

1 State of Arkansas
2 89th General Assembly
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4

A Bill

SENATE BILL 192

5 By: Senator D. Johnson
6 By: Representatives Vines, Williams
7

For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 26 OF
10 THE ARKANSAS CODE CONCERNING TAXATION; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 26
16 OF THE ARKANSAS CODE CONCERNING TAXATION.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 26-18-405(d)(1)(C), concerning hearings on
22 proposed tax assessments, is amended to read as follows to clarify a term:

23 (C) If it is not possible for the hearing officer to hold
24 a hearing and issue a decision on a protest of a proposed assessment within
25 one hundred eighty (180) days after the taxpayer files a written protest for
26 reasons that the hearing officer determines are beyond the taxpayer's
27 control, the director shall waive the interest for the period from the time
28 the written protest is filed until the final assessment is issued.
29

30 SECTION 2. Arkansas Code § 26-18-406(e)(1)(B)(i), concerning the
31 attorneys' fees that may be awarded to a taxpayer in a judicial action, is
32 amended to read as follows to clarify its application:

33 (i) Director revised in favor of the taxpayer a
34 decision of the hearing officer ~~in favor of the taxpayer~~ under § 26-18-405;
35

36 SECTION 3. Arkansas Code § 26-26-1907, concerning the Arkansas Real



1 Property Reappraisal Fund, is amended to add a new subsection to read as
 2 follows to make it consistent with Arkansas Code § 26-80-101:

3 (f) Reappraisal funding under this section may be withheld and
 4 forfeited under § 26-80-101(b)(4)(A).

5
 6 SECTION 4. Arkansas Code § 26-35-201(b), concerning distraint when a
 7 taxpayer is about to move, is amended to read as follows to make it
 8 consistent with Arkansas Code § 26-34-101:

9 (b) A county collector may levy and collect the charged taxes with
 10 costs by distress and sale if the delinquent taxes are not satisfied or paid
 11 in full following the sale of a business or the sale of the assets, goods,
 12 chattels, inventory, or equipment of a business not in the ordinary course of
 13 business.

14
 15 SECTION 5. Arkansas Code § 26-36-206(a), concerning the distraint of
 16 goods to pay delinquent personal property taxes, is amended to read as
 17 follows to clarify its application and to make stylistic changes:

18 (a)(1) At any time after October 15 in each year, after taxes may be
 19 due, the county collector shall distraint sufficient goods and chattels
 20 belonging to the a person charged with taxes levied upon the personal
 21 property who owes taxes upon the person's personal property to pay the taxes
 22 due upon the personal property of the person and a penalty of twenty-five
 23 percent (25%) on the taxes due, which shall be collected by the county
 24 collector and paid into the county school fund, and the costs that may accrue
 25 and shall immediately proceed to advertise the sale of the goods and chattels
 26 in three (3) public places in the county, stating the time when and the place
 27 where the goods and chattels shall be sold.

28 (2) If the county collector distrains goods and chattels under
 29 subdivision (a)(1) of this section, the county collector shall immediately
 30 proceed to advertise the sale of the goods and chattels in three (3) public
 31 places in the county, stating the time when and the place where the goods and
 32 chattels will be sold.

33 (3) The county collector shall collect taxes and penalties under
 34 this subsection and deposit the taxes and penalties under this subsection
 35 into the county school fund.

36

1 SECTION 6. Arkansas Code § 26-37-203(b)(2) and (3), concerning the
 2 contest of a conveyance of tax-delinquent land, is amended to read as follows
 3 to clarify its application and to clarify a term:

4 (2) A cause of action by a person suffering a mental incapacity,
 5 a minor, or a person serving in active duty with the United States armed
 6 forces during time of war during the one-year period under subdivision (b)(1)
 7 of this section is barred if not commenced within two (2) years after the
 8 disability is removed, the minor reaches majority, or the person is released
 9 from active duty with the United States armed forces during time of war ~~with~~
 10 ~~the United States armed forces.~~

11 (3) An action to challenge the validity of a conveyance to a
 12 purchaser of tax-delinquent land that was sold at a negotiated sale under §
 13 26-37-101 is barred if not commenced within ninety (90) days after the date
 14 of the conveyance.

15
 16 SECTION 7. Arkansas Code § 26-38-201(b), concerning suits to confirm
 17 title in land, is amended to read as follows to clarify its application:

18 (b)(1) ~~Suit~~ A suit to confirm title in the State of Arkansas or in a
 19 purchaser, donee, or redemtor may be filed at any time after the conveyance
 20 by certification.

