

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

**Introduced**

### **House Bill 4471**

**FISCAL  
NOTE**

BY DELEGATE WARD

[Introduced February 8, 2018; Referred  
to the Committee on Banking and Insurance then  
Finance.]

1 A BILL to amend and reenact §11-15-3a of the Code of West Virginia, 1931, as amended, relating  
 2 to establishing a one percent tax on food for five years; requiring the tax proceeds be used  
 3 to fund the Public Employees Insurance Agency; permitting the tax to end sooner if other  
 4 funding sources are utilized; prohibiting municipalities from imposing a sales tax on food.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

**§11-15-3a. Rate of tax on food and food ingredients intended for human consumption; reductions and cessations of tax.**

1 (a) *Rate of tax on food and food ingredients.* -- Notwithstanding any provision of this article  
 2 or §11-15A-1 *et seq.* of this code to the contrary:

3 (1) *Rate reduction.* -- The rate of tax on sales, purchases, and uses of food and food  
 4 ingredients intended for human consumption after June 30, 2008, shall be three percent of its  
 5 sales price, as defined in §11-15B-2 of this code.

6 (2) *Additional rate reduction.* -- The rate of tax on sales, purchases, and uses of food and  
 7 food ingredients as defined in that section that is intended for human consumption after December  
 8 31, 2011, shall be two percent of its sales price, as defined in that section. After June 30, 2012,  
 9 the rate of tax on sales, purchases, and uses of food and food ingredients as defined in that  
 10 section that is intended for human consumption shall be one percent of its sales price, as defined  
 11 in that section.

12 (3) *Contingent termination of tax on food.* -- The tax on sales, purchases, and uses of food  
 13 and food ingredients as defined in §11-15B-2 of this code that is intended for human consumption  
 14 shall cease after June 30, 2013, and no such tax shall be imposed on sales, purchases, and uses  
 15 of food and food ingredients so defined: *Provided,* That the cessation of tax after June 30, 2013,  
 16 authorized by this subsection shall be suspended if the balance of funds as of December 31,  
 17 2012, in the Revenue Shortfall Reserve Fund established in §11B-2-22 of this code does not  
 18 equal or exceed twelve and one-half percent of the General Revenue Fund budgeted for the fiscal

19 year commencing July 1, 2012. Such suspension shall terminate, and the cessation of tax shall  
20 proceed, beginning on July 1 of any calendar year beginning after December 31, 2013, in which  
21 the balance of funds as of December 31 of the preceding fiscal year in said Revenue Shortfall  
22 Reserve Fund equals or exceeds twelve and one-half percent of the General Revenue Fund  
23 budgeted for the immediately succeeding fiscal year.

24 (4) Temporary Rate increase. -- The rate of tax on sales, purchases, and uses of food and  
25 food ingredients intended for human consumption after June 30, 2018, shall be one percent of its  
26 sales price, as defined in §11-15B-2 of this code: *Provided*, That the revenue collected from the  
27 tax shall be transferred and used to help fund the Public Employees Insurance Agency: *Provided*,  
28 *however*, That this tax shall cease after June 30, 2023, or sooner if revenue from other sources  
29 have increased to an amount equal to revenue generated from the one per cent tax. In no event  
30 may municipalities add an additional tax on sales, purchases, and uses of food and food  
31 ingredients intended for human consumption.

32 (b) *Calculation of tax on fractional parts of a dollar.* -- The tax computation under this  
33 section shall be carried to the third decimal place and the tax rounded up to the next whole cent  
34 whenever the third decimal place is greater than four and rounded down to the lower whole cent  
35 whenever the third decimal place is four or less. The seller may elect to compute the tax due on  
36 a transaction on a per item basis or on an invoice basis provided the method used is consistently  
37 used during the reporting period.

38 (c) *Federal Food Stamp and Women, Infants and Children programs, other exemptions.* -  
39 - Nothing in this section affects application of the exemption from tax provided in §11-15-9 of this  
40 code for food purchased by an eligible person using food stamps, electronic benefits transfer  
41 cards, or vouchers issued by or pursuant to authorization of the United States Department of  
42 Agriculture to individuals participating in the Federal Food Stamp Program, by whatever name  
43 called, or the Women, Infants, and Children (WIC) program, or application of any other exemption  
44 from tax set forth in this article or §11-15A-1 *et seq.* of this code.

NOTE: The purpose of this bill is to establish a one per cent tax on food for five years. The bill requires the tax proceeds be used to fund the Public Employees Insurance Agency. The bill permitting the tax to end sooner if other funding sources are utilized. The bill prohibits municipalities from imposing a sales tax on food.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.