

Department of Finance and Administration

Legislative Impact Statement

Bill: JAP056 (Amendment to HB1064)

**Bill Subtitle: AN ACT FOR THE DEPARTMENT OF FINANCE AND ADMINISTRATION
APPROPRIATION FOR THE 2024-2045 FISCAL YEAR.**

State Central Services	\$766,247
Constitutional Officers	\$364,880

**Total Approximate Local City and
County Sales and Use Tax Loss \$ - 18,902,948**

FY2026

Total Approximate State Sales and Use Tax Loss \$ - 44,415,800

General Revenue ---- 4.5%	\$29,796,169
Property Tax Relief -- .5%	\$3,310,685
Conservation Fund ---.125%	\$827,671
Highway Fund -.5%	\$3,416,600
Educational Excellence Trust Fund	\$3,749,592
Educational Adequacy (GR Transfer)	\$331,470
State Central Services	\$860,983
Constitutional Officers	\$409,992

**Total Approximate Local City and
County Sales and Use Tax Loss \$ - 21,240,040**

Taxpayer Impact:

The seller of a diaper or a feminine hygiene product as defined in the bill would not collect and remit sales tax from the purchaser.

Resources Required:

Computer programs, tax forms, and instructions will need to be updated. Updates to the Sales and Use Tax Rules will need to be promulgated.

Time Required:

Adequate time is provided for implementation.

Procedural Changes:

Department employees will need to be educated as well as the tax community.

Other Comments:

None.

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Legal Analysis:

JAP056 creates a product-based exemption from sales and use tax. Under the Streamlined Sales and Use Tax Agreement (SSUTA), a member state may enact a product-based exemption for a product if Part II of the Library of Definitions has a definition for such product and the member state utilizes in the exemption the product definition in a manner consistent with Part II of the Library of Definitions. The definitions contained in JAP056 are substantially the same as those in the SSUTA.

Fiscal sessions of the Arkansas General Assembly may only entertain appropriation bills. Ark. Const. Art. 5, § 5(b) (as amended by Amendment 86). A bill other than an appropriation bill may be considered in a fiscal session if two-thirds of the members of each house of the General Assembly approve consideration of the bill. *Id.* at (c)(2). Article 5, § 29 of the Arkansas Constitution requires that appropriations be made by law with a distinctly stated purpose. These appropriations may only encompass one purpose pursuant to Article 5, § 30 of the Arkansas Constitution. An appropriation bill may not include substantive provisions distinct from the appropriation itself. See *Reid v. Jones*, 261 Ark. 550, 551 S.W.2d 191 (1977). JAP056 may be subject to challenge under the Arkansas Constitution.