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4

As Engrossed: H3/10/11

# A Bill

HOUSE BILL 1774

5 By: Representatives Tyler, D. Meeks, *Barnett*  
6 By: Senators D. Wyatt, G. Baker, Bookout  
7

## For An Act To Be Entitled

9 AN ACT TO DEFINE "PUBLIC TRANSPORTATION" RELATED TO  
10 CITY AND COUNTY TURNBACK FUNDS UNDER THE ARKANSAS  
11 HIGHWAY REVENUE DISTRIBUTION LAW; AND FOR OTHER  
12 PURPOSES.  
13  
14

## Subtitle

15 TO DEFINE "PUBLIC TRANSPORTATION" RELATED  
16 TO CITY AND COUNTY TURNBACK FUNDS UNDER  
17 THE ARKANSAS HIGHWAY REVENUE DISTRIBUTION  
18 LAW.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 27-70-207 is amended to read as follows:  
25 27-70-207. Distribution to county and city funds.

26 (a) As used in this section, "public transportation" means a  
27 conveyance of human passengers by bus, van, or any other ground surface  
28 vehicle that is:

29 (1) Provided to the general public or selected groups of the  
30 public on a regular or continuing basis; and

31 (2) Operated by a city, county, or any other person or entity  
32 under a contract or agreement with a city or county.

33 ~~(a)(1)(A)(b)(1)(A)~~ With the exception of those revenues transferred  
34 pursuant to Section 2 of the Highway Improvement Revenue Act of 2007, all  
35 highway revenues transferred to the County Aid Fund under this subchapter  
36 shall be paid over by the Treasurer of State to the treasurers of the



1 respective counties of this state for credit to the county highway fund,  
2 *there to be used for transportation projects as deemed beneficial by the*  
3 *county to include without limitation:*

4 *(i) ~~the~~ The maintenance, construction, and*  
5 *reconstruction of roads and bridges in the county highway system and for*  
6 *other surface transportation;* ~~*provided, however, that no more than twenty*~~  
7 ~~*percent (20%) of the revenues received by a county during any fiscal year may*~~  
8 ~~*also be used for public transportation.*~~

9 *(ii) Public transportation; or*

10 *(iii) Any other transportation system improvement or*  
11 *service within the political subdivision, including without limitation those*  
12 *projects defined as a transportation system under § 27-76-103(15) regardless*  
13 *of whether or not the political subdivision is a member of a regional*  
14 *mobility authority.*

15 (B) A county may also use these funds to construct and  
16 maintain parking for county courthouses, county administration buildings,  
17 county health units, and county parks and to construct and maintain sidewalks  
18 that serve county courthouses, county administration buildings, county health  
19 units, county parks, public schools, and other publicly owned property.

20 (C) A county may use these funds to pay for local projects  
21 eligible for funding under state programs of the Arkansas State Highway and  
22 Transportation Department and the State Highway Commission and under federal  
23 programs of the Federal Highway *Administration* and the Federal Transit  
24 Administration of the United States Department of Transportation.

25 (D) Furthermore, the funds may be used to install and  
26 maintain traffic signals where needed to preserve public health, safety, and  
27 welfare.

28 (E) A county may provide these funds to a regional  
29 mobility authority to match federal transportation funds for the financing of  
30 surface transportation system improvements on state highways, county roads,  
31 and city streets.

32 (2)(A) Funds disbursed to the County Aid Fund pursuant to  
33 Section 2 of the Highway Improvement Revenue Act of 2007 may be expended by  
34 the counties on any legitimate county purpose and are not limited to the uses  
35 set forth in subdivision ~~(a)(1)~~ (b)(1) of this section.

36 (B) Funds disbursed to the County Aid Fund pursuant to

1 Section 2 of the Highway Improvement Revenue Act of 2007 shall be distributed  
2 to the various counties as are other funds contained in the County Aid Fund  
3 pursuant to subdivision ~~(a)(3)~~ (b)(3) of this section.

4 (3) The Treasurer of State shall on or before the tenth day next  
5 following the last day of each calendar month make distribution of the  
6 revenues on the following basis:

7 (A) Thirty-one percent (31%) of the amount according to  
8 area, with each county to receive the proportion that its area bears to the  
9 area of the state;

10 (B) Seventeen and one-half percent (17.5%) of the amount  
11 according to the amount of state motor vehicle license fees collected in the  
12 calendar year next preceding any distribution as certified to the Treasurer  
13 of State by the Director of the Department of Finance and Administration,  
14 with each county to receive the proportion that the total of fees collected  
15 from the county bears to the total of fees collected in the state;

16 (C) Seventeen and one-half percent (17.5%) of the amount  
17 according to population based upon the most recent federal decennial census,  
18 with each county to receive the proportion that its population bears to the  
19 population of the state;

20 (D) Thirteen and one-half percent (13.5%) of the amount  
21 according to rural population based upon the most recent federal decennial  
22 census, with each county to receive the proportion that its rural population  
23 bears to the rural population of the state; and

24 (E) Twenty and one-half percent (20.5%) of the amount  
25 shall be divided equally among the seventy-five (75) counties.

