

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1727

5 By: Representative D. Douglas  
6

## For An Act To Be Entitled

8 AN ACT CONCERNING TAXES LEVIED ON MOTOR FUEL AND  
9 DISTILLATE SPECIAL FUEL; TO LEVY A WHOLESALE SALES  
10 TAX ON GASOLINE AND DIESEL FUEL THAT SHALL NOT BECOME  
11 EFFECTIVE UNLESS THE BONDS TO BE PAID BY THE LEVY ARE  
12 APPROVED BY A VOTE OF THE PEOPLE; TO USE THE PROCEEDS  
13 FROM THE WHOLESALE SALES TAX ON GASOLINE AND DIESEL  
14 FUEL TO PAY HIGHWAY MAINTENANCE AND CONSTRUCTION  
15 GENERAL OBLIGATION BONDS IF APPROVED BY A VOTE OF THE  
16 PEOPLE; TO DEDICATE REVENUES TO BE USED FOR  
17 IMPROVEMENTS TO ARKANSAS'S PORTION OF THE NATIONAL  
18 HIGHWAY SYSTEM; AND FOR OTHER PURPOSES.  
19  
20

## Subtitle

21 TO LEVY WHOLESALE SALES TAXES ON GASOLINE  
22 AND DIESEL; AND TO USE THE WHOLESALE  
23 SALES TAX REVENUES TO PAY BONDS FOR  
24 HIGHWAY IMPROVEMENTS IF APPROVED BY THE  
25 PEOPLE.  
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29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
30

31 SECTION 1. Arkansas Code § 19-6-301, concerning the enumeration of  
32 special revenues, is amended to add additional subdivisions to read as  
33 follows:

34 (255) Wholesale sales tax on motor fuel levied under § 26-64-  
35 101; and

36 (256) Wholesale sales tax on distillate special motor fuel



1 levied under § 26-64-102.

2  
3 SECTION 2. Arkansas Code § 19-6-405, concerning the State Highway and  
4 Transportation Department Fund, is amended to add an additional subsection to  
5 read as follows:

6 (b)(1) There is established a separate account within the State  
7 Highway and Transportation Department Fund to be known as the "Commercial  
8 Freight Routes Improvement Account".

9 (2) The Commercial Freight Routes Improvement Account shall  
10 consist of those revenues identified in § 26-56-201(h) and any other revenues  
11 appropriated to the Commercial Freight Routes Improvement Account by the  
12 General Assembly.

13 (3) The revenues deposited into the Commercial Freight Routes  
14 Improvement Account shall be dedicated to improvements to Arkansas's portion  
15 of the National Highway System, as defined by the Federal Highway  
16 Administration on March 25, 2015, and as established under the National  
17 Highway System Designation Act of 1995, Pub. L. No. 104-59.

18  
19 SECTION 3. Arkansas Code § 19-6-405, concerning the State Highway and  
20 Transportation Department Fund, is amended to add an additional subsection to  
21 read as follows:

22 (c)(1) There is established a separate account within the State  
23 Highway and Transportation Department Fund to be known as the "2017 Highway  
24 Maintenance and Construction Bond Account".

25 (2)(A) On the last day of each month, the Treasurer of State,  
26 after making the deductions required from net special revenues as set out in  
27 § 19-5-203(b)(1), shall transfer the special revenues derived by the taxes  
28 levied in §§ 26-64-101 and 26-64-102 to the State Highway and Transportation  
29 Department Fund, the County Aid Fund, and the Municipal Aid Fund in the  
30 percentages provided in § 27-70-206.

31 (B) The proceeds of the taxes transferred to the State  
32 Highway and Transportation Department Fund under subdivision (c)(2)(A) of  
33 this section shall be deposited into the 2017 Highway Maintenance and  
34 Construction Bond Account for use as provided by state law.

