

ARKANSAS SENATE
87th General Assembly - Regular Session, 2009
Amendment Form

Subtitle of Senate Bill No. 990

"TO INCLUDE HIGH EFFICIENCY ELECTRIC POWER GENERATORS IN THE
DEFINITION OF MANUFACTURER FOR THE PURPOSE OF THE PHASE-IN OF THE
REDUCED EXCISE TAX RATE ON NATURAL GAS USED IN MANUFACTURING."

Amendment No. 1 to Senate Bill No. 990.

Amend Senate Bill No. 990 as originally introduced:

Page 1, delete all the language after the enacting clause and substitute:

"SECTION 1. Arkansas Code § 26-52-319(b)-(f), concerning the sales tax on natural gas and electricity used by manufacturers, is amended to read as follows:

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

(1) ~~manufacturer~~ Manufacturer classified within sectors 31 through 33 of the North American Industry Classification System, as in effect on January 1, 2007; and

(2) Generator of electric power classified within sector 22 of the North American Industry Classification System that uses natural gas on or after the effective date of this subdivision to operate a generating facility that uses emission reduction technology that emits nitrogen oxides (NOx) less than three and five-tenths parts per million (3.5 ppm) on average annually for all operating hours.

(c) In lieu of the tax rate under subsection (a) of this section, the excise tax rate levied on the gross receipts or gross proceeds derived from the sale of natural gas and electricity to a manufacturer as defined under subdivision (b)(2) of this section is as follows:

(1) Beginning July 1, 2010, five and one-fourth percent (5.25%);

(2) Beginning July 1, 2011, four and one-fourth percent (4.25%);

and

(3) Beginning July 1, 2012, the rate under subsection (a) of this section.

~~(e)~~(d) 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 or otherwise established in accordance with the rules issued under subsection ~~(e)~~(f) of this section.

~~(d)~~(e) ~~Prior to~~ Before the sale of natural gas or electricity at the



reduced excise tax rate levied 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)(f)~~ The director shall ~~have and be invested with full power and authority to~~ promulgate rules for the proper administration of this section.

~~(f)(g)~~ The gross receipts or gross proceeds derived from the sale of natural gas and electricity to a manufacturer 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 § 26-53-148(b)-(f), concerning the compensating use tax on natural gas and electricity used by manufacturers, is amended to read as follows:

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

(1) ~~manufacturer~~ Manufacturer classified within sectors 31 through 33 of the North American Industry Classification System, as in effect on January 1, 2007; and

(2) Generator of electric power classified within sector 22 of the North American Industry Classification System that uses natural gas on or after the effective date of this subsection to operate a generating facility that uses emission reduction technology that emits nitrogen oxides (NOx) less than three and five-tenths parts per million (3.5 ppm) on average annually for all operating hours.

(c) In lieu of the tax rate under subsection (a) of this section, the excise tax rate levied on the gross receipts or gross proceeds derived from the sale of natural gas and electricity to a manufacturer as defined under subdivision (b)(2) of this section is as follows:

(1) Beginning July 1, 2010, five and one-fourth percent (5.25%);

(2) Beginning July 1, 2011, four and one-fourth percent (4.25%);

and

(3) Beginning July 1, 2012, the rate provided in subsection (a) of this section.

~~(e)(d)~~ 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 or otherwise established in accordance with the rules issued under subsection ~~(e)(f)~~ of this section.

~~(d)(e)~~ ~~Prior to~~ Before purchasing any natural gas or electricity at the reduced excise tax rate levied 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)(f)~~ The director shall ~~have and be invested with full power and authority to~~ promulgate rules for the proper administration of this section.

~~(f)(g)~~ The purchase of natural gas and electricity by a manufacturer 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. Emergency Clause. It is found and determined by the General Assembly of the State of Arkansas that the sales and use taxes that Arkansas imposes on natural gas used in high-efficiency electric generating facilities far exceed the taxes imposed by most surrounding states; that electric power generation has historically been treated as manufacturing for sales and use tax purposes in Arkansas; that the state has an interest in encouraging the use of clean and efficient generating technologies pending the development of alternative energy technologies; that the price of natural gas has been subject to substantial increases in the marketplace resulting in a dramatic increase in the cost of electricity that has been compounded by sales and compensating use tax on natural gas used as fuel, and this trend is likely to continue; and that including high-efficiency power generation in the definition of manufacturing for purposes of the reduced sales and use tax on natural gas will stabilize the tax burden, preserve the funding source, and encourage the use of natural gas in high-efficiency power generating facilities in Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

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

By: Senator G. Jeffress

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Secretary