

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB295**

**As Engrossed: 3/6/2023**

**Bill Subtitle: TO AMEND THE ARKANSAS RENEWABLE ENERGY DEVELOPMENT ACT OF 2001; TO PREVENT COST-SHIFTING AND ENSURE FAIRNESS TO ALL RATEPAYERS; TO CREATE THE CUSTOMER PROTECTIONS FOR NET-METERING CUSTOMERS ACT; AND TO DECLARE AN EMERGENCY.**

---

### Basic Change :

**Sponsors: Sen. Dismang and Rep. L. Fite**

SB295 (as engrossed S3/6/23) amends the Arkansas Renewable Energy Development Act of 2001 to alter the rate structure applied by an electric utility to net-metering customers. Under § 23-18-603, a "net-metering customer" is defined to mean a customer of an electric utility that:

- Is an owner of a net-metering facility;
- Leases a net-metering facility subject to the following limitations:
  - A lease shall not permit the sale of electric energy measured in kilowatt hours or electric capacity measured in kilowatts between the lessor and lessee; and
  - A lease shall not include any charge per kilowatt hour or any charge per kilowatt; or
- Is a government entity or other entity that is exempt from state and federal income tax, and obtains electric energy from a net-metering facility under a service contract qualifying for safe-harbor protection as provided under 26 U.S.C. § 7701(e)(3)(A).

SB295 amends the definition of "net-metering customer" under § 23-18-603(7)(C) concerning government entities or other entities that are exempt from state and federal income tax that obtain electric energy from a net-metering facility under a service contract qualifying for safe-harbor protection as provided under 26 U.S.C. § 7701(e)(3)(A). SB295 adds a new subdivision "(b)" to the definition provided under § 23-18-603(7)(C), which is recodified in SB295 as § 23-18-603(9)(A)(iii)(a), to provide that revenues collected under contracts for obtaining electric energy from a net-metering facility under a service contract qualifying for safe-harbor protection under 26 U.S.C. § 7701(e)(3)(A), as in effect on August 16, 2022, are exempt from state and local sales taxes.

### Revenue Impact :

**FY2024**

#### **Total Approximate State Sales and Use Tax Loss**

**\$ -1,274,800**

General Revenue - 4.5%	\$ - 855,195
Property Tax Relief - .5%	\$ - 95,022
Conservation Fund - .125%	\$ - 23,755
Educational Adequacy Fund - .875%	\$ - 166,288
Highway Fund - .5%	\$ - 98,062
Educational Excellence Trust Fund -	\$ - 0.00
Educational Adequacy (GR Transfer) -	\$ - 0.00
State Central Services -	\$ - 24,712
Constitutional Officers -	\$ - 11,767

# Department of Finance and Administration

## Legislative Impact Statement

Bill: SB295

As Engrossed: 3/6/2023

Bill Subtitle: TO AMEND THE ARKANSAS RENEWABLE ENERGY DEVELOPMENT ACT OF 2001; TO PREVENT COST-SHIFTING AND ENSURE FAIRNESS TO ALL RATEPAYERS; TO CREATE THE CUSTOMER PROTECTIONS FOR NET-METERING CUSTOMERS ACT; AND TO DECLARE AN EMERGENCY.

---

**Total Approximate Local City and  
County Sales and Use Tax Loss**

**\$ - 424,933**

**FY2025**

**Total Approximate State Sales and Use Tax Loss**

**\$ - 1,274,800**

General Revenue - 4.5%	\$ - 855,195
Property Tax Relief - .5%	\$ - 95,022
Conservation Fund - .125%	\$ - 23,755
Educational Adequacy Fund - .875%	\$ - 166,288
Highway Fund - .5%	\$ - 98,062
Educational Excellence Trust Fund -	\$ - 120,925
Educational Adequacy (GR Transfer) -	\$ - 10,690
State Central Services -	\$ - 24,712
Constitutional Officers -	\$ - 11,767

**Total Approximate Local City and  
County Sales and Use Tax Loss**

**\$ - 424,933**

**Taxpayer Impact :**

The gross receipts collected under a contract for obtaining electric energy as provided under SB295 from a net-metering facility under a service contract qualifying for safe-harbor protection under 26 U.S.C. 7701(e)(3)(A), as in effect on August 16, 2022, would not be subject to sales or use tax.

**Resources Required :**

None.

**Time Required :**

Adequate time is provided for implementation.

**Procedural Changes :**

Updates to the sales and use tax rules will be promulgated.

**Other Comments :**

None.

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB295**

**As Engrossed: 3/6/2023**

**Bill Subtitle: TO AMEND THE ARKANSAS RENEWABLE ENERGY DEVELOPMENT ACT OF 2001; TO PREVENT COST-SHIFTING AND ENSURE FAIRNESS TO ALL RATEPAYERS; TO CREATE THE CUSTOMER PROTECTIONS FOR NET-METERING CUSTOMERS ACT; AND TO DECLARE AN EMERGENCY.**

---

### Legal Analysis :

None.