35  
36 SECTION 4. Arkansas Code § 26-56-201, concerning the imposition and

1 distribution of distillate special fuels tax, is amended to add an additional  
2 subsection to read as follows:

3 (h) On or before June 30 of each fiscal year, the Chief Fiscal Officer  
4 of the State shall deposit the first two million eight hundred thousand  
5 dollars (\$2,800,000) of the taxes collected under subdivision (a)(1)(A)(i) of  
6 this section to the Commercial Freight Routes Improvement Account of the  
7 State Highway and Transportation Department Fund.

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9 SECTION 5. Arkansas Code Title 26 is amended to add an additional  
10 chapter to read as follows:

11 CHAPTER 64

12 WHOLESALE SALES TAX ON FUEL

13  
14 26-64-101. Wholesale sales tax on motor fuel.

15 (a) As used in this section:

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

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

22 (b) Beginning April 1, 2018, in addition to the taxes levied in §§ 26-  
23 55-205, 26-55-1002, 26-55-1006, 26-55-1201, and 26-56-601, there is levied a  
24 wholesale sales tax upon the average wholesale selling price per gallon of  
25 motor fuel at the rate determined in subsection (c) of this section.

26 (c)(1)(A) By March 1, 2018, the wholesale sales tax levied under this  
27 section shall be determined by multiplying the twelve-month average wholesale  
28 selling price of motor fuel for the period of January 1, 2017, through  
29 December 31, 2017, by six and five-tenths percent (6.5%).

30 (B) To make the collection of the wholesale sales tax  
31 levied under this section more efficient, the Director of the Department of  
32 Finance and Administration shall determine and convert the wholesale sales  
33 tax determined in subdivision (c)(1)(A) of this section to a cent-per-gallon  
34 amount rounded to the nearest one-tenth of one cent (0.1¢).

35 (2)(A)(i) Beginning April 1, 2019, and each April 1 thereafter,  
36 the wholesale sales tax levied under this section for the twelve (12) month

1 period beginning on that April 1 of each year shall be determined by  
2 multiplying the twelve-month average wholesale selling price of motor fuel  
3 for the period of January 1 through December 31 of the immediately preceding  
4 year by six and five-tenths percent (6.5%).

5 (ii) If the twelve-month average wholesale selling  
6 price calculated in subdivision (c)(2)(A)(i) of this section is less than the  
7 twelve-month average wholesale selling price determined in subdivision  
8 (c)(1)(A) of this section, then the twelve-month average wholesale selling  
9 price determined in subdivision (c)(1)(A) of this section shall be  
10 substituted for the twelve-month average wholesale selling price calculated  
11 in subdivision (c)(2)(A)(i) of this section and shall be used in lieu of the  
12 twelve-month average wholesale selling price calculated in subdivision  
13 (c)(2)(A)(i) of this section in determining the amount of wholesale sales tax  
14 due on motor fuel for the twelve-month period described in subdivision  
15 (c)(2)(A)(i) of this section.

16 (B) To make the collection of the wholesale sales tax  
17 levied under this section more efficient, the director shall determine and  
18 convert the wholesale sales tax in subdivision (c)(2)(A) of this section to a  
19 cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

20 (d) The Department of Finance and Administration shall publish the  
21 cent-per-gallon amount to be collected from retailers under this section and  
22 shall notify fuel wholesalers of the published amount.

23 (e) The wholesale sales tax levied under this section shall be paid by  
24 retailers of motor fuel to wholesalers who shall collect, report, and remit  
25 the tax in the same manner and at the same time as is prescribed by law for  
26 the collection, reporting, and payment of motor fuel taxes, including §§ 26-  
27 55-210 – 26-55-212 and § 26-55-230(a)(1)(F).

28  
29 26-64-102. Wholesale sales tax on distillate special fuel.

30 (a) As used in this section:

31 (1) "Average wholesale selling price" means the United States  
32 Gulf Coast regular average wholesale selling price of distillate special fuel  
33 as published by the Energy Information Administration within the Department  
34 of Energy or other similar reliable index if the index published by the  
35 Energy Information Administration within the Department of Energy is no  
36 longer available; and

1           (2)(A) “Distillate special fuel” means the same as defined in §  
2 26-56-102.

