

**ARKANSAS SENATE**  
86th General Assembly - Regular Session, 2007  
**Amendment Form**

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**Subtitle of Senate Bill No. 119**

"TO PROMOTE ECONOMIC DEVELOPMENT WITHIN THE STATE BY EXEMPTING  
FROM THE STATE SALES AND USE TAX FUEL AND ENERGY USED OR CONSUMED  
IN MANUFACTURING."

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**Amendment No. 3 to Senate Bill No. 119.**

Amend Senate Bill No. 119 as engrossed, S1/25/07 (version: 01-25-2007 09:36):

Page 1, delete lines 13 and 14, and substitute the following:

"STATE BY REDUCING THE STATE SALES AND USE TAX ON NATURAL GAS AND ELECTRICITY  
USED OR CONSUMED IN"

AND

Page 1, delete lines 18 through 21, and substitute the following:

"TO PROMOTE ECONOMIC DEVELOPMENT WITHIN THE STATE BY REDUCING THE STATE SALES  
AND USE TAX ON NATURAL GAS AND ELECTRICITY USED OR CONSUMED IN  
MANUFACTURING."

AND

Delete everything after the ENACTING CLAUSE and substitute the following:

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

26-52-319. Gas and electricity used in manufacturing.

(a)(1) Beginning July 1, 2007, in lieu of the gross receipts or gross  
proceeds tax levied in § 26-52-301 and § 26-52-302(a), (b), (c), and (d),  
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 four and three-  
eighths percent (4.375%).

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

(3) The taxes levied in subsection (a) of this section shall be  
distributed as follows:

(A) Seventy-six and six-tenths percent (76.6%) of the tax,  
interest, penalties, and costs received by the Director of the Department of



Finance and Administration shall be deposited as general revenues;

(B) Eight and one-half percent (8.5%) of the tax, interest, penalties, and costs received by the director shall be deposited into the Property Tax Relief Trust Fund; and

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

(4)(A) The excise tax levied in this section shall apply only to natural gas and electricity sold for use directly in the actual manufacturing process.

(B) Natural gas and electricity sold for any other purpose shall be subject to the full gross receipts or gross proceeds tax levied under § 26-52-301 and § 26-52-302(a), (b), (c), and (d).

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

(b) For purposes of this section, the term "manufacturer" shall mean a manufacturer classified within sectors 31 through 33 of the North American Industrial Classification System, as in effect on January 1, 2007.

(c) Natural gas and electricity subject to the reduced tax rate levied in this section shall be separately metered from natural gas and electricity used for any other purpose by the manufacturer.

(d) Prior to the sale of natural gas or electricity at the reduced excise tax rate provided in this section, the director may require any seller of natural gas or electricity to obtain a certificate from the consumer, in the form prescribed by the director, certifying that the manufacturer is eligible to purchase natural gas and electricity at the reduced excise tax rate.

(e) The director shall have and be invested with full power and authority to promulgate rules for the proper administration of this section.

(f) The gross receipts or gross proceeds derived from the sale of natural gas and electricity to manufacturers shall continue to be subject to:

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

(2) All municipal and county gross receipts taxes.

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

26-53-148. Gas and electricity used in manufacturing.

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

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

(3) The taxes levied in subsection (a) of this section shall be distributed as follows:

(A) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received by the Director of the Department of

Finance and Administration shall be deposited as general revenues;

(B) Eight and one-half percent (8.5%) of the tax, interest, penalties, and costs received by the director shall be deposited into the Property Tax Relief Trust Fund; and

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

(4)(A) The excise tax levied in this section shall apply only to natural gas and electricity purchased for use directly in the actual manufacturing process.

(B) Natural gas and electricity purchased for any other purpose shall be subject to the full compensating use tax levied under § 26-53-106 and § 26-53-107 (a), (b), (c), and (d).

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

(b) For purposes of this section, the term "manufacturer" shall mean a manufacturer classified within sectors 31 through 33 of the North American Industrial Classification System, as in effect on January 1, 2007.

(c) Natural gas and electricity subject to the reduced tax rate levied in this section shall be separately metered from natural gas and electricity used for any other purpose by the manufacturer.

(d) Prior to purchasing any natural gas or electricity at the reduced excise tax rate provided in this section, the director may require any seller of natural gas or electricity to obtain a certificate from the consumer, in the form prescribed by the director, certifying that the manufacturer is eligible to purchase natural gas and electricity at the reduced excise tax rate.

(e) The director shall have and be invested with full power and authority to promulgate rules for the proper administration of this section.

(f) The purchase of natural gas and electricity by manufacturers shall continue to be subject to:

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

(2) All municipal and county compensating use taxes.

SECTION 3. All existing exemptions from the gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., for natural gas and electricity used in manufacturing or other purposes that are otherwise provided by law shall continue in full force and effect.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly that the current sales and use tax on utilities consumed by manufacturers located within this state creates a competitive disadvantage, that this bill is intended to address that problem by providing a reduced tax rate on utilities consumed by manufacturers located in this state, and that this act is immediately necessary to prevent the loss of manufacturing jobs to other states that provide lower taxes on utilities consumed in manufacturing. Therefore, an emergency is hereby declared to exist and this

Act being necessary for the immediate preservation of the public peace, health and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Horn

MMC/RCK - 02-07-2007 08:34

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Secretary