36,338
Educational Adequacy Fund - .875%	\$ - 254,363
Highway Fund - .5%	\$ - 145,350
Educational Excellence Trust Fund -	\$ - .000
Educational Adequacy (GR Transfer) -	\$ - .000
State Central Services -	\$ - 40,950
Constitutional Officers -	\$ - 19,500

**Total Approximate Local City and County Sales and Use Tax Loss \$ - 650,000**

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[ Statistical data derived using information produced by the U.S. Economic Census Bureau regarding cellphone and computer peripheral sales. ]

### **Taxpayer Impact :**

A consumer will no longer pay sales taxes when purchasing an exempt "electronic device" during the sales and use tax holiday.

### **Resources Required :**

None.

### **Time Required :**

Adequate time is provided for implementation.

### **Procedural Changes :**

Updates to the Sales and Use Tax Rules will need to be promulgated.

### **Other Comments :**

None.

### **Legal Analysis :**

The State of Arkansas is a full member state under the Streamlined Sales and Use Tax Agreement ("SSUTA"). If the State of Arkansas was determined to be in violation of the SSUTA, sanctions may be imposed and future collections of sales taxes from out-of-state sellers would be in jeopardy. A member state may enact an entity- or product-based exemption for a product if Part II of the SSUTA Library of Definitions has a definition for such product and the member state utilizes the product definition in the exemption in a manner consistent with Part II of the Library of Definitions. A member state may enact an entity- or product-based exemption without restriction if Part II of the Library of Definitions does not have a definition for such product.

Arkansas law currently provides a product-based sales and use tax holiday for purchases of clothing and clothing accessories or equipment, school art supplies, school instructional materials, and school supplies. The holiday begins at 12:01 a.m. on the first Saturday in August and ends at 11:59 p.m. the following Sunday. SB181 would expand the holiday to exempt purchases of "electronic devices."

Section 322 of the SSUTA authorizes sales tax holidays with certain restrictions. One restriction is that a member state cannot apply an exemption unless the item to be exempted on the holiday is defined in Part II or Part III(B) of the Agreement's Library of Definitions. SB181 would exempt purchases of "electronic devices" during the sales tax holiday. Electronic devices are not defined in the Library of

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Definitions. Exempting "electronic devices" would put the State of Arkansas out of compliance with the SSUTA.

To comply with the Agreement, the bill could be amended to instead expand the holiday to exempt:

(A) Computers, defined as "an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions";

(B) Computer Software, defined as "a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task"; and

(C) School Computer Supplies, defined as: "(1) Computer storage media; diskettes, compact disks;(2) Handheld electronic schedulers, except devices that are cellular phones; (3) Personal digital assistants, except devices that are cellular phones; (4) Computer printers; and (5) Printer supplies for computers; printer paper, printer ink."

In addition, a member state must provide notice of the exemption period at least sixty days' prior to the first day of the calendar month in which the exemption period will begin. SB181 contains an emergency clause that would make the law effective on July 1, 2021, which would result in an inability to provide at least 60 days' notice of the exemption for electronic devices as required by the Agreement if the bill became an Act of the General Assembly less than 60 days prior to July 1, 2021. The bill may benefit from an amendment to become effective on the first day of the calendar quarter following the effective date of the act so that the expanded exemption will be effective for the August 2022 holiday period and notice of the exemption will be made at least sixty days' prior to the calendar month in which the exemption period will begin.