26 ~~(b)(1)(A)~~ (c)(1)(A) With the exception of those revenues transferred  
27 pursuant to Section 2 of the Highway Improvement Revenue Act of 2007, all  
28 highway revenues transferred to the Municipal Aid Fund under the provisions  
29 of this subchapter shall be paid over by the Treasurer of State to the  
30 treasurers of the respective cities of the first class, cities of the second  
31 *class, and incorporated towns for credit to the street fund, there to be used*  
32 *for transportation projects as deemed beneficial by the governing body of the*  
33 *political subdivision to include without limitation:*

34 *(i) ~~the~~ The maintenance, construction, and*  
35 *reconstruction of streets that are not continuations of state highways and*  
36 *for other surface transportation;*

1 (ii) Public transportation; or  
2 (iii) Any other transportation system improvement or  
3 service within the political subdivision, including without limitation those  
4 projects defined as a transportation system under § 27-76-103(15) regardless  
5 of whether or not the political subdivision is a member of a regional  
6 mobility authority.

7 ~~(B)(i) Provided, however, that cities with a population in~~  
8 ~~excess of fifty thousand (50,000) inhabitants may use no more than ten~~  
9 ~~percent (10%) of the revenues for public transportation.~~

10 ~~(ii) All other cities may use no more than twenty~~  
11 ~~percent (20%) of the revenues for public transportation.~~

12 ~~(G)(B)~~ A city may provide these funds to a regional  
13 mobility authority to match federal transportation funds for the financing of  
14 surface transportation system improvements on state highways, county roads,  
15 and city streets.

16 (2) The Treasurer of State shall on or before the tenth day next  
17 following the last day of each calendar month make distribution of the funds  
18 on the basis of population according to the most recent federal census, with  
19 the amount to be paid over to each city or incorporated town in the  
20 proportion that its population bears to the total population of all cities  
21 and towns.

22 (3)(A) Funds disbursed to the Municipal Aid Fund pursuant to  
23 Section 2 of the Highway Improvement Revenue Act of 2007 may be expended by  
24 the cities on any legitimate municipal purpose and are not limited to the  
25 uses set forth in subdivision ~~(b)(1)~~ (c)(1) of this section.

26 (B) Funds disbursed to the Municipal Aid Fund pursuant to  
27 Section 2 of the Highway Improvement Revenue Act of 2007 shall be distributed  
28 to the various cities as are other funds contained in the Municipal Aid Fund  
29 pursuant to subdivision ~~(b)(2)~~ (c)(2) of this section.

30 ~~(e)(1)(d)(1)~~ All highway revenues transferred to the State Highway and  
31 Transportation Department Fund under the provisions of this subchapter shall  
32 be used for the construction, reconstruction, and maintenance of highways and  
33 bridges in the state highway system.

34 (2)(A) However, the Arkansas State Highway and Transportation  
35 Department may use highway revenues transferred to the State Highway and  
36 Transportation Department Fund for the installation, upgrading, or

1 improvement of any highway-railroad crossing safety device, railroad crossing  
2 traffic control device, warning lights, crossing gates, or other railroad  
3 crossing safety devices at public highway railroad crossings and for the  
4 construction, reconstruction, and maintenance of any highway-railroad  
5 crossing, including the construction or installation of any underpasses or  
6 overpasses.

7 (B) Except for the construction or installation of  
8 underpasses or overpasses, the department's goal is to expend one dollar  
9 (\$1.00) of state funds for each dollar of federal funds received to improve  
10 railroad crossing safety and to reduce railroad crossing accidents.

11 (C) It is the intent of this subdivision ~~(e)(2)(d)(2)~~ to  
12 encourage the State Highway Commission to continue to upgrade the state's  
13 highway-railway crossings with traffic control devices, warning lights,  
14 crossing gates, and other appropriate devices in order to increase the safety  
15 of persons using the state's highways.