21 (2) The state may elect to file a suit for confirmation after
 22 conveyance from the state to a purchaser, donee, or redemtor.

23 (3) If a suit for confirmation is filed after a conveyance from
 24 the state, the decree of confirmation inures to the benefit of the purchaser,
 25 donee, or redemtor of the real property.

26
 27 SECTION 8. Arkansas Code § 26-38-208(a)(2), concerning severed mineral
 28 rights, is amended to read as follows to make stylistic changes:

29 (2) ~~For purposes of this subchapter, wherever the terms~~ As used
 30 in this subchapter, “real property”, “parcel(s)”, or “parcel of real
 31 property” ~~appear, the terms also shall mean~~ includes without limitation a
 32 severed mineral ~~interests~~ interest.

33
 34 SECTION 9. Arkansas Code § 26-51-1004(c), concerning the applicability
 35 of the tax credits provided under the Water Resource Conservation and
 36 Development Incentives Act, is amended to read as follows to clarify a term:

1 (c) Any tax credit issued to an approved applicant that is a
2 partnership, a limited liability company taxed as a partnership, a Subchapter
3 S corporation, or a fiduciary shall be passed through to the partners,
4 members, or owners, respectively, on a pro rata basis or pursuant to an
5 executed agreement between or among the partners, members, or owners
6 documenting an alternative method for the distribution of the tax credit.

7
8 SECTION 10. Arkansas Code § 26-51-1010(c)(1), concerning the
9 application and approval procedure under the Water Resource Conservation and
10 Development Incentives Act, is amended to read as follows to clarify a term:

11 (c)(1) The commission may issue a tax credit approval certificate for
12 those applications proposing projects that meet the requirements of this
13 subchapter and rules promulgated ~~thereunder~~ under this subchapter.

14
15 SECTION 11. Arkansas Code § 26-51-1010(e), concerning the application
16 and approval procedure under the Water Resource Conservation and Development
17 Incentives Act, is amended to read as follows to remove an incorrect
18 reference:

19 (e) The department shall promulgate such rules ~~and regulations~~ as may
20 be deemed necessary to carry out the tax credit provisions of this
21 subchapter.

22
23 SECTION 12. Arkansas Code § 26-51-1012(a), concerning the deduction
24 for project costs above the tax credit provided under the Water Resource
25 Conservation and Development Incentives Act, is amended to read as follows to
26 clarify a term and to make stylistic changes:

27 (a) In determining net income for Arkansas income tax purposes, any
28 approved applicant qualifying for the tax credits provided in this subchapter
29 ~~shall also be~~ is also entitled to a deduction in an amount equal to the
30 project cost less the total amount of tax credits to which the approved
31 applicant is entitled under this subchapter.

32
33 SECTION 13. Arkansas Code § 26-52-117(e)(2), concerning the gross
34 receipts tax imposed on sellers and affiliated persons, is amended to read as
35 follows to make it consistent with Arkansas Code § 26-52-117(e)(1):

36 (2) Proof provided under subdivision (e)(1) of this section may

1 consist of written statements from all of the residents with whom the seller
 2 has an agreement stating that they did not engage in any solicitation in the
 3 state on behalf of the seller during the preceding ~~year~~ twelve (12) months if
 4 the statements were provided and obtained in good faith.

5
 6 SECTION 14. Arkansas Code § 26-52-319 is amended to read as follows to
 7 remove obsolete language and to make stylistic changes:

8 26-52-319. Natural gas and electricity used by manufacturers.

9 ~~(a)(1) Beginning July 1, 2007, in lieu of the gross receipts or gross~~
 10 ~~proceeds tax levied in §§ 26-52-301 and 26-52-302, there is levied an excise~~
 11 ~~tax on the gross receipts or gross proceeds derived from the sale of natural~~
 12 ~~gas and electricity to a manufacturer for use directly in the actual~~
 13 ~~manufacturing process at the rate of four and three-eighths percent (4.375%).~~

14 ~~(2) Beginning July 1, 2008, the tax rate levied in subdivision~~
 15 ~~(a)(1) of this section shall be imposed at the rate of three and seven-~~
 16 ~~eighths percent (3.875%).~~

17 ~~(3)(A) Beginning July 1, 2009, the tax rate levied in~~
 18 ~~subdivision (a)(1) of this section shall be imposed at the rate of three and~~
 19 ~~one-eighth percent (3.125%).~~

