

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H4/8/13
A Bill

HOUSE BILL 1234

5 By: Representatives Williams, Alexander, D. Altes, C. Armstrong, E. Armstrong, Baine, Baltz, Barnett,
6 Branscum, Broadway, Carnine, Catlett, Copenhagen, Cozart, Deffenbaugh, J. Dickinson, J. Edwards,
7 Ferguson, Fielding, Harris, Hawthorne, Hickerson, Hillman, Hodges, Holcomb, Jean, Jett, Julian, Kerr,
8 Kizzia, Lampkin, Lea, Leding, Lenderman, Linck, Love, Magie, S. Malone, McCrary, McElroy, McGill,
9 McLean, D. Meeks, S. Meeks, Murdock, Nickels, B. Overbey, Perry, Ratliff, Richey, Sabin, Scott,
10 Slinkard, F. Smith, Steel, Talley, T. Thompson, Vines, W. Wagner, Wardlaw, D. Whitaker, B. Wilkins,
11 H. Wilkins, Word, Wren, Wright, *House, Walker*
12 By: Senator Rapert
13

14 **For An Act To Be Entitled**

15 AN ACT TO REDUCE THE STATE SALES AND USE TAX ON FOOD
16 AND FOOD INGREDIENTS IF CERTAIN FUND BALANCES EXIST;
17 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
18

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20 **Subtitle**

21 TO REDUCE THE STATE SALES AND USE TAX ON
22 FOOD AND FOOD INGREDIENTS IF CERTAIN FUND
23 BALANCES EXIST; AND TO DECLARE AN
24 EMERGENCY.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 26-52-317(a), concerning the sales tax
30 levied on food and food ingredients, is amended to read as follows:

31 (a)(1) The Director of the Department of Finance and Administration
32 shall determine the following conditions:

33 (A) That federal law authorizes the state to collect sales
34 and use tax from some or all of the sellers that have no physical presence in
35 the State of Arkansas and that make sales of taxable goods and services to
36 Arkansas purchasers;



1 (B) That initiating the collection of sales and use tax
2 from these sellers would increase the net available general revenues needed
3 to fund state agencies, services, and programs; and

4 (C)(i) That during a six-month consecutive period, the
5 amount of net available general revenues attributable to the collection of
6 sales and use tax from sellers that have no physical presence in the State of
7 Arkansas is equal to or greater than one hundred fifty percent (150%) of
8 sales and use tax collected under subsection (c) of this section and § 26-
9 53-145 on food and food ingredients.

10 (ii) The director shall make the determination under
11 subdivision (a)(1)(C)(i) of this section on a monthly basis following the
12 determination that the conditions under subdivision (a)(1)(A) of this section
13 have been met.

14 (2)(A) Beginning July 1, 2013, the director shall make a monthly
15 determination as to whether the aggregate amount of deductions from net
16 general revenues attributable to the following during the most recently ended
17 six-month consecutive period, as compared with the same six-month period in
18 the prior year, has declined by thirty-five million dollars (\$35,000,000) or
19 more:

20 (i) The Educational Adequacy Fund;

21 (ii) Bonds issued under the Arkansas College Savings
22 Bond Act of 1989;

23 (iii) Bonds issued under the Arkansas Higher
24 Education Technology and Facility Improvement Act of 2005;

25 (iv) The City-County Tourist Facilities Aid Fund;

26 (v) Amounts disbursed or approved to be disbursed by
27 the Department of Education for desegregation expenses under any
28 desegregation settlement agreement, as certified by the Treasurer of State
29 and the Chief Fiscal Officer of the State under § 6-20-212; and

30 (vi) Bonds issued under the Arkansas Water, Waste
31 Disposal and Pollution Abatement Facilities Financing Act of 1997 and the
32 Arkansas Water, Waste Disposal, and Pollution Abatement Facilities Financing
33 Act of 2007.

34 (B)(i) In making the determination in this subdivision
35 (a)(2), the director shall consider all economic factors existing at the time
36 of the determination that could potentially affect the decline in the

1 aggregate amount of deductions, including without limitation pending
2 litigation.

3 (ii) If the consideration of additional economic
4 factors under subdivision (a)(2)(B)(i) of this section results in a
5 determination that the decline in the aggregate amount of deductions is not
6 likely to remain at that reduced level, the director shall conclude that the
7 conditions in this subdivision (a)(2) have not been met.

