

State of Arkansas  
86th General Assembly  
Regular Session, 2007

# A Bill

SENATE BILL 14

By: Senator Glover

## For An Act To Be Entitled

AN ACT TO PHASE OUT THE STATE GENERAL SALES AND  
USE TAX ON FOOD AND FOOD INGREDIENTS; TO PRESERVE  
THE LOCAL SALES AND USE TAX ON FOOD AND FOOD  
INGREDIENTS; AND FOR OTHER PURPOSES.

## Subtitle

AN ACT TO PHASE OUT THE STATE GENERAL  
SALES AND USE TAX ON FOOD AND FOOD  
INGREDIENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 26-52-317 is amended to read as follows:  
26-52-317. Food and food ingredients.

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

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

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

~~(C)(i) That during a six month consecutive period, the amount of net available general revenues attributable to the collection of sales and use tax from sellers who have no physical presence in the State of Arkansas is equal to or greater than one hundred fifty percent (150%) of~~



~~sales and use tax collected under §§ 26-52-301, 26-52-302(a), (b), and (d),  
26-53-106, and 26-53-107(a), (b), and (d) on food and food ingredients.~~

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

~~(2) When the director finds that all of the conditions in  
subdivision (a)(1) of this section have been met, then the gross receipts or  
gross proceeds taxes levied under §§ 26-52-301 and 26-52-302(a), (b), and (d)  
shall be levied at the rate of zero percent (0%) on the sale of food and food  
ingredients beginning on the first day of the second calendar month following  
the determination of the director.~~

(a) Except as provided in subsection (b), the excise tax levied on the  
gross proceeds or gross receipts on any sale of food or food ingredients  
shall be at the following rates in lieu of any other gross proceeds or gross  
receipts excise tax imposed by this state:

(1) July 1, 2007, through June 30, 2008, four and three-eighths  
of one percent (4.375%);

(2) July 1, 2008, through June 30, 2009, two and seven-eighths  
of one percent (2.875%);

(3) July 1, 2009, through June 30, 2010, one and three-eighths  
of one percent (1.375%); and

(4) July 1, 2010, and thereafter, zero percent (0%).

(b) The gross receipts or gross proceeds derived from the sale of food  
and food ingredients shall continue to be subject to the:

~~(1) Taxes levied under § 26-52-302(e);~~

~~(2)(1) Excise tax levied under Arkansas Constitution, Amendment  
75, § 2; and~~

~~(3)(2) All municipal and county gross receipts taxes.~~

(c) The Department of Finance and Administration shall promulgate  
rules to implement the provisions of this section.

SECTION 2. Arkansas Code § 26-53-145 is amended to read as follows:

26-53-145. Food and food ingredients.

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

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

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

~~(C)(i) That during a six month consecutive period, the amount of net available general revenues attributable to the collection of sales and use tax from sellers who have no physical presence in the State of Arkansas is equal to or greater than one hundred fifty percent (150%) of sales and use tax collected under §§ 26-52-301, 26-52-302(a), (b), and (d), 26-53-106, and 26-53-107(a), (b), and (d) on food and food ingredients.~~

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

~~(2) When the director finds that all of the conditions in subdivision (a)(1) of this section have been met, then the compensating use taxes levied under §§ 26-53-106 and 26-53-107(a), (b), and (d) shall be levied at the rate of zero percent (0%) on the sale of food and food ingredients beginning on the first day of the second calendar month following the determination of the director.~~

~~(b) The following shall continue to apply to the sales price of food and food ingredients:~~

~~(1) The compensating use tax levied under § 26-53-107(c);~~

~~(2) The compensating use tax levied under Arkansas Constitution, Amendment 75, § 2; and~~

~~(3) All municipal and county use taxes.~~

~~(c) The Department of Finance and Administration shall promulgate rules to implement the provisions of this section.~~

(a) Except as provided in subsection (b), the compensating use tax on the sales price of any article of food or food ingredient purchased, produced, or manufactured outside this state and transported within this state for storage, use, distribution, or consumption shall be at the following rates in lieu of any other compensating use tax imposed by this

1 state:

2 (1) July 1, 2007, through June 30, 2008, four and three-eighths  
 3 of one percent (4.375%);

4 (2) July 1, 2008, through June 30, 2009, two and seven eighths  
 5 of one percent (2.875%);

6 (3) July 1, 2009, through June 30, 2010, one and three-eighths  
 7 of one percent (1.375%); and

8 (4) July 1, 2010, and thereafter, zero percent (0%).

9 (b) The following shall continue to apply to the sales price of food  
 10 and food ingredients:

11 ~~(1) The compensating use tax levied under § 26-53-107(e);~~

12 ~~(2)~~(1) The compensating use tax levied under Arkansas  
 13 Constitution, Amendment 75, § 2; and

14 ~~(3)~~(2) All municipal and county gross receipts taxes.

15 (c) The Department of Finance and Administration shall promulgate  
 16 rules to implement the provisions of this section.

17  
 18 SECTION 3. EMERGENCY CLAUSE. The General Assembly of the State of  
 19 Arkansas finds that the purchase of food and food ingredients is an  
 20 inescapable financial burden; that the gross proceeds or gross receipts taxes  
 21 and compensating use taxes on the sale of food and food ingredients create a  
 22 significant financial burden on low-income or fixed-income residents; and  
 23 that this act is necessary to reduce the burden as soon as is reasonably  
 24 possible. Therefore, an emergency is declared to exist and this act being  
 25 necessary for the preservation of the public peace, health, and safety shall  
 26 become effective on July 1, 2007.