

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 26

5 By: Senator J. Sturch
6 By: Representative S. Smith
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE REDUCED SALES
10 AND USE TAX RATE FOR UTILITIES USED BY MANUFACTURERS;
11 TO APPLY A REDUCED SALES AND USE TAX RATE TO SALES OF
12 COAL FOR USE IN MANUFACTURING; AND FOR OTHER
13 PURPOSES.
14
15

Subtitle

16 TO AMEND THE LAW CONCERNING THE REDUCED
17 SALES AND USE TAX RATE FOR UTILITIES USED
18 BY MANUFACTURERS; AND TO APPLY A REDUCED
19 SALES AND USE TAX RATE TO SALES OF COAL
20 FOR USE IN MANUFACTURING.
21
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 26-52-319 is amended to read as follows:

27 26-52-319. Natural gas, and electricity, and coal used by
28 manufacturers – Definition.

29 (a)(1)(A) ~~Beginning July 1, 2014, in lieu of the gross receipts or~~
30 ~~gross proceeds tax levied in §§ 26-52-301 and 26-52-302, there is levied an~~
31 ~~excise tax on the gross receipts or gross proceeds derived from the sale of~~
32 ~~natural gas and electricity to a manufacturer for use directly in the actual~~
33 ~~manufacturing process at the rate of one percent (1%).~~

34 (B)(i) ~~Beginning July 1, 2015, the~~ The gross receipts or
35 gross proceeds tax levied in §§ 26-52-301 and 26-52-302 and this section
36 shall be levied at a rate of zero percent (0%) on the sale of natural gas,



1 ~~and~~ electricity, and coal to a manufacturer for use directly in the actual
2 manufacturing process.

3 ~~(ii)~~(B) However, the sale of natural gas, ~~and~~
4 electricity, and coal to a manufacturer for use directly in the actual
5 manufacturing process shall remain subject to the excise tax of one-eighth of
6 one percent (1/8 of 1%) levied in Arkansas Constitution, Amendment 75, ~~and~~
7 the temporary excise tax of one-half percent (½%) levied in Arkansas
8 Constitution, Amendment 91, and the excise tax of one-half percent (½%)
9 levied in Arkansas Constitution, Amendment 101.

10 (2) The taxes levied in this subsection shall be distributed as
11 follows:

12 (A) Seventy-six and six-tenths percent (76.6%) of the tax,
13 interest, penalties, and costs received by the Secretary of the Department of
14 Finance and Administration shall be deposited as general revenues;

15 (B) Eight and five-tenths percent (8.5%) of the tax,
16 interest, penalties, and costs received by the secretary shall be deposited
17 into the Property Tax Relief Trust Fund; and

18 (C) Fourteen and nine-tenths percent (14.9%) of the tax,
19 interest, penalties, and costs received by the secretary shall be deposited
20 into the Educational Adequacy Fund.

21 (3)(A) The excise tax levied in this section applies only to
22 natural gas, ~~and~~ electricity, and coal sold for use directly in the actual
23 manufacturing process.

24 (B) Natural gas, ~~and~~ electricity, and coal sold for any
25 other purpose are subject to the full gross receipts or gross proceeds tax
26 levied under §§ 26-52-301 and 26-52-302.

27 (4) The excise tax levied in this section shall be collected,
28 reported, and paid in the same manner and at the same time as is prescribed
29 by law for the collection, reporting, and payment of all other Arkansas gross
30 receipts taxes.

31 (b) As used in this section, "manufacturer" means a:

32 (1) Manufacturer classified within sectors ~~31 through 33~~ 31-33
33 or ~~sector~~ code 115111 of the North American Industry Classification System,
34 as in effect on January 1, 2011; or

35 (2) Generator of electric power classified within sector 22 of
36 the North American Industry Classification System, as in effect on January 1,

1 2011, that uses natural gas to operate a new or existing generating facility
2 that uses combined-cycle gas turbine technology.