20 ~~(B)(i) The Director of the Department of Finance and~~
 21 ~~Administration shall monitor the amount of tax savings received by all~~
 22 ~~taxpayers as a result of the reduction in the tax rate from that levied in §§~~
 23 ~~26-52-301 and 26-52-302 to that levied in subdivision (a)(3)(A) of this~~
 24 ~~section.~~

25 ~~(ii) When the director determines that the amount of~~
 26 ~~tax savings resulting from the determination described in subdivision~~
 27 ~~(a)(3)(B)(i) of this section plus any use tax savings described in § 26-53-~~
 28 ~~148(a)(3)(B) would reach twenty-seven million dollars (\$27,000,000) during a~~
 29 ~~fiscal year, the director shall not process any further refund claims through~~
 30 ~~a refund process during the fiscal year for taxpayers seeking to claim the~~
 31 ~~reduced tax rate provided by this section. The amount of twenty-seven million~~
 32 ~~dollars (\$27,000,000) is intended to cover the accumulated but unclaimed~~
 33 ~~reduction of sales and use tax on natural gas and electricity as provided by~~
 34 ~~Acts 2007, No. 185, as well as the additional reduction provided by Acts~~
 35 ~~2009, No. 695.~~

36 ~~(iii) If the director determines that discontinuing~~

~~refund payments as provided in subdivision (a)(3)(B)(ii) of this section is insufficient to prevent the amount of tax savings from exceeding twenty-seven million dollars (\$27,000,000) during a fiscal year, the director may decline to accept any amended return filed by a taxpayer to claim an overpayment resulting from the reduced tax rate provided by this section for a period other than the period for which a tax return is currently due.~~

~~(C)(i) Refund requests and amended returns filed with the director to claim the overpayment resulting from the reduced rate in subdivision (a)(3)(A) of this section shall be processed in the order they are received by the director. A taxpayer that does not receive a refund after the refund and amended return process has ceased under subdivision (a)(3)(B) of this section shall be given priority to receive a refund during the subsequent fiscal year. The unpaid refunds from the prior fiscal year shall be processed before any refund claims filed in the current fiscal year to claim the benefit of this section.~~

~~(ii) The statute of limitations for refunds and amended returns under § 26-18-306(i)(1)(A) is extended for one (1) year to allow the payment of a refund under the process provided in subdivision (a)(3)(C)(i) of this section.~~

~~(4)(A) Beginning July 1, 2011, the tax rate levied in subdivision (a)(1) of this section shall be imposed~~

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

(1) Manufacturer classified within sectors 31 through 33 of the North American Industry Classification System, as in effect on January 1, 2011; or

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

(b)(1) Except as provided in subsection (c) of this section, in lieu of the gross receipts or gross proceeds tax levied in §§ 26-52-301 and 26-52-302, there is levied an excise tax on the gross receipts or gross proceeds derived from the sale of natural gas and electricity to a manufacturer for use directly in the actual manufacturing process at the rate of two and five-eighths percent (2.625%).

~~(B)(i) (2)(A) The Director of the Department of Finance and~~

1 Administration shall monitor the amount of tax savings received by all
 2 taxpayers as a result of the reduction in the tax rate from that levied in §§
 3 26-52-301 and 26-52-302 to that levied in subdivision ~~(a)(4)(A)~~ (b)(1) of
 4 this section.

5 ~~(ii)~~ (B) When the director determines that the amount of
 6 tax savings resulting from the determination described in subdivision
 7 ~~(a)(4)(B)(i)~~ (b)(2)(A) of this section plus any use tax savings described in
 8 § ~~26-53-148(a)(4)(B)~~ 26-53-148(b)(2) would reach twenty-seven million dollars
 9 (\$27,000,000) during a fiscal year, the director shall not process any
 10 further refund claims through a refund process during the fiscal year for
 11 taxpayers seeking to claim the reduced tax rate provided by this section. The
 12 amount of twenty-seven million dollars (\$27,000,000) is intended to cover the
 13 accumulated but unclaimed reduction of sales and use tax on natural gas and
 14 electricity as provided by this section.

15 ~~(iii)~~ (C) If the director determines that discontinuing
 16 refund payments as provided in subdivision ~~(a)(4)(B)(ii)~~ (b)(2)(B) of this
 17 section is insufficient to prevent the amount of tax savings from exceeding
 18 twenty-seven million dollars (\$27,000,000) during a fiscal year, the director
 19 may decline to accept any amended return filed by a taxpayer to claim an
 20 overpayment resulting from the reduced tax rate provided by this section for
 21 a period other than the period for which a tax return is currently due.

