

1 INTERIM STUDY PROPOSAL 2017-031

2 State of Arkansas  
3 91st General Assembly  
4 Regular Session, 2017

*As Engrossed: H3/9/17*

**A Bill**

HOUSE BILL 2280

5  
6 By: Representative M. Hodges

7 Filed with: House Committee on Revenue and Taxation  
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT TO AMEND THE SALES AND USE TAX EXEMPTION FOR  
11 CERTAIN PRODUCTS USED BY MANUFACTURERS; TO REDUCE THE  
12 SALES AND USE TAX APPLICABLE TO COAL USED BY  
13 MANUFACTURERS; AND FOR OTHER PURPOSES.

14  
15  
16 **Subtitle**

17 TO AMEND THE SALES AND USE TAX EXEMPTION  
18 FOR CERTAIN PRODUCTS USED BY  
19 MANUFACTURERS; AND TO REDUCE THE SALES  
20 AND USE TAX APPLICABLE TO COAL USED BY  
21 MANUFACTURERS.

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23  
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25  
26 *SECTION 1. Arkansas Code § 26-52-319 is amended to read as follows:*

27 *26-52-319. Natural gas, coal, and electricity used by manufacturers.*

28 *(a)(1)(A) ~~Beginning July 1, 2014, in lieu of the gross receipts or~~*  
29 *~~gross proceeds tax levied in §§ 26-52-301 and 26-52-302, there is levied an~~*  
30 *~~excise tax on the gross receipts or gross proceeds derived from the sale of~~*  
31 *~~natural gas and electricity to a manufacturer for use directly in the actual~~*  
32 *~~manufacturing process at the rate of one percent (1%).~~*

33 *~~(B)(i) Beginning July 1, 2015, the The gross receipts or~~*  
34 *~~gross proceeds tax levied in §§ 26-52-301 and 26-52-302 and this section~~*  
35 *~~shall be levied at a rate of zero percent (0%) on the sale of natural gas,~~*

1 coal, and electricity to a manufacturer for use directly in the actual  
2 manufacturing process.

3 ~~(ii)~~ (B) However, the sale of natural gas, coal, and  
4 electricity to a manufacturer for use directly in the actual manufacturing  
5 process shall remain subject to the excise tax of one-eighth of one percent  
6 (1/8 of 1%) levied in Arkansas Constitution, Amendment 75, and the temporary  
7 excise tax of one-half percent (1/2%) levied in Arkansas Constitution,  
8 Amendment 91.

9 (2) The taxes levied in this subsection shall be distributed as  
10 follows:

11 (A) Seventy-six and six-tenths percent (76.6%) of the tax,  
12 interest, penalties, and costs received by the Director of the Department of  
13 Finance and Administration shall be deposited as general revenues;

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

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

20 (3)(A) The excise tax levied in this section applies only to  
21 natural gas, coal, and electricity sold for use directly in the actual  
22 manufacturing process.

23 (B) Natural gas, coal, and electricity sold for any other  
24 purpose are subject to the full gross receipts or gross proceeds tax levied  
25 under §§ 26-52-301 and 26-52-302.

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

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

31 (1) Manufacturer classified within sectors 31 through 33 or  
32 sector 115111 of the North American Industry Classification System, as in  
33 effect on January 1, 2011; or

34 (2) Generator of electric power classified within sector 22 of  
35 the North American Industry Classification System, as in effect on January 1,  
36 2011, that uses ~~natural~~:

1                   (A) Natural gas to operate a new or existing generating  
2 facility that uses combined-cycle gas turbine technology; or

3                   (B) Coal to operate a new or existing generating facility.

4           (c)(1) Except as otherwise provided in this subsection, the tax rate  
5 under subsection (a) of this section does not apply to a manufacturer as  
6 defined in subdivision (b)(2) of this section.

7                   (2) In lieu of the tax rate under subsection (a) of this  
8 section, the excise tax rate levied on the gross receipts or gross proceeds  
9 derived from the sale of natural gas, coal, and electricity to a manufacturer  
10 as defined in subdivision (b)(2) of this section ~~to operate a new or existing~~  
11 ~~facility that uses combined cycle gas turbine technology is as follows:~~ is  
12 one percent (1%).

13                   ~~(A) Beginning January 1, 2012, five and one eighth percent~~  
14 ~~(5.125%);~~

15                   ~~(B) Beginning January 1, 2013, four and one eighth percent~~  
16 ~~(4.125%);~~

17                   ~~(C) Beginning January 1, 2014, two and five eighths~~  
18 ~~percent (2.625%); and~~

19                   ~~(D) Beginning January 1, 2015, one percent (1%).~~

20           (3) The taxes levied in this subsection shall be distributed in  
21 the same manner as stated in subsection (a) of this section.

22           (d) Natural gas, coal, and electricity subject to the reduced tax rate  
23 levied in this section shall be separately metered or stored from natural  
24 gas, coal, and electricity used for any other purpose by the manufacturer or  
25 otherwise established under subsection (f) of this section.

26           (e) Before the sale of natural gas, coal, or electricity at the  
27 reduced excise tax rate levied in this section, the director may require any  
28 seller of natural gas, coal, or electricity to obtain a certificate from the  
29 consumer, in the form prescribed by the director, certifying that the  
30 manufacturer is eligible to purchase natural gas, coal, and electricity at  
31 the reduced excise tax rate.

