

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

As Engrossed: H3/14/17

# A Bill

HOUSE BILL 2062

5 By: Representative Hammer  
6

## For An Act To Be Entitled

8 AN ACT TO EASE THE BURDEN ON TAXPAYERS; TO OFFSET  
9 EXCESS REVENUES AVAILABLE TO THE STATE; TO AMEND THE  
10 USE AND DISTRIBUTION OF CERTAIN REVENUES; AND FOR  
11 OTHER PURPOSES.  
12  
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## Subtitle

15 TO EASE THE BURDEN ON TAXPAYERS; TO  
16 OFFSET EXCESS REVENUES AVAILABLE TO THE  
17 STATE; AND TO AMEND THE USE AND  
18 DISTRIBUTION OF CERTAIN REVENUES.  
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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 Title 19, Chapter 5, Subchapter 4, is amended*  
24 *to add an additional section to read as follows:*

25 *19-5-407. Transfer of excess revenues.*

26 *(a) At the end of each fiscal year, the Chief Fiscal Officer of the*  
27 *State shall certify to the Treasurer of State the total amount of:*

28 *(1) Unallocated and recoverable general revenues; and*

29 *(2) Available net general revenues enumerated in § 19-6-201(1)*  
30 *and (2) for the fiscal year, in excess of fifteen million dollars*

31 *(\$15,000,000) that are attributable to the collection of sales and use taxes*  
32 *from sellers that:*

33 *(A) Do not have a physical presence in Arkansas;*

34 *(B) Made sales of taxable goods or services, or both, to*  
35 *Arkansas purchasers; and*

36 *(C) Began collecting and remitting Arkansas sales and use*



1 taxes on or after January 1, 2017.

2 (b) The Treasurer of State shall distribute the amount certified under  
3 subsection (a) of this section as follows:

4 (1) Twenty-five percent (25%) to the County Aid Fund;

5 (2) Twenty-five percent (25%) to the Municipal Aid Fund;

6 (3) Twenty-five percent (25%) to the General Revenue Allotment  
7 Reserve Fund; and

8 (4) Twenty-five percent (25%) to the State Highway and  
9 Transportation Department Fund.

10  
11 SECTION 2. Arkansas Code § 26-51-201(e), concerning the income tax  
12 levied on individuals, trusts, and estates, is repealed.

13 ~~(e) If the director determines that federal law authorizes the state~~  
14 ~~to collect sales and use tax from sellers that do not have a physical~~  
15 ~~presence in the state, then after the first twelve (12) months of collecting~~  
16 ~~sales and use tax from sellers that do not have a physical presence in the~~  
17 ~~state, the director shall:~~

18 ~~(1) After making the deductions required under § 19-5-~~  
19 ~~202(b)(2)(B)(i), certify to the Governor and the Office of Economic and Tax~~  
20 ~~Policy the amount of available net general revenues attributable to the~~  
21 ~~collection of sales and use tax from sellers that do not have a physical~~  
22 ~~presence in the state during the first twelve (12) months of collections;~~

23 ~~(2) Use any amount under subdivision (e)(1) of this section that~~  
24 ~~exceeds seventy million dollars (\$70,000,000) to reduce the rate of four and~~  
25 ~~five tenths percent (4.5%) in the table contained in subdivision (a)(7) of~~  
26 ~~this section equally for all taxpayers subject to the rate of four and five-~~  
27 ~~tenths percent (4.5%);~~

28 ~~(3) Certify the amount of the reduction of the income tax rate~~  
29 ~~under this subsection to the Governor and the Office of Economic and Tax~~  
30 ~~Policy; and~~

31 ~~(4) Incorporate the reduced income tax rate into the table~~  
32 ~~prescribed under subsection (d) of this section, which shall be applicable~~  
33 ~~for each tax year thereafter.~~

34  
35 SECTION 3. Arkansas Code § 26-52-317(a), concerning the sales tax  
36 levied on food and food ingredients, is amended to read as follows:

1           ~~(a)(1)(A) The Director of the Department of Finance and Administration~~  
2 ~~shall determine the following conditions:~~

3                     ~~(A) That federal law authorizes the state to collect sales~~  
4 ~~and use tax from some or all of the sellers that have no physical presence in~~  
5 ~~the State of Arkansas and that make sales of taxable goods and services to~~  
6 ~~Arkansas purchasers;~~

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

10                    ~~(C)(i) That during a six month consecutive period, the~~  
11 ~~amount of net available general revenues attributable to the collection of~~  
12 ~~sales and use tax from sellers that have no physical presence in the State of~~  
13 ~~Arkansas is equal to or greater than one hundred fifty percent (150%) of~~  
14 ~~sales and use tax collected under subsection (c) of this section and § 26-53-~~  
15 ~~145 on food and food ingredients.~~

