

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 1420

5 By: Representatives Maxwell, Anderson, Sullivan, Thyer, Sample, Medley, Abernathy, Adcock, Allen,
6 T. Baker, Berry, Blount, T. Bradford, Breedlove, E. Brown, J. Brown, Burkes, Cash, Cheatham,
7 Chesterfield, Cook, Cooper, Cornwell, L. Cowling, Davenport, Davis, Dickinson, S. Dobbins, Dunn, D.
8 Evans, L. Evans, Everett, Flowers, Garner, Gaskill, George, Glidewell, R. Green, Greenberg, Hall,
9 Hardwick, Hardy, Harris, Hawkins, House, Hoyt, D. Hutchinson, Hyde, Jeffrey, Kenney, Key, Kidd,
10 King, Lamoureux, Lovell, Lowery, Maloch, M. Martin, Moore, Norton, Overbey, Pace, Patterson,
11 Pennartz, Petrus, Pickett, Pierce, Powers, S. Prater, Pyle, Ragland, Reep, Reynolds, J. Roebuck, Rogers,
12 Rosenbaum, Saunders, Shelby, Stewart, Sumpter, Wagner, Walters, Wells, Wills, Wood, Woods, Wyatt
13 By: Senator Horn

For An Act To Be Entitled

14
15
16 AN ACT TO REDUCE THE SALES AND USE TAX RATE ON
17 NATURAL GAS AND ELECTRICITY USED OR CONSUMED IN
18 MANUFACTURING IN THIS STATE; AND FOR OTHER
19 PURPOSES.
20

Subtitle

21
22 TO REDUCE THE SALES AND USE TAX RATE ON
23 NATURAL GAS AND ELECTRICITY USED OR
24 CONSUMED IN MANUFACTURING IN THIS STATE.
25
26
27

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

30 "SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is
31 amended to add an additional section to read as follows:

32 26-52-319. Natural gas and electricity used by manufacturers.

33 (a)(1) Beginning July 1, 2007, in lieu of the gross receipts or gross
34 proceeds tax levied in §§ 26-52-301 and 26-52-302(a), (b), (c), and (d),
35 there is levied an excise tax on the gross receipts or gross proceeds derived
36 from the sale of natural gas and electricity to a manufacturer for use



1 directly in the actual manufacturing process at the rate of four and three-
 2 eighths percent (4.375%).

3 (2) Beginning July 1, 2008, the tax rate levied in subdivision
 4 (a)(1) of this section shall be imposed at the rate of three and seven-eights
 5 percent (3.875%).

6 (3) The taxes levied in this subsection (a) shall be distributed
 7 as follows:

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

11 (B) Eight and one-half percent (8.5%) of the tax,
 12 interest, penalties, and costs received by the director shall be deposited
 13 into the Property Tax Relief Trust Fund; and

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

17 (4)(A) The excise tax levied in this section applies only to
 18 natural gas and electricity sold for use directly in the actual manufacturing
 19 process.

20 (B) Natural gas and electricity sold for any other purpose
 21 shall be subject to the full gross receipts or gross proceeds tax levied
 22 under §§ 26-52-301 and 26-52-302(a), (b), (c), and (d).

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

27 (b) As used in this section, "manufacturer" means a manufacturer
 28 classified within sectors 31 through 33 of the North American Industry
 29 Classification System, as in effect on January 1, 2007.

30 (c) Natural gas and electricity subject to the reduced tax rate levied
 31 in this section shall be separately metered from natural gas and electricity
 32 used for any other purpose by the manufacturer.

33 (d) Prior to the sale of natural gas or electricity at the reduced
 34 excise tax rate levied in this section, the director may require any seller
 35 of natural gas or electricity to obtain a certificate from the consumer, in
 36 the form prescribed by the director, certifying that the manufacturer is

1 eligible to purchase natural gas and electricity at the reduced excise tax
2 rate.

3 (e) The director shall have and be invested with full power and
4 authority to promulgate rules for the proper administration of this section.

5 (f) The gross receipts or gross proceeds derived from the sale of
6 natural gas and electricity to a manufacturer shall continue to be subject
7 to:

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

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

11
12 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended
13 to add an additional section to read as follows:

14 26-53-148. Natural gas and electricity used by manufacturers.

15 (a)(1) Beginning July 1, 2007, in lieu of the tax levied in §§ 26-53-
16 106 and 26-53-107 (a), (b), (c), and (d), there is levied an excise tax on
17 the sales price of natural gas and electricity purchased by a manufacturer
18 for use directly in the actual manufacturing process at the rate of four and
19 three-eighths percent (4.375%).

20 (2) Beginning July 1, 2008, the tax rate levied in subdivision
21 (a)(1) of this section shall be imposed at the rate of three and seven-eighths
22 percent (3.875%).

23 (3) The taxes levied in subsection (a) of this section shall be
24 distributed as follows:

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