22 ~~(C)(i)~~ (3)(A) Refund requests and amended returns filed with the
 23 director to claim the overpayment resulting from the reduced rate in
 24 subdivision ~~(a)(4)(A)~~ (b)(1) of this section shall be processed in the order
 25 they are received by the director. A taxpayer that does not receive a refund
 26 after the refund and amended return process has ceased under subdivision
 27 ~~(a)(4)(B)~~ (b)(2) of this section shall be given priority to receive a refund
 28 during the subsequent fiscal year. The unpaid refunds from the prior fiscal
 29 year shall be processed before any refund claims filed in the current fiscal
 30 year to claim the benefit of this section.

31 ~~(i)~~ (B) The statute of limitations for refunds and
 32 amended returns under § 26-18-306(i)(1)(A) is extended for one (1) year to
 33 allow the payment of a refund under the process provided in subdivision
 34 ~~(a)(4)(C)(i)~~ (b)(3)(A) of this section.

35 (c)(1) In lieu of the tax rate under subsection (b) of this section,
 36 the excise tax rate levied on the gross receipts or gross proceeds derived

1 from the sale of natural gas and electricity to a manufacturer as defined in
 2 subdivision (a)(2) of this section to operate a new or existing facility that
 3 uses combined-cycle gas turbine technology is as follows:

4 (A) Beginning January 1, 2012, five and one-eighths
 5 percent (5.125%);

6 (B) Beginning January 1, 2013, four and one-eighths
 7 percent (4.125%); and

8 (C) Beginning January 1, 2014, two and five-eighths
 9 percent (2.625%).

10 (2)(A) The amount of tax savings described in subdivision (b)(2)
 11 of this section does not include any tax savings received by a manufacturer
 12 as defined in subdivision (a)(2) of this section.

13 (B) A manufacturer as defined in subdivision (a)(2) of
 14 this section is not subject to the dollar limitations on refunds and amended
 15 returns stated in subsection (b) of this section.

16 ~~(5)~~ (d) The taxes levied in this ~~subsection~~ section shall be
 17 distributed as follows:

18 ~~(A)~~ (1) Seventy-six and six-tenths percent (76.6%) of the tax,
 19 interest, penalties, and costs received by the director shall be deposited as
 20 general revenues;

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

24 ~~(C)~~ (3) Fourteen and nine-tenths percent (14.9%) of the tax,
 25 interest, penalties, and costs received by the director shall be deposited
 26 into the Educational Adequacy Fund.

27 ~~(6)(A)~~ (e)(1) The excise tax levied in this section applies only to
 28 natural gas and electricity sold for use directly in the actual manufacturing
 29 process.

30 ~~(B)~~ (2) Natural gas and electricity sold for any other purpose
 31 shall be subject to the full gross receipts or gross proceeds tax levied
 32 under §§ 26-52-301 and 26-52-302.

33 ~~(7)~~ (f) The excise tax levied in this section shall be collected,
 34 reported, and paid in the same manner and at the same time as is prescribed
 35 by law for the collection, reporting, and payment of all other Arkansas gross
 36 receipts taxes.

1 ~~(b) As used in this section, "manufacturer" means a+~~

2 ~~(1) Manufacturer classified within sectors 31 through 33 of the~~
 3 ~~North American Industry Classification System, as in effect on January 1,~~
 4 ~~2011; or~~

5 ~~(2) Generator of electric power classified within sector 22 of~~
 6 ~~the North American Industry Classification System, as in effect on January 1,~~
 7 ~~2011, that uses natural gas to operate a new or existing generating facility~~
 8 ~~that uses combined cycle gas turbine technology.~~

9 ~~(c)(1) Except as provided in subdivision (c)(2)(C) of this section,~~
 10 ~~the tax rate under subsection (a) of this section does not apply to a~~
 11 ~~manufacturer as defined in subdivision (b)(2) of this section.~~

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

17 ~~(A) Beginning January 1, 2012, five and one-eighths~~
 18 ~~percent (5.125%);~~

19 ~~(B) Beginning January 1, 2013, four and one-eighths~~
 20 ~~percent (4.125%); and~~

21 ~~(C) Beginning January 1, 2014, two and five-eighths~~
 22 ~~percent (2.625%).~~

23 ~~(3)(A) The amount of tax savings described in subdivision~~
 24 ~~(a)(4)(B)(i) of this section does not include any tax savings received by a~~
 25 ~~manufacturer as defined in subdivision (b)(2) of this section.~~

26 ~~(B) Manufacturers as defined in subdivision (b)(2) of this~~
 27 ~~section are not subject to the dollar limitations on refunds and amended~~
 28 ~~returns stated in subsection (a) of this section.~~

29 ~~(4) The taxes levied in this subsection shall be distributed in~~
 30 ~~the same manner as set out in subsection (a) of this section.~~

31 ~~(d) (g)~~ Natural gas and electricity subject to the reduced tax rate
 32 levied in this section shall be separately metered from natural gas and
 33 electricity used for any other purpose by the manufacturer or otherwise
 34 established under subsection ~~(f)~~ (i) of this section.