8 ~~(2)~~ (3) When the director finds that all of the conditions in
9 either subdivision (a)(1) or (a)(2) of this section have been met, then the
10 gross receipts or gross proceeds taxes levied under subsection (c) of this
11 section shall be levied at the rate of zero percent (0%) on the sale of food
12 and food ingredients beginning on the first day of the ~~second calendar month~~
13 calendar quarter that is at least thirty (30) days following the
14 determination of the director.

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16 SECTION 2. Arkansas Code § 26-53-145(a), concerning the compensating
17 use tax on food and food ingredients, is amended to read as follows:

18 (a)(1) The Director of the Department of Finance and Administration
19 shall determine the following conditions:

20 (A) That federal law authorizes the state to collect sales
21 and use tax from some or all of the sellers that have no physical presence in
22 the State of Arkansas and that make sales of taxable goods and services to
23 Arkansas purchasers;

24 (B) That initiating the collection of sales and use tax
25 from these sellers would increase the net available general revenues needed
26 to fund state agencies, services, and programs; and

27 (C)(i) That during a six-month consecutive period, the
28 amount of net available general revenues attributable to the collection of
29 sales and use tax from sellers that have no physical presence in the State of
30 Arkansas is equal to or greater than one hundred fifty percent (150%) of
31 sales and use tax collected under subsection (c) of this section and § 26-52-
32 317 on food and food ingredients.

33 (ii) The director shall make the determination under
34 subdivision (a)(1)(C)(i) of this section on a monthly basis following the
35 determination that the conditions under subdivision (a)(1)(A) of this section
36 have been met.

1 (2)(A) Beginning July 1, 2013, the director shall make a monthly
2 determination as to whether the aggregate amount of deductions from net
3 general revenues attributable to the following during the most recently ended
4 six-month consecutive period, as compared with the same six-month period in
5 the prior year, has declined by thirty-five million dollars (\$35,000,000) or
6 more:

7 (i) The Educational Adequacy Fund;

8 (ii) Bonds issued under the Arkansas College Savings
9 Bond Act of 1989;

10 (iii) Bonds issued under the Arkansas Higher
11 Education Technology and Facility Improvement Act of 2005;

12 (iv) The City-County Tourist Facilities Aid Fund;

13 (v) Amounts disbursed or approved to be disbursed by
14 the Department of Education for desegregation expenses under any
15 desegregation settlement agreement, as certified by the Treasurer of State
16 and the Chief Fiscal Officer of the State under § 6-20-212; and

17 (vi) Bonds issued under the Arkansas Water, Waste
18 Disposal and Pollution Abatement Facilities Financing Act of 1997 and the
19 Arkansas Water, Waste Disposal, and Pollution Abatement Facilities Financing
20 Act of 2007.

21 (B)(i) In making the determination in this subdivision
22 (a)(2), the director shall consider all economic factors existing at the time
23 of the determination that could potentially affect the decline in the
24 aggregate amount of deductions, including without limitation pending
25 litigation.

26 (ii) If the consideration of additional economic
27 factors under subdivision (a)(2)(B)(i) of this section results in a
28 determination that the decline in the aggregate amount of deductions is not
29 likely to remain at that reduced level, the director shall conclude that the
30 conditions in this subdivision (a)(2) have not been met.

31 ~~(2)~~ (3) When the director finds that all of the conditions in
32 either subdivision (a)(1) or (a)(2) of this section have been met, then the
33 compensating use taxes levied under subsection (c) of this section shall be
34 levied at the rate of zero percent (0%) on the sale of food and food
35 ingredients beginning on the first day of the ~~second calendar month~~ calendar
36 quarter that is at least thirty (30) days following the determination of the

1 director.

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3 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
4 General Assembly of the State of Arkansas that the unemployment level in
5 Arkansas is unacceptable; that this unemployment level results in an increase
6 in the number of Arkansans unable to afford basic necessities; and that this
7 act is necessary because the state sales and use tax on food and food
8 ingredients should be eliminated as soon as it is economically feasible to do
9 so in order to aid Arkansans. Therefore, an emergency is declared to exist,
10 and this act being necessary for the preservation of the public peace,
11 health, and safety shall become effective on July 1, 2013.

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13 /s/Williams

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16 **APPROVED: 04/22/2013**

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