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A Bill

HOUSE BILL 2064

5 By: Representatives L. Cowling, King, D. Altes, Barnett, Bell, Benedict, Branscum, J. Burris, Carnine,
6 Collins, Dale, Deffenbaugh, Eubanks, Gillam, Harris, Hickerson, Hopper, Jean, Johnston, Kerr,
7 Lampkin, Lea, Lenderman, Linck, Lindsey, S. Malone, Mauch, McCrary, S. Meeks, Rice, Shepherd,
8 Stewart, Stubblefield, Summers, T. Thompson, Wardlaw, Wren
9 By: Senators Files, Hendren, Holland, B. Sample, E. Williams

For An Act To Be Entitled

12 AN ACT TO GRADUALLY REDUCE THE SALES AND USE TAX ON
13 UTILITIES THAT ARE USED BY QUALIFYING AGRICULTURAL
14 STRUCTURES AND QUALIFYING AGRICULTURE, HORTICULTURE,
15 AND AQUACULTURE EQUIPMENT; AND FOR OTHER PURPOSES.
16
17

Subtitle

19 TO GRADUALLY REDUCE THE SALES AND USE TAX
20 ON UTILITIES THAT ARE USED BY QUALIFYING
21 AGRICULTURAL STRUCTURES AND QUALIFYING
22 AGRICULTURE, HORTICULTURE, AND
23 AQUACULTURE EQUIPMENT.
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended
29 to add an additional section to read as follows:

30 26-52-323. Reduced sales tax rate for utilities used by qualifying
31 agricultural structures and by qualifying agriculture, horticulture, and
32 aquaculture equipment.

33 (a) As used in this section:

34 (1) "Qualifying agriculture, horticulture, or aquaculture
35 equipment" means:

36 (A) A cooling unit, a collection unit, or irrigation



1 equipment used in a commercial horticulture operation;

2 (B) Equipment used to pump and aerate a pond used in a
3 commercial aquaculture operation;

4 (C) A holding and sorting tank used in a commercial
5 aquaculture operation; and

6 (D) An on-farm grain dryer and agricultural irrigation
7 used for a commercial purpose;

8 (2) "Qualifying agricultural structure" means:

9 (A) Confinement housing for poultry or livestock used for
10 commercial production, including without limitation a broiler or turkey grow-
11 out house, laying house, hatching unit, nursery unit, breeding house,
12 farrowing unit, feed-out house, and the equipment and renovations necessary
13 to utilize the confinement housing for the commercial production of poultry
14 or livestock; and

15 (B) A commercial milking facility, including without
16 limitation a milking parlor, a milk collection unit, and a refrigeration
17 unit; and

18 (3) "Utility" means:

19 (A) Liquefied petroleum gas;

20 (B) Natural gas; or

21 (C) Electricity.

22 (b)(1) Beginning July 1, 2011, in lieu of the gross receipts or gross
23 proceeds taxes levied in §§ 26-52-301 and 26-52-302, there is levied an
24 excise tax on the gross receipts or gross proceeds derived from the sale of a
25 utility used by a qualifying agricultural structure for a commercial purpose
26 or qualifying agriculture, horticulture, or aquaculture equipment for a
27 commercial purpose at the rate of four percent (4%).

28 (2) Beginning July 1, 2012, the excise tax rate levied in
29 subdivision (b)(1) of this section shall be imposed at the rate of two and
30 five-eighths percent (2.625%).

31 (c) The excise tax levied in subsection (b) of this section shall be
32 distributed as follows:

33 (1) Seventy-six and six-tenths percent (76.6%) of the tax,
34 interest, penalties, and costs received by the Director of the Department of
35 Finance and Administration shall be deposited into the State Treasury as
36 general revenues;

1 (2) Eight and five-tenths percent (8.5%) of the tax, interest,
2 penalties, and costs received by the director shall be deposited into the
3 Property Tax Relief Trust Fund; and

4 (3) Fourteen and nine-tenths percent (14.9%) of the tax,
5 interest, penalties, and costs received by the director shall be deposited
6 into the Educational Adequacy Fund.

7 (d) The excise tax levied in this section applies only to a utility
8 sold for use by a qualifying agricultural structure for a commercial purpose
9 or qualifying agriculture, horticulture, or aquaculture equipment operated
10 for a commercial purpose.

11 (e) The excise tax levied in this section shall be collected,
12 reported, and paid in the same manner and at the same time as is prescribed
13 by law for the collection, reporting, and payment of all other Arkansas gross
14 receipts taxes.

15 (f) A utility subject to the reduced excise tax rate levied in this
16 section shall be separately metered from a utility used for any other purpose
17 by the taxpayer, or as otherwise established by the rules issued under
18 subsection (h) of this section.