35 ~~(e) (h)~~ Before the sale of natural gas or electricity at the reduced
 36 excise tax rate levied in this section, the director may require any seller

1 of natural gas or electricity to obtain a certificate from the consumer, in
 2 the form prescribed by the director, certifying that the manufacturer is
 3 eligible to purchase natural gas and electricity at the reduced excise tax
 4 rate.

5 ~~(f)~~ (i) The director shall promulgate rules for the proper
 6 administration of this section.

7 ~~(g)~~ (j) The gross receipts or gross proceeds derived from the sale of
 8 natural gas and electricity to a manufacturer shall continue to be subject
 9 to:

10 (1) The excise tax levied under the Arkansas Constitution,
 11 Amendment 75, § 2; and

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

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

18
 19 SECTION 15. Arkansas Code § 26-52-445 is amended to read as follows to
 20 add clarifying language:

21 26-52-445. Kegs used by wholesale manufacturer of beer.

22 ~~The purpose of this act is to exempt a wholesale manufacturer of beer~~
 23 ~~from paying sales and use tax on kegs used to sell beer wholesale~~ gross
 24 receipts or gross proceeds derived from the sale of a keg that is used to
 25 sell beer wholesale by a wholesale manufacturer of beer are exempt from the
 26 gross receipts tax levied by this chapter and the compensating use tax levied
 27 by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

28
 29 SECTION 16. Arkansas Code § 26-52-517(d)(2), concerning sales tax
 30 exemption certificates, is amended to read as follows to clarify a term:

31 (2) A seller is not required to renew blanket exemption
 32 certificates or update exemption certificate information or data elements
 33 when there is a recurring business relationship between the purchaser and
 34 seller.

35
 36 SECTION 17. Arkansas Code § 26-52-517(g)(2)(B), concerning sales tax

1 exemption certificates, is amended to read as follows to clarify a term:

2 (B) ~~“Good faith”~~ As used in this subsection, “good faith”
 3 means that the seller obtains a certificate that claims an exemption that:
 4

5 SECTION 18. Arkansas Code § 26-52-902(c), concerning the certification
 6 required for steel mill tax incentives, is amended to read as follows to
 7 incorporate language from Acts 1987, No. 48, that was omitted from the
 8 codification of § 26-52-902:

9 (c) To claim the benefits of § 26-52-903, a taxpayer must be certified
 10 before July 1, 1989, pursuant to subsection (a) of this section or obtain a
 11 certification before July 1, 1989, from the Director of the Arkansas Economic
 12 Development Commission certifying to the division that the taxpayer meets the
 13 definition of “qualified manufacturer of steel” contained in § 26-52-901.
 14

15 SECTION 19. Arkansas Code § 26-53-148 is amended to read as follows to
 16 remove obsolete language and to make stylistic changes:

17 26-53-148. Natural gas and electricity used by manufacturers.

18 ~~(a)(1) Beginning July 1, 2007, in lieu of the tax levied in §§ 26-53-~~
 19 ~~106 and 26-53-107, there is levied an excise tax on the sales price of~~
 20 ~~natural gas and electricity purchased by a manufacturer for use directly in~~
 21 ~~the actual manufacturing process at the rate of four and three eighths~~
 22 ~~percent (4.375%).~~

23 ~~(2) Beginning July 1, 2008, the tax rate levied in subdivision~~
 24 ~~(a)(1) of this section shall be imposed at the rate of three and seven-~~
 25 ~~eighths percent (3.875%).~~

26 ~~(3)(A) Beginning July 1, 2009, the tax rate levied in~~
 27 ~~subdivision (a)(1) of this section shall be imposed at the rate of three and~~
 28 ~~one eighth percent (3.125%).~~

29 ~~(B)(i) The Director of the Department of Finance and~~
 30 ~~Administration shall monitor the amount of tax savings received by all~~
 31 ~~taxpayers as a result of the reduction in the tax rate from that levied in §§~~
 32 ~~26-53-106 and 26-53-107 to that levied in subdivision (a)(3)(A) of this~~
 33 ~~section.~~