16

17 SECTION 2. Arkansas Code § 10-4-304(12), concerning laws within the  
18 purview of the Arkansas Governmental Compliance Act, Arkansas Code § 10-4-301  
19 et seq., is amended to read as follows:

20 (12) Sections 26-79-104(b) and 27-70-207~~(b)(c)~~;

21

22 SECTION 3. Arkansas Code § 27-64-203(5)(B), concerning the definition  
23 of "designated revenues" under the Arkansas Highway Financing Act of 1999, is  
24 amended to read as follows:

25 (B) Revenues derived from the increase in taxes levied on  
26 distillate special fuels pursuant to § 26-56-201 and transferred to the State  
27 Highway and Transportation Department Fund pursuant to § 27-70-207~~(e)(d)~~ in  
28 accordance with § 26-56-201 and § 26-55-1006; and

29

30 SECTION 4. Arkansas Code § 27-64-206(b)(2)(B), concerning the election  
31 under the Arkansas Highway Financing Act of 1999, is amended to read as  
32 follows:

33 (B) The bonds shall be general obligations of the State of  
34 Arkansas, payable from certain designated revenues and also secured by the  
35 full faith and credit of the State of Arkansas, including its general  
36 revenues. Pursuant to this subchapter, the "Bond Act", the bonds will be

1 repaid first from revenues derived from federal highway assistance funding  
2 allocated to the State of Arkansas designated as federal highway interstate  
3 maintenance funds, and, if needed, that portion of national highway system  
4 funds authorized by State Highway Commission Minute Order 98-214 adopted  
5 September 22, 1998, and, second, from revenue derived from the increase in  
6 the excise tax levied on distillate special fuels and diesel pursuant § 26-  
7 56-201(e) and transferred to the State Highway and Transportation Department  
8 Fund pursuant to § 27-70-207~~(e)~~(d) in accordance with § 26-56-201(f) and §  
9 26-55-1006(d). To the extent that designated revenues are insufficient to  
10 make timely payment of debt service on the bonds, such payment shall be made  
11 from the general revenues of the State of Arkansas. The bonds shall be issued  
12 pursuant to the authority of and the terms set forth in this subchapter.  
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14 SECTION 5. Arkansas Code § 27-64-206(b)(2)(D), concerning the election  
15 under the Arkansas Highway Financing Act of 1999, is amended to read as  
16 follows:

17 (D) Pursuant to this subchapter, "designated revenues" are  
18 defined as that portion designated by the commission of all funds received or  
19 to be received from the federal government of the United States as federal  
20 highway interstate maintenance funds, and, if needed, that portion of  
21 national highway system funds authorized by State Highway Commission Minute  
22 Order 98-214 adopted September 22, 1998, and revenues derived from the  
23 increase in taxes levied on distillate special fuels pursuant to § 26-56-  
24 201(e) and transferred to the State Highway and Transportation Department  
25 Fund pursuant to § 27-70-207~~(e)~~(d) in accordance with § 26-56-201(f) and §  
26 26-55-1006(d). Designated revenues shall not include the revenues derived  
27 from the increase in tax on motor fuel, gasoline, resulting from the Arkansas  
28 Distillate Special Fuel Excise Tax Act of 1999 and the Motor Fuel Excise Tax  
29 Act of 1999, §§ 26-55-1005, 26-55-1006, 26-56-201, and 27-72-305. The bonds  
30 are further secured by the full faith and credit of the State of Arkansas,  
31 and to the extent that designated revenues are insufficient to make timely  
32 payment of debt service on the bonds, the general revenues of the state shall  
33 be used to pay debt service on the bonds. Pursuant § 26-56-201, the excise  
34 tax on distillate special fuels, in addition to the taxes levied pursuant to  
35 §§ 26-56-201, 26-56-502, and 26-56-601, will increase by two cents (2¢) per  
36 gallon on the April 1, 1999, and the additional tax levied by § 26-56-201(e)

1 shall increase to four cents (4¢) per gallon on the first anniversary of such  
2 date.

3

4 SECTION 6. Arkansas Code § 27-64-211(a)(2)(B), concerning the sources  
5 of repayment under the Arkansas Highway Financing Act of 1999, is amended to  
6 read as follows:

7 (B) Revenues derived from the increase in taxes levied on  
8 distillate special fuels pursuant § 26-56-201 and transferred to the State  
9 Highway and Transportation Department Fund pursuant to § 27-70-207~~(e)~~(d) in  
10 accordance with § 26-56-201(f) and § 26-55-1006(d).

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12 SECTION 7. Arkansas Code § 27-64-405(b), concerning the election under  
13 the Arkansas Highway Financing Act of 2007, is amended to read as follows:

14 (b) The notice of election shall state that the election is to be held  
15 for the purpose of submitting to the people the following proposition in  
16 substantially the form set forth in this subsection:

17 "Authorizing the State Highway Commission to issue State of Arkansas Federal  
18 Highway Grant Anticipation and Tax Revenue Bonds (the 'Bonds') from time to  
19 time provided that the total principal amount outstanding from the issuance  
20 of such bonds, together with the total principal amount outstanding from the  
21 issuance of bonds pursuant to the Arkansas Highway Financing Act of 1999, §  
22 27-64-201 et seq., shall not, at any time, exceed five hundred seventy-five  
23 million dollars (\$575,000,000). If approved, the bonds will be issued in one  
24 or more series of various principal amounts with the last series being issued  
25 no later than December 31, 2015. The bonds shall be issued for the purpose of  
26 paying the cost of constructing and renovating improvements to interstate  
27 highways and related facilities in the State of Arkansas.

