

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

A Bill

SENATE BILL 135

5 By: Senator Rapert
6 By: Representative Williams
7

For An Act To Be Entitled

9 AN ACT TO REDUCE THE STATE SALES AND USE TAX ON FOOD
10 AND FOOD INGREDIENTS IF CERTAIN FUND BALANCES EXIST;
11 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

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

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

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

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

34 (C)(i) That during a six-month consecutive period, the
35 amount of net available general revenues attributable to the collection of
36 sales and use tax from sellers that have no physical presence in the State of



1 Arkansas is equal to or greater than one hundred fifty percent (150%) of
 2 sales and use tax collected under subsection (c) of this section and § 26-
 3 53-145 on food and food ingredients.

4 (ii) The director shall make the determination under
 5 subdivision (a)(1)(C)(i) of this section on a monthly basis following the
 6 determination that the conditions under subdivision (a)(1)(A) of this section
 7 have been met.

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

14 (i) The Educational Adequacy Fund;

15 (ii) Bonds issued under the Arkansas College Savings
 16 Bond Act of 1989;

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

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

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

24 (vi) Bonds issued under the Arkansas Water, Waste
 25 Disposal and Pollution Abatement Facilities Financing Act of 1997 and the
 26 Arkansas Water, Waste Disposal, and Pollution Abatement Facilities Financing
 27 Act of 2007.

28 (B)(i) In making the determination in this subdivision
 29 (a)(2), the director shall consider all economic factors existing at the time
 30 of the determination that could potentially affect the decline in the
 31 aggregate amount of deductions, including without limitation pending
 32 litigation.

33 (ii) If the consideration of additional economic
 34 factors under subdivision (a)(2)(B)(i) of this section results in a
 35 determination that the decline in the aggregate amount of deductions is not
 36 likely to remain at that reduced level, the director shall conclude that the

1 conditions in this subdivision (a)(2) have not been met.

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

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

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

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

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

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

27 (ii) The director shall make the determination under
 28 subdivision (a)(1)(C)(i) of this section on a monthly basis following the
 29 determination that the conditions under subdivision (a)(1)(A) of this section
 30 have been met.

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

- 1 (i) The Educational Adequacy Fund;
 2 (ii) Bonds issued under the Arkansas College Savings
 3 Bond Act of 1989;
 4 (iii) Bonds issued under the Arkansas Higher
 5 Education Technology and Facility Improvement Act of 2005;
 6 (iv) The City-County Tourist Facilities Aid Fund;
 7 (v) Amounts disbursed or approved to be disbursed by
 8 the Department of Education for desegregation expenses under any
 9 desegregation settlement agreement, as certified by the Treasurer of State
 10 and the Chief Fiscal Officer of the State under § 6-20-212; and
 11 (vi) Bonds issued under the Arkansas Water, Waste
 12 Disposal and Pollution Abatement Facilities Financing Act of 1997 and the
 13 Arkansas Water, Waste Disposal, and Pollution Abatement Facilities Financing
 14 Act of 2007.

15 (B)(i) In making the determination in this subdivision
 16 (a)(2), the director shall consider all economic factors existing at the time
 17 of the determination that could potentially affect the decline in the
 18 aggregate amount of deductions, including without limitation pending
 19 litigation.

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

25 ~~(2)~~ (3) When the director finds that all of the conditions in
 26 either subdivision (a)(1) or (a)(2) of this section have been met, then the
 27 compensating use taxes levied under subsection (c) of this section shall be
 28 levied at the rate of zero percent (0%) on the sale of food and food
 29 ingredients beginning on the first day of the ~~second calendar month~~ calendar
 30 quarter that is at least thirty (30) days following the determination of the
 31 director.

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 33 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
 34 General Assembly of the State of Arkansas that the unemployment level in
 35 Arkansas is unacceptable; that this unemployment level results in an increase
 36 in the number of Arkansans unable to afford basic necessities; and that this

1 act is necessary because the state sales and use tax on food and food
2 ingredients should be eliminated as soon as it is economically feasible to do
3 so in order to aid Arkansans. Therefore, an emergency is declared to exist,
4 and this act being necessary for the preservation of the public peace,
5 health, and safety shall become effective on July 1, 2013.

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