34 ~~(ii) When the director determines that the amount of~~
 35 ~~tax savings resulting from the determination described in subdivision~~
 36 ~~(a)(3)(B)(i) of this section plus any gross receipts tax savings described in~~

~~§ 26-52-319(a)(3)(B) would reach twenty-seven million dollars (\$27,000,000) during a fiscal year, the director shall not process any further refund claims through a refund process during the fiscal year for taxpayers seeking to claim the reduced tax rate provided by this section. The amount of twenty-seven million dollars (\$27,000,000) is intended to cover the accumulated but unclaimed reduction of sales and use tax on natural gas and electricity as provided by Acts 2007, No. 185, as well as the additional reduction provided by Acts 2009, No. 695.~~

~~(iii) If the director determines that discontinuing refund payments as provided in subdivision (a)(3)(B)(ii) of this section is insufficient to prevent the amount of tax savings from exceeding twenty-seven million dollars (\$27,000,000) during a fiscal year, the director may decline to accept any amended return filed by a taxpayer to claim an overpayment resulting from the reduced tax rate provided by this section for a period other than the period for which a tax return is currently due.~~

~~(C)(i) Refund requests and amended returns filed with the director to claim the overpayment resulting from the reduced rate in subdivision (a)(3)(A) of this section shall be processed in the order they are received by the director. A taxpayer that does not receive a refund after the refund and amended return process has ceased under subdivision (a)(3)(B) of this section shall be given priority to receive a refund during the subsequent fiscal year. The unpaid refunds from the prior fiscal year shall be processed before any refund claims filed in the current fiscal year to claim the benefit of this section.~~

~~(ii) The statute of limitations for refunds and amended returns under § 26-18-306(i)(1)(A) is extended for one (1) year to allow the payment of a refund under the process provided in subdivision (a)(3)(C)(i) of this section.~~

~~(4)(A) Beginning July 1, 2011, the tax rate levied in subdivision (a)(1) of this section shall be imposed~~

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

(1) Manufacturer classified within sectors 31 through 33 of the North American Industry Classification System, as in effect on January 1, 2011; or

(2) Generator of electric power classified within sector 22 of 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 (b)(1) Except as provided in subsection (c) of this section, in lieu
 4 of the compensating use tax levied in §§ 26-53-106 and 26-53-107, there is
 5 levied an excise tax on the sales price of natural gas and electricity
 6 purchased by a manufacturer for use directly in the actual manufacturing
 7 process at the rate of two and five-eighths percent (2.625%).

8 ~~(B)(i)~~ (2)(A) The Director of the Department of Finance and
 9 Administration shall monitor the amount of tax savings received by all
 10 taxpayers as a result of the reduction in the tax rate from that levied in §§
 11 26-53-106 and 26-53-107 to that levied in subdivision ~~(a)(4)(A)~~ (b)(1) of
 12 this section.

13 ~~(ii)~~ (B) When the director determines that the amount of
 14 tax savings resulting from the determination described in subdivision
 15 ~~(a)(4)(B)(i)~~ (b)(2)(A) of this section plus any gross receipts tax savings
 16 described in § ~~26-52-319(a)(4)(B)~~ 26-52-319(b)(2) would reach twenty-seven
 17 million dollars (\$27,000,000) during a fiscal year, the director shall not
 18 process any further refund claims through a refund process during the fiscal
 19 year for taxpayers seeking to claim the reduced tax rate provided by this
 20 section. The amount of twenty-seven million dollars (\$27,000,000) is intended
 21 to cover the accumulated but unclaimed reduction of sales and use tax on
 22 natural gas and electricity as provided by this section.

23 ~~(iii)~~ (C) If the director determines that discontinuing
 24 refund payments as provided in subdivision ~~(a)(4)(B)(ii)~~ (b)(2)(B) of this
 25 section is insufficient to prevent the amount of tax savings from exceeding
 26 twenty-seven million dollars (\$27,000,000) during a fiscal year, the director
 27 may decline to accept any amended return filed by a taxpayer to claim an
 28 overpayment resulting from the reduced tax rate provided by this section for
 29 a period other than the period for which a tax return is currently due.