3 (c)(1) Except as otherwise provided in this subsection, the tax rate
4 under subsection (a) of this section does not apply to a manufacturer as
5 defined in subdivision (b)(2) of this section.

6 (2) In lieu of the tax rate under subsection (a) of this
7 section, the excise tax rate levied on the gross receipts or gross proceeds
8 derived from the sale of natural gas and electricity to a manufacturer as
9 defined in subdivision (b)(2) of this section to operate a new or existing
10 facility that uses combined-cycle gas turbine technology is ~~as follows:~~

11 ~~(A) Beginning January 1, 2012, five and one-eighth percent~~
12 ~~(5.125%);~~

13 ~~(B) Beginning January 1, 2013, four and one-eighth percent~~
14 ~~(4.125%);~~

15 ~~(C) Beginning January 1, 2014, two and five-eighths~~
16 ~~percent (2.625%); and~~

17 ~~(D) Beginning January 1, 2015, one percent (1%).~~

18 (3) The taxes levied in this subsection shall be distributed in
19 the same manner as stated in subsection (a) of this section.

20 (d) Natural gas and electricity subject to the reduced tax rate levied
21 in this section shall be separately metered from natural gas and electricity
22 used for any other purpose by the manufacturer or otherwise established under
23 subsection (f) of this section.

24 (e) Before the sale of natural gas, ~~or~~ electricity, or coal at the
25 reduced excise tax rate levied in this section, the secretary may require ~~any~~
26 a seller of natural gas, ~~or~~ electricity, or coal to obtain a certificate from
27 the consumer, in the form prescribed by the secretary, certifying that the
28 manufacturer is eligible to purchase natural gas, ~~and~~ electricity, and coal
29 at the reduced excise tax rate.

30 (f) The secretary shall promulgate rules for the proper administration
31 of this section.

32 (g) The gross receipts or gross proceeds derived from the sale of
33 natural gas, ~~and~~ electricity, and coal to a manufacturer shall continue to be
34 subject to:

35 (1) The excise ~~tax~~ taxes levied under the Arkansas Constitution,
36 ~~Amendment 75, § 2;~~ and

1 (2) All municipal and county gross receipts taxes.

2 (h) All existing exemptions from the gross receipts tax levied by this
3 chapter and the compensating use tax levied by the Arkansas Compensating Tax
4 Act of 1949, § 26-53-101 et seq., for natural gas, ~~or~~ electricity, and coal
5 used in manufacturing or for other purposes that are otherwise provided by
6 law shall continue in effect.

7
8 SECTION 2. Arkansas Code § 26-53-148 is amended to read as follows:

9 26-53-148. Natural gas, ~~and~~ electricity, and coal used by
10 manufacturers – Definition.

11 (a)(1)(A) ~~Beginning July 1, 2014, in lieu of the tax levied in §§ 26-~~
12 ~~53-106 and 26-53-107, there is levied an excise tax on the sales price of~~
13 ~~natural gas and electricity purchased by a manufacturer for use directly in~~
14 ~~the actual manufacturing process at the rate of one percent (1%).~~

15 ~~(B)(i) Beginning July 1, 2015, the~~ The compensating use
16 tax levied in §§ 26-53-106 and 26-53-107 and this section shall be levied at
17 a rate of zero percent (0%) on natural gas, ~~and~~ electricity, and coal
18 purchased by a manufacturer for use directly in the actual manufacturing
19 process.

20 ~~(ii)(B)~~ (B) However, natural gas, ~~and~~ electricity, and
21 coal purchased by a manufacturer for use directly in the actual manufacturing
22 process shall remain subject to the excise tax of one-eighth of one percent
23 (1/8 of 1%) levied in Arkansas Constitution, Amendment 75, ~~and~~ the temporary
24 excise tax of one-half percent ($\frac{1}{2}$ %) levied in Arkansas Constitution,
25 Amendment 91, and the excise tax of one-half percent ($\frac{1}{2}$ %) levied in Arkansas
26 Constitution, Amendment 101.