32           (f) The director shall promulgate rules for the proper administration  
33 of this section.

34           (g) The gross receipts or gross proceeds derived from the sale of  
35 natural gas, coal, and electricity to a manufacturer shall continue to be  
36 subject to:

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

3           (2) All municipal and county gross receipts taxes.

4           (h) All existing exemptions from the gross receipts tax levied by this  
5 chapter and the compensating use tax levied by the Arkansas Compensating Tax  
6 Act of 1949, § 26-53-101 et seq., for natural gas, coal, or electricity used  
7 in manufacturing or for other purposes that are otherwise provided by law  
8 shall continue in effect.

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10           SECTION 2. Arkansas Code § 26-53-148 is amended to read as follows:

11           26-53-148. Natural gas, coal, and electricity used by manufacturers.

12           ~~(a)(1)(A) Beginning July 1, 2014, in lieu of the tax levied in §§ 26-~~  
13 ~~53-106 and 26-53-107, there is levied an excise tax on the sales price of~~  
14 ~~natural gas and electricity purchased by a manufacturer for use directly in~~  
15 ~~the actual manufacturing process at the rate of one percent (1%).~~

16           ~~(B)(i) Beginning July 1, 2015, the~~ The compensating use  
17 tax levied in §§ 26-53-106 and 26-53-107 and this section shall be levied at  
18 a rate of zero percent (0%) on natural gas, coal, and electricity purchased  
19 by a manufacturer for use directly in the actual manufacturing process.

20           ~~(ii)~~ (B) However, natural gas, coal, and electricity  
21 purchased by a manufacturer for use directly in the actual manufacturing  
22 process shall remain subject to the excise tax of one-eighth of one percent  
23 (1/8 of 1%) levied in Arkansas Constitution, Amendment 75, and the temporary  
24 excise tax of one-half percent (1/2%) levied in Arkansas Constitution,  
25 Amendment 91.

26           (2) The taxes levied in this subsection shall be distributed as  
27 follows:

28           (A) Seventy-six and six-tenths percent (76.6%) of the tax,  
29 interest, penalties, and costs received by the Director of the Department of  
30 Finance and Administration shall be deposited as general revenues;

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

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

1 (3)(A) The excise tax levied in this section applies only to  
2 natural gas, coal, and electricity purchased for use directly in the actual  
3 manufacturing process.

4 (B) Natural gas, coal, and electricity purchased for any  
5 other purpose shall be subject to the full compensating use tax levied under  
6 §§ 26-53-106 and 26-53-107.

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

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

12 (1) Manufacturer classified within sectors 31 through 33 or  
13 subsector 115111 of the North American Industry Classification System, as in  
14 effect on January 1, 2011; or

15 (2) Generator of electric power classified within sector 22 of  
16 the North American Industry Classification System, as in effect on January 1,  
17 2011, that uses ~~natural~~:

18 (A) Natural gas to operate a new or existing generating  
19 facility that uses combined-cycle gas turbine technology; or

20 (B) Coal to operate a new or existing generating facility.

21 (c)(1) Except as otherwise provided in this subsection, the tax rate  
22 under subsection (a) of this section does not apply to a manufacturer as  
23 defined in subdivision (b)(2) of this section.

24 (2) In lieu of the tax rate under subsection (a) of this  
25 section, the excise tax rate levied on the sales price of natural gas, coal,  
26 and electricity purchased by a manufacturer as defined in subdivision (b)(2)  
27 of this section to operate a new or existing facility ~~that uses combined-~~  
28 ~~cycle gas turbine technology is as follows: is one percent (1%).~~

29 ~~(A) Beginning January 1, 2012, five and one-eighth percent~~  
30 ~~(5.125%);~~

31 ~~(B) Beginning January 1, 2013, four and one-eighth percent~~  
32 ~~(4.125%);~~

33 ~~(C) Beginning January 1, 2014, two and five-eighths~~  
34 ~~percent (2.625%); and~~

35 ~~(D) Beginning January 1, 2015, one percent (1%).~~

1           (3) The taxes levied in this subsection shall be distributed in  
2 the same manner as stated in subsection (a) of this section.

3           (d) Natural gas, coal, and electricity subject to the reduced tax rate  
4 levied in this section shall be separately metered or stored from natural  
5 gas, coal, and electricity used for any other purpose by the manufacturer or  
6 otherwise established under subsection (f) of this section.

7           (e) Before purchasing any natural gas, coal, or electricity at the  
8 reduced excise tax rate levied in this section, the director may require any  
9 seller of natural gas, coal, or electricity to obtain a certificate from the  
10 consumer, in the form prescribed by the director, certifying that the  
11 manufacturer is eligible to purchase natural gas, coal, and electricity at  
12 the reduced excise tax rate.

13           (f) The director shall promulgate rules for the proper administration  
14 of this section.

15           (g) The purchase of natural gas, coal, and electricity by a  
16 manufacturer shall continue to be subject to:

- 17                   (1) The excise tax levied under Arkansas Constitution, Amendment
- 18 75, § 2; and
- 19                   (2) All municipal and county compensating use taxes.

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21           SECTION 3. Sections 1 and 2 of this act shall be effective on and  
22 after July 1, 2018.

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24   /s/M. Hodges

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27 Referred by the Arkansas House of Representatives  
28 Prepared by: VJF