30 ~~(C)(i)~~ (3)(A) Refund requests and amended returns filed with the
 31 director to claim the overpayment resulting from the reduced rate in
 32 subdivision ~~(a)(4)(A)~~ (b)(1) of this section shall be processed in the order
 33 they are received by the director. A taxpayer that does not receive a refund
 34 after the refund and amended return process has ceased under subdivision
 35 ~~(a)(4)(B)~~ (b)(2) of this section shall be given priority to receive a refund
 36 during the subsequent fiscal year. The unpaid refunds from the prior fiscal

1 year shall be processed before any refund claims filed in the current fiscal
2 year to claim the benefit of this section.

3 ~~(ii)~~ (B) The statute of limitations for refunds and
4 amended returns under § 26-18-306(i)(1)(A) is extended for one (1) year to
5 allow the payment of a refund under the process provided in subdivision
6 ~~(a)(4)(C)(i)~~ (b)(3)(A) of this section.

7 (c)(1) In lieu of the tax rate under subsection (b) of this section,
8 the excise tax rate levied on the sales price of natural gas and electricity
9 purchased by a manufacturer as defined in subdivision (a)(2) of this section
10 to operate a new or existing facility that uses combined-cycle gas turbine
11 technology is as follows:

12 (A) Beginning January 1, 2012, five and one-eighths
13 percent (5.125%);

14 (B) Beginning January 1, 2013, four and one-eighths
15 percent (4.125%); and

16 (C) Beginning January 1, 2014, two and five-eighths
17 percent (2.625%).

18 (2)(A) The amount of tax savings described in subdivision (b)(2)
19 of this section does not include any tax savings received by a manufacturer
20 as defined in subdivision (a)(2) of this section.

21 (B) A manufacturer as defined in subdivision (a)(2) of
22 this section is not subject to the dollar limitations on refunds and amended
23 returns stated in subsection (b) of this section.

24 ~~(5)~~ (d) The taxes levied in this ~~subsection~~ section shall be
25 distributed as follows:

26 ~~(A)~~ (1) Seventy-six and six-tenths percent (76.6%) of the tax,
27 interest, penalties, and costs received by the director shall be deposited as
28 general revenues;

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

32 ~~(C)~~ (3) Fourteen and nine-tenths percent (14.9%) of the tax,
33 interest, penalties, and costs received by the director shall be deposited
34 into the Educational Adequacy Fund.

35 ~~(6)(A)~~ (e)(1) The excise tax levied in this section applies only to
36 natural gas and electricity purchased for use directly in the actual

1 manufacturing process.

2 ~~(B) (2)~~ Natural gas and electricity purchased for any other
 3 purpose shall be subject to the full compensating use tax levied under §§ 26-
 4 53-106 and 26-53-107.

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

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

10 ~~(1) Manufacturer classified within sectors 31 through 33 of the~~
 11 ~~North American Industry Classification System, as in effect on January 1,~~
 12 ~~2011; or~~

13 ~~(2) Generator of electric power classified within sector 22 of~~
 14 ~~the North American Industry Classification System, as in effect on January 1,~~
 15 ~~2011, that uses natural gas to operate a new or existing generating facility~~
 16 ~~that uses combined-cycle gas turbine technology.~~

17 ~~(c)(1) Except as provided in subdivision (c)(2)(C) of this section,~~
 18 ~~the tax rate under subsection (a) of this section does not apply to a~~
 19 ~~manufacturer as defined in subdivision (b)(2) of this section.~~

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

25 ~~(A) Beginning January 1, 2012, five and one-eighths~~
 26 ~~percent (5.125%);~~

27 ~~(B) Beginning January 1, 2013, four and one-eighths~~
 28 ~~percent (4.125%); and~~

29 ~~(C) Beginning January 1, 2014, two and five-eighths percent (2.625%).~~

30 ~~(3)(A) The amount of tax savings described in subdivision~~
 31 ~~(a)(4)(B)(i) of this section does not include any tax savings received by a~~
 32 ~~manufacturer as defined in subdivision (b)(2) of this section.~~

33 ~~(B) Manufacturers as defined in subdivision (b)(2) of this~~
 34 ~~section are not subject to the dollar limitations on refunds and amended~~
 35 ~~returns stated in subsection (a) of this section.~~

36 ~~(4) The taxes levied in this subsection shall be distributed in~~

1 ~~the same manner as set out in subsection (a) of this section.~~

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

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

12 ~~(f)~~ (i) The director shall promulgate rules for the proper
13 administration of this section.

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

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

18 (2) All municipal and county compensating taxes.