16                    ~~(ii) The director shall make the determination under~~  
17 ~~subdivision (a)(1)(C)(i) of this section on a monthly basis following the~~  
18 ~~determination that the conditions under subdivision (a)(1)(A) of this section~~  
19 ~~have been met.~~

20                    ~~(2)(A) Beginning July 1, 2013, the director~~ The Director of the  
21 Department of Finance and Administration shall make a monthly determination  
22 as to whether the aggregate amount of deductions from net general revenues  
23 attributable to the following during the most recently ended six-month  
24 consecutive period, as compared with the same six-month period in the prior  
25 year, has declined by thirty-five million dollars (\$35,000,000) or more:

26                    (i) The Educational Adequacy Fund;

27                    (ii) Bonds issued under the Arkansas College Savings  
28 Bond Act of 1989, § 6-62-701 et seq.;

29                    (iii) Bonds issued under the Arkansas Higher  
30 Education Technology and Facility Improvement Act of 2005, § 6-62-1101 et  
31 seq.;

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

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

1 (vi) Bonds issued under the Arkansas Water, Waste  
2 Disposal and Pollution Abatement Facilities Financing Act of 1997 and the  
3 Arkansas Water, Waste Disposal, and Pollution Abatement Facilities Financing  
4 Act of 2007, § 15-20-1301 et seq.

5 (B)(i) In making the determination in this subdivision  
6 ~~(a)(2)~~ (a)(1), the director shall consider all economic factors existing at  
7 the time of the determination that could potentially affect the decline in  
8 the aggregate amount of deductions, including without limitation pending  
9 litigation.

10 (ii) If the consideration of additional economic  
11 factors under subdivision ~~(a)(2)(B)(i)~~ (a)(1)(B)(i) of this section results  
12 in a determination that the decline in the aggregate amount of deductions is  
13 not likely to remain at that reduced level, the director shall conclude that  
14 the conditions in this subdivision ~~(a)(2)~~ (a)(1) have not been met.

15 ~~(3)~~ (2) When the director finds that ~~all of~~ the conditions in  
16 ~~either~~ subdivision (a)(1) of this section ~~or subdivision (a)(2) of this~~  
17 ~~section~~ have been met, then the gross receipts or gross proceeds taxes levied  
18 under subsection (c) of this section shall be levied at the rate of zero  
19 percent (0%) on the sale of food and food ingredients beginning on the first  
20 day of the calendar quarter that is at least thirty (30) days following the  
21 determination of the director.

22  
23 SECTION 4. Arkansas Code § 26-53-145(a), concerning the compensating  
24 use tax levied on food and food ingredients, is amended to read as follows:

25 (a)(1)(A) ~~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 § 26-52-~~  
3 ~~317 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~~ The Director of the  
9 Department of Finance and Administration shall make a monthly determination  
10 as to whether the aggregate amount of deductions from net general revenues  
11 attributable to the following during the most recently ended six-month  
12 consecutive period, as compared with the same six-month period in the prior  
13 year, has declined by thirty-five million dollars (\$35,000,000) or more:

14 (i) The Educational Adequacy Fund;

15 (ii) Bonds issued under the Arkansas College Savings  
16 Bond Act of 1989, § 6-62-701 et seq.;

17 (iii) Bonds issued under the Arkansas Higher  
18 Education Technology and Facility Improvement Act of 2005, § 6-62-1101 et  
19 seq.;

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

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

25 (vi) Bonds issued under the Arkansas Water, Waste  
26 Disposal and Pollution Abatement Facilities Financing Act of 1997 and the  
27 Arkansas Water, Waste Disposal, and Pollution Abatement Facilities Financing  
28 Act of 2007, § 15-20-1301 et seq.

29 (B)(i) In making the determination in this subdivision  
30 ~~(a)(2)~~ (a)(1), the director shall consider all economic factors existing at  
31 the time of the determination that could potentially affect the decline in  
32 the aggregate amount of deductions, including without limitation pending  
33 litigation.

34 (ii) If the consideration of additional economic  
35 factors under subdivision ~~(a)(2)(B)(i)~~ (a)(1)(B)(i) of this section results  
36 in a determination that the decline in the aggregate amount of deductions is

1 not likely to remain at that reduced level, the director shall conclude that  
2 the conditions in this subdivision ~~(a)(2)~~ (a)(1) have not been met.

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

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10 SECTION 5. EFFECTIVE DATE. Sections 1 through 4 of this act are  
11 effective on the first day of the calendar quarter following the effective  
12 date of this act.

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14 /s/Hammer

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