28 "The bonds shall be general obligations of the State of Arkansas, payable  
29 from certain designated revenues and also secured by the full faith and  
30 credit of the State of Arkansas, including its general revenues. Pursuant to  
31 the Arkansas Interstate Highway Financing Act of 2007 (the 'Bond Act'), § 27-  
32 64-401 et seq., the bonds will be repaid first from: (1) revenues derived  
33 from federal highway assistance funding allocated to the State of Arkansas  
34 designated as federal highway interstate maintenance funds, and (2) revenue  
35 derived from the increase in the excise tax levied on distillate special  
36 fuels (diesel) pursuant to § 26-56-201(e) and transferred to the State

1 Highway and Transportation Department Fund pursuant to § 27-70-207~~(e)~~(d) in  
2 accordance with § 26-55-1006(d). To the extent that designated revenues are  
3 insufficient to make timely payment of debt service on the bonds, such  
4 payment shall be made from the general revenues of the State of Arkansas. The  
5 bonds shall be issued pursuant to the authority of and the terms set forth in  
6 the Bond Act, § 27-64-401 et seq.

7 “Pursuant to the Bond Act, § 27-64-401 et seq., the highway improvements to  
8 be financed are limited to the restoration and improvements to all of the  
9 interstate highway system within the state, including roadways, bridges, or  
10 rights-of-way under jurisdiction of the State Highway Commission, which shall  
11 also include the acquisition, construction, reconstruction, and renovation of  
12 such interstate highway system and facilities appurtenant or pertaining  
13 thereto.

14 “Pursuant to the Bond Act, § 27-64-401 et seq., ‘designated revenues’ are  
15 defined as: (1) that portion designated by the commission of all funds  
16 received or to be received from the federal government as federal highway  
17 interstate maintenance funds, and (2) revenues derived from the increase in  
18 taxes levied on distillate special fuels pursuant to § 26-56-201(e) and  
19 transferred to the State Highway and Transportation Department Fund pursuant  
20 to Arkansas Code § 27-70-207~~(e)~~(d) in accordance with § 26-55-1005(d).

21 Designated revenues shall not include the revenues derived from the increase  
22 in tax on motor fuel (gasoline) resulting from the ‘Arkansas Distillate  
23 Special Fuel Excise Tax Act of 1999’ and the ‘Motor Fuel Excise Tax Act of  
24 1999’, §§ 26-55-1005, 26-55-1006, 26-56-201, and 27-72-305. The bonds are  
25 further secured by the full faith and credit of the State of Arkansas, and to  
26 the extent ‘designated revenues’ are insufficient to make timely payment of  
27 debt service on the bonds, the general revenues of the state shall be used to  
28 pay debt service on the bonds.”

29  
30 SECTION 8. Arkansas Code § 27-64-410 is amended to read as follows:  
31 27-64-410. Sources of repayment.

32 The bonds shall be general obligations of the State of Arkansas secured  
33 and payable from the designated revenues, as defined herein, and the general  
34 revenues of the state. The bonds will be payable first from certain  
35 designated revenues, specifically: (1) that portion designated by the State  
36 Highway Commission of funds received or to be received from the federal

1 government as federal highway assistance funding allocated to the state  
2 designated as federal highway interstate maintenance funds, and (2) revenues  
3 derived from the increase in taxes levied on distillate special fuels  
4 pursuant to section 2 of the "Arkansas Distillate Special Fuel Excise Tax Act  
5 of 1999" and the "Motor Fuel Excise Tax Act of 1999", §§ 26-55-1005, 26-55-  
6 1006, 26-56-201, and 27-72-305 and transferred to the State Highway and  
7 Transportation Department Fund pursuant to § 27-70-207~~(e)~~(d) in accordance  
8 with § 26-55-1005(d). To the extent that designated revenues are insufficient  
9 to make timely payment of debt service on the bonds, such payment shall be  
10 made from the general revenues of the State of Arkansas. In order to secure  
11 the payment of debt service, any trust instrument, resolution, or other  
12 document setting forth the security for the bondholders may provide for the  
13 direct payment of the federal highway assistance funds that are designated  
14 revenues directly into a trust fund, or to a paying agent, for the payment of  
15 debt service on the bonds and it shall not be necessary for such funds to be  
16 deposited into the State Treasury.

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18 */s/Tyler*  
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