Hall of the House of Representatives

86th General Assembly - Regular Session, 2007

Amendment Form

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Subtitle of House Bill No. 2329

"TO PROVIDE A SALES AND USE TAX CREDIT FOR THE TAXES PAID IN EXCESS OF A STATED AMOUNT ON NATURAL GAS USED TO GENERATE ELECTRICITY IN THIS STATE."

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Amendment No. 1 to House Bill No. 2329.

Amend House Bill No. 2329 as originally introduced:

Page 1, delete SECTION 1 in its entirety and substitute the following:

"SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended to add a new section to read as follows:

26-52-441. Tax credit for the purchase of natural gas used to generate electricity.

(a) As used in this section, "state sales and use tax" means 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.

(b) The state sales and use tax levied on natural gas purchases by all taxpayers used to generate electricity at generating facilities in this state for sale at retail or wholesale shall be imposed up to a maximum aggregate amount of twenty-seven million dollars ($27,000,000) per year.

(c)(1) If the aggregate amount of state sales and use tax paid on purchases of natural gas that is used to generate electricity at generating facilities in this state for sale at retail or wholesale exceeds twenty-seven million dollars ($27,000,000) during a calendar year, each taxpayer that paid the sales and use tax is entitled to receive a sales and use tax credit in the amount calculated as provided in subsection (d) of this section.

(2) Natural gas sold to taxpayers for any other purpose shall not be included when calculating the aggregate amount of state sales and use tax paid by purchasers as provided in subdivision (c)(1) of this section or for purposes of calculating the credit.

(d) The state sales and use tax credit provided in subsection (c) of this section shall be issued to each taxpayer as provided in subdivision (c)(1) of this section and shall be calculated as follows:

(1) The annual amount of credit issued to each taxpayer shall be a percentage of the aggregate amount of tax in excess of twenty-seven million dollars ($27,000,000) paid on natural gas purchases during the calendar year; and

(2) For purposes of the calculation, the percentage for each taxpayer entitled to the credit shall be a fraction whose numerator is the tax paid by the taxpayer during the calendar year on natural gas purchases and whose denominator is the aggregate amount of tax paid by all taxpayers entitled to the credit on natural gas purchases during the calendar year.

(e)(1) The state sales and use tax credit issued under subsection (d) of this section shall be applied to any state sales and use tax owed by the taxpayer on a direct pay sales and use tax report filed by the taxpayer receiving the state sales and use tax credit in the calendar year following the calendar year in which the excess state sales and use tax is paid.

(2) The state sales and use tax credit issued in subsection (d) of this section shall not be applied to any local sales and use tax or other special tax owed by the taxpayer.

(f) The amount of the sales and use tax credit issued in subsection (d) of this section that may be claimed in a direct pay sales and use tax report shall not exceed the amount of state sales and use tax due by the taxpayer.

(g) Any unused sales and use tax credit issued under subsection (d) of this section may be carried forward for a period of up to three (3) consecutive tax years following the year in which the state sales and use tax credit was first available for use.

(h) To qualify for the state sales and use tax credit provided in subsection (c) of this section, the generating facility shall have a separate natural gas meter for the natural gas used to generate electricity or otherwise establish qualifying use in accordance with the rules issued under subsection (i) of this section and shall file a report with the Department of Finance and Administration no later than January 31 following the end of the calendar year that reports the amount of tax paid on purchases of natural gas in the previous calendar year on forms to be provided by the department.

(i) The Director of the Department of Finance and Administration shall promulgate rules for the proper administration of this section."

The Amendment was read ______________________________

By: Representative Lowery

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Chief Clerk