19
20 SECTION 20. Arkansas Code § 26-82-102(4)(A), concerning the definition
21 of “economic development project” under the Local Sales and Use Tax Economic
22 Development Project Funding Act, is amended to read as follows to clarify a
23 term:

24 (A) The sponsor makes an investment of at least ten
25 million dollars (\$10,000,000) in the economic development project;

26
27 SECTION 21. Arkansas Code § 26-82-109(a), concerning the
28 administration of a local sales and use tax imposed under the Local Sales and
29 Use Tax Economic Development Project Funding Act, is amended to read as
30 follows to clarify a term:

31 (a) On and after the effective date of a local sales and use tax
32 imposed under this chapter, the Director of the Department of Finance and
33 Administration shall perform all functions incidental to the administration,
34 collection, enforcement, and operation of the local sales and use tax.

35
36 SECTION 22. Arkansas Code § 26-82-112(b)(1), concerning penalties

1 under the Local Sales and Use Tax Economic Development Project Funding Act,
 2 is amended to read as follows to clarify terms:

3 (b)(1) When property is seized by the director under any statute
 4 authorizing seizure of property of a taxpayer who is delinquent in payment of
 5 the taxes imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et
 6 seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and
 7 when the taxpayer is also delinquent in payment of any local sales and use
 8 tax imposed under this chapter, the director shall sell sufficient property
 9 to pay the delinquent local sales and use taxes and penalties due to any
 10 levying entity under this chapter in addition to the amount required to pay
 11 any taxes due to the state under the Arkansas Gross Receipts Act of 1941, §
 12 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101
 13 et seq.

14
 15 SECTION 23. Arkansas Code § 26-82-113(a)(1)(A), concerning the
 16 administration of funds received under the Local Sales and Use Tax Economic
 17 Development Project Funding Act, is amended to read as follows to clarify a
 18 term and to make stylistic changes:

19 (a)(1)(A) Money reported as local sales and use taxes that was
 20 collected in local taxing jurisdictions that is not immediately identifiable
 21 and money collected in local jurisdictions that ~~have no~~ do not have a local
 22 sales and use tax shall be deposited into the Identification Pending Trust
 23 Fund for Local Sales and Use Taxes.

24
 25 SECTION 24. Arkansas Code § 26-82-115(b)(1)(A), concerning the maximum
 26 tax that can be imposed under the Local Sales and Use Tax Economic
 27 Development Project Funding Act, is amended to read as follows to clarify
 28 terms:

29 (b)(1)(A) For a taxpayer not subject to the levy of a use tax on
 30 taxable services or tangible personal property brought into the state for
 31 storage until the tangible personal property is subsequently initially used
 32 in the state, the use tax portion of the local sales and use tax authorized
 33 under this chapter shall be computed on each purchase of the tangible
 34 personal property by the taxpayer as if all the tangible personal property
 35 was subject upon purchase to the use tax portion of the local sales and use
 36 tax.

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SECTION 25. Arkansas Code § 26-82-115(b)(2), concerning the maximum tax that can be imposed under the Local Sales and Use Tax Economic Development Project Funding Act, is amended to read as follows to clarify terms and to make stylistic changes:

(2) The ~~taxes~~ use tax portion of the local sales and use tax computed under subdivision (b)(1) of this section shall be aggregated on a monthly basis, and the aggregate monthly amount shall be divided by the sum of the total purchases of the tangible personal property on which the ~~taxes~~ are use tax portion of the local sales and use tax is computed, and the quotient shall be multiplied by the amount of the taxpayer's tangible personal property subsequently initially used and subject to levy of the use tax portion of the local sales and use tax within the city or county during the month for which the monthly aggregate tax figure was computed, and the product shall be the amount of the use tax portion of the local sales and use tax liability for the taxpayer for the month computed.

SECTION 26. Arkansas Code § 26-82-116 is amended to read as follows to clarify terms and to make stylistic changes:

26-82-116. Reporting.
Vendors collecting, reporting, and remitting a local sales and use ~~taxes~~ tax levied under this chapter shall collect, report, and pay the local sales and use ~~taxes~~ tax in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of other local sales and use taxes.

SECTION 27. Arkansas Code § 26-82-119 is amended to read as follows to clarify a term and to make a stylistic change:

26-82-119. Rules.
The Director of the Department of Finance and Administration may promulgate reasonable rules to implement the enforcement, administration, and collection of ~~the taxes~~ a local sales and use tax authorized in this chapter.

SECTION 28. DO NOT CODIFY. The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Eighty-Ninth General Assembly. All such acts shall have the

1 full force and effect and, so far as those acts intentionally vary from or
2 conflict with any provision contained in this act, those acts shall have the
3 effect of subsequent acts and as amending or repealing the appropriate parts
4 of the Arkansas Code of 1987.

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