27 (2) The taxes levied in this subsection shall be distributed as
28 follows:

29 (A) Seventy-six and six-tenths percent (76.6%) of the tax,
30 interest, penalties, and costs received by the Secretary of the Department of
31 Finance and Administration shall be deposited as general revenues;

32 (B) Eight and five-tenths percent (8.5%) of the tax,
33 interest, penalties, and costs received by the secretary shall be deposited
34 into the Property Tax Relief Trust Fund; and

35 (C) Fourteen and nine-tenths percent (14.9%) of the tax,
36 interest, penalties, and costs received by the secretary shall be deposited

1 into the Educational Adequacy Fund.

2 (3)(A) The excise tax levied in this section applies only to
3 natural gas, ~~and~~ electricity, and coal purchased for use directly in the
4 actual manufacturing process.

5 (B) Natural gas, ~~and~~ electricity, and coal purchased for
6 any other purpose shall be subject to the full compensating use tax levied
7 under §§ 26-53-106 and 26-53-107.

8 (4) The excise tax levied in this section shall be collected,
9 reported, and paid in the same manner and at the same time as is prescribed
10 by law for the collection, reporting, and payment of all other Arkansas
11 compensating use taxes.

12 (b) As used in this section, "manufacturer" means a:

13 (1) Manufacturer classified within sectors ~~31 through 33~~ 31-33
14 or ~~subsector~~ code 115111 of the North American Industry Classification
15 System, as in effect on January 1, 2011; or

16 (2) Generator of electric power classified within sector 22 of
17 the North American Industry Classification System, as in effect on January 1,
18 2011, that uses natural gas to operate a new or existing generating facility
19 that uses combined-cycle gas turbine technology.

20 (c)(1) Except as otherwise provided in this subsection, the tax rate
21 under subsection (a) of this section does not apply to a manufacturer as
22 defined in subdivision (b)(2) of this section.

23 (2) In lieu of the tax rate under subsection (a) of this
24 section, the excise tax rate levied on the sales price of natural gas and
25 electricity purchased by a manufacturer as defined in subdivision (b)(2) of
26 this section to operate a new or existing facility that uses combined-cycle
27 gas turbine technology is ~~as follows:~~

28 ~~(A) Beginning January 1, 2012, five and one eighth percent~~
29 ~~(5.125%);~~

30 ~~(B) Beginning January 1, 2013, four and one eighth percent~~
31 ~~(4.125%);~~

32 ~~(C) Beginning January 1, 2014, two and five eighths~~
33 ~~percent (2.625%); and~~

34 ~~(D) Beginning January 1, 2015, one percent (1%).~~

35 (3) The taxes levied in this subsection shall be distributed in
36 the same manner as stated in subsection (a) of this section.

1 (d) Natural gas and electricity subject to the reduced tax rate levied
2 in this section shall be separately metered from natural gas and electricity
3 used for any other purpose by the manufacturer or otherwise established under
4 subsection (f) of this section.

5 (e) Before purchasing any natural gas, ~~or~~ electricity, or coal at the
6 reduced excise tax rate levied in this section, the secretary may require any
7 seller of natural gas, ~~or~~ electricity, or coal to obtain a certificate from
8 the consumer, in the form prescribed by the secretary, certifying that the
9 manufacturer is eligible to purchase natural gas, ~~and~~ electricity, and coal
10 at the reduced excise tax rate.

11 (f) The secretary shall promulgate rules for the proper administration
12 of this section.

13 (g) The purchase of natural gas, ~~and~~ electricity, and coal by a
14 manufacturer shall continue to be subject to:

15 (1) The excise ~~tax~~ taxes levied under the Arkansas Constitution,
16 ~~Amendment 75, § 2~~; and

17 (2) All municipal and county compensating use taxes.

18
19 SECTION 3. EFFECTIVE DATE. Sections 1 and 2 of this act are effective
20 on the first day of the calendar quarter following the effective date of this
21 act.

22
23
24 **APPROVED: 4/26/21**