3           (B) However, “distillate special fuel” does not include  
4 distillate special fuel used for off-road purposes as identified in § 26-56-  
5 224.

6           (b) Beginning April 1, 2018, in addition to the taxes levied in §§ 26-  
7 56-201, 26-56-502, and 26-56-601, there is levied a wholesale sales tax upon  
8 the average wholesale selling price per gallon of distillate special fuel at  
9 the rate determined in subsection (c) of this section.

10          (c)(1)(A) By March 1, 2018, the wholesale sales tax levied under this  
11 section shall be determined by multiplying the twelve-month average wholesale  
12 selling price of distillate special fuel for the period of January 1, 2017,  
13 through December 31, 2017, by six and five-tenths percent (6.5%).

14          (B) To make the collection of the wholesale sales tax  
15 levied under this section more efficient, the Director of the Department of  
16 Finance and Administration shall determine and convert the tax determined in  
17 subdivision (c)(1)(A) of this section to a cent-per-gallon amount rounded to  
18 the nearest one-tenth of one cent (0.1¢).

19          (2)(A)(i) Beginning April 1, 2019, and continuing each April 1  
20 thereafter, the wholesale sales tax levied under this section for the twelve  
21 (12) month period beginning on that April 1 of each year shall be determined  
22 by multiplying the twelve-month average wholesale selling price of distillate  
23 special fuel for the period of January 1 through December 31 of the  
24 immediately preceding year by six and five-tenths percent (6.5%).

25          (ii) If the twelve-month average wholesale selling  
26 price calculated in subdivision (c)(2)(A)(i) of this section is less than the  
27 twelve-month average wholesale selling price determined in subdivision  
28 (c)(1)(A) of this section, then the twelve-month average wholesale selling  
29 price determined in subdivision (c)(1)(A) of this section shall be  
30 substituted for the twelve-month average wholesale selling price calculated  
31 in subdivision (c)(2)(A)(i) of this section and shall be used in lieu of the  
32 twelve-month average wholesale selling price calculated in subdivision  
33 (c)(2)(A)(i) of this section in determining the amount of wholesale sales tax  
34 due on distillate special motor fuel for the twelve-month period covered by  
35 subdivision (c)(2)(A)(i) of this section.

36          (B) To make the collection of the wholesale sales tax

1 levied under this section more efficient, the director shall determine and  
2 convert the wholesale sales tax in subdivision (c)(2)(A) of this section to a  
3 cent-per-gallon amount rounded to the nearest one-tenth of one cent (0.1¢).

4 (d) The Department of Finance and Administration shall publish the  
5 cent-per-gallon amount to be collected from retailers under this section and  
6 shall notify fuel wholesalers of the published amount.

7 (e) The wholesale sales tax levied under this section shall be paid by  
8 retailers of distillate special fuel to wholesalers who shall collect,  
9 report, and remit the tax in the same manner and at the same time as is  
10 prescribed by law for the collection, reporting, and payment of distillate  
11 special fuel taxes.

12  
13 26-64-103. Disposition of revenues.

14 The wholesale sales taxes collected under this chapter shall be  
15 deposited into the 2017 Highway Maintenance and Construction Bond Account of  
16 the State Highway and Transportation Department Fund as provided in § 19-6-  
17 405.

18  
19 SECTION 6. EFFECTIVE DATE. Sections 1, 3, and 5 of this act shall not  
20 become effective until after a majority of the qualified electors of the  
21 state voting on the question approve the issuance of highway maintenance and  
22 construction improvement general obligation bonds to be repaid in part by the  
23 wholesale sales taxes levied under §§ 26-64-101 and 26-64-102 and deposited  
24 to the 2017 Highway Maintenance and Construction Bond Account of the State  
25 Highway and Transportation Department Fund. If an election is called by the  
26 Governor to vote on the question of approving the issuance of highway  
27 maintenance and construction improvement general obligation bonds and the  
28 bond issue is approved, Sections 1, 3, and 5 of this act shall become  
29 effective thirty (30) days after publication of the proclamation of the  
30 election results.