

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1317

Bill Subtitle: TO PROVIDE FOR A REDUCED SALES AND USE TAX RATE FOR NATURAL GAS, ELECTRICITY, AND COAL USED BY A DATA CENTER; AND TO DECLARE AN EMERGENCY.

Basic Change :

Sponsors: Rep. Pilkington and Sen. J. Boyd

HB1317 provides that sales of natural gas, electricity, and coal to a "data center" are to be taxed at the reduced rates for manufacturers established in § 26-52-319 and § 26-53-148. The sale of natural gas, electricity, and coal remain subject to the sales and use tax of 1/8 of 1% in the Arkansas Constitution, Amendment 75, the temporary sales and use tax of 1/2% in Amendment 91, and the sales and use tax of 1/2% in Amendment 101.

To be eligible for the reduced tax rate, the data center must:

- Be a free-standing structure or a facility within a larger structure that uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment;
- Primarily contain electronic equipment used to process, store, and transmit digital information;
- Not be a facility used for cryptocurrency operations; and
- Have redundant capacity components and redundant distribution paths that serve the computer equipment and protect against most or almost all physical events.

To be eligible for the reduced tax rate, the natural gas, electricity, and coal must:

- Be used only for the data center; and
- Be metered separately from natural gas and electricity used for any other purpose by the data center.

HB1317 contains an emergency clause and will be effective on the date of its approval by the Governor; the expiration of the period of time during which the Governor may veto the bill; or the date the last house overrides the veto. For purposes of the Revenue Impact below, an effective date of July 1, 2023 is assumed.

Revenue Impact :

FY2024

Total Approximate State Sales and Use Tax Loss

\$ - 2,300,000

| | |
|--------------------------------------|----------------|
| General Revenue - 4.5% | \$ - 1,707,089 |
| Property Tax Relief - .5% | \$ - 189,677 |
| Conservation Fund - .125% | \$ - .000 |
| Educational Adequacy Fund - .875% | \$ - 331,934 |
| Highway Fund - .5% | \$ - .000 |
| Educational Excellence Trust Fund - | \$ - .000 |
| Educational Adequacy (GR Transfer) - | \$ - .000 |
| State Central Services - | \$ - 48,300 |
| Constitutional Officers - | \$ - 23,000 |

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Total Approximate Local City and County Sales and Use Tax Loss **\$ - 766,667**

FY2025

Total Approximate State Sales and Use Tax Loss **\$ - 2,323,000**

| | |
|--------------------------------------|----------------|
| General Revenue - 4.5% | \$ - 1,461,439 |
| Property Tax Relief - .5% | \$ - 191,573 |
| Conservation Fund - .125% | \$ - .000 |
| Educational Adequacy Fund - .875% | \$ - 335,253 |
| Highway Fund - .5% | \$ - .000 |
| Educational Excellence Trust Fund - | \$ - 241,382 |
| Educational Adequacy (GR Transfer) - | \$ - 21,339 |
| State Central Services - | \$ - 48,783 |
| Constitutional Officers - | \$ - 23,230 |

Total Approximate Local City and County Sales and Use Tax Loss **\$ - 774,333**

Taxpayer Impact :

A data center that meets the requirements of HB1317 would be eligible for the reduced sales and use tax rate on purchases certain utilities for the facility. These entities would be required to obtain a certification from the Department of Finance and Administration (DFA) prior to claiming the reduced rate.

Resources Required :

Programming changes for the Arkansas Integrated Revenue System (AIRS) is estimated at \$8,000.00.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Updates to the Sales and Use Tax Rules will be promulgated and DFA staff would be trained on this update to existing Arkansas tax law.

Other Comments :

HB1317 provides for an immediate effective date of its approval by the Governor. Due to existing Arkansas tax law which requires the DFA to provide notification of this tax change and the

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requirements of the Streamlined Sales and Use Tax Agreement (SSUTA), the earliest this bill could become effective and comply with DFA's taxpayer notification requirements without being in violation of the law and the SSUTA agreement would be July 1, 2023.

Legal Analysis :

None.