19 (g) Before the purchase of a utility at the reduced excise tax rate
20 levied in this section, the director may require a seller of a utility to
21 obtain a certificate from the taxpayer in the form prescribed by the
22 director, certifying that the taxpayer is eligible to purchase the utility at
23 the reduced excise tax rate.

24 (h) The director shall promulgate rules for the proper administration
25 of this section.

26 (i) The gross receipts or gross proceeds derived from the sale of a
27 utility to a taxpayer for use by a qualifying agricultural structure for a
28 commercial purpose or qualifying agriculture, horticulture, or aquaculture
29 equipment operated for a commercial purpose shall continue to be subject to:

30 (1) The excise tax levied under Arkansas Constitution, Amendment
31 75, § 2; and

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

33
34 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended
35 to add an additional section to read as follows:

36 26-53-149. Reduced compensating use tax rate for utilities used by

1 qualifying agricultural structures and by qualifying agriculture,
2 horticulture, and aquaculture equipment.

3 (a) As used in this section:

4 (1) "Qualifying agriculture, horticulture, or aquaculture
5 equipment" means:

6 (A) A cooling unit, a collection unit, or irrigation
7 equipment used in a commercial horticulture operation;

8 (B) Equipment used to pump and aerate a pond used in a
9 commercial aquaculture operation;

10 (C) A holding and sorting tank used in a commercial
11 aquaculture operation; and

12 (D) An on-farm grain dryer and agricultural irrigation
13 used for a commercial purpose;

14 (2) "Qualifying agricultural structure" means:

15 (A) Confinement housing for poultry or livestock used for
16 commercial production, including without limitation a broiler or turkey grow-
17 out house, laying house, hatching unit, nursery unit, breeding house,
18 *farrowing unit, feed-out house, and the equipment and renovations necessary*
19 *to utilize the confinement housing for the commercial production of poultry*
20 *or livestock; and*

21 (B) A commercial milking facility, including without
22 limitation a milking parlor, a milk collection unit, and a refrigeration
23 unit; and

24 (3) "Utility" means:

25 (A) Liquefied petroleum gas;

26 (B) Natural gas; or

27 (C) Electricity.

28 (b)(1) Beginning July 1, 2011, in lieu of the compensating use taxes
29 levied in §§ 26-53-106 and 26-53-107, there is levied an excise tax on the
30 sales price of a utility purchased for use by a qualifying agricultural
31 structure for a commercial purpose or qualifying agriculture, horticulture,
32 or aquaculture equipment for a commercial purpose at the rate of four percent
33 (4%).

34 (2) Beginning July 1, 2012, the excise tax rate levied in
35 subdivision (b)(1) of this section shall be imposed at the rate of two and
36 five-eighths percent (2.625%).

1 (c) The excise taxes levied in subsection (b) of this section shall be
2 distributed as follows:

3 (1) Seventy-six and six-tenths percent (76.6%) of the tax,
4 interest, penalties, and costs received by the Director of the Department of
5 Finance and Administration shall be deposited into the State Treasury as
6 general revenues;

7 (2) Eight and five-tenths percent (8.5%) of the tax, interest,
8 penalties, and costs received by the director shall be deposited into the
9 Property Tax Relief Trust Fund; and

10 (3) Fourteen and nine-tenths percent (14.9%) of the tax,
11 interest, penalties, and costs received by the director shall be deposited
12 into the Educational Adequacy Fund.

13 (d) The excise tax levied in this section applies only to a utility
14 purchased for use by a qualifying agricultural structure for a commercial
15 purpose or qualifying agriculture, horticulture, or aquaculture equipment
16 operated for a commercial purpose.

17 (e) The excise tax levied in this section shall be collected,
18 reported, and paid in the same manner and at the same time as is prescribed
19 by law for the collection, reporting, and payment of all other Arkansas
20 compensating use taxes.

21 (f) A utility subject to the reduced excise tax rate levied in this
22 section shall be separately metered from a utility used for any other purpose
23 by the taxpayer, or as otherwise established by the rules issued under
24 subsection (h) of this section.

25 (g) Before the purchase of a utility at the reduced excise tax rate
26 levied in this section, the director may require a seller of a utility to
27 obtain a certificate from the consumer in the form prescribed by the
28 director, certifying that the taxpayer is eligible to purchase the utility at
29 the reduced excise tax rate.

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

32 (i) The purchase of a utility that qualifies for the reduced excise
33 tax rate levied in this section shall continue to be subject to:

34 (1) The excise tax levied under Arkansas Constitution, Amendment
35 75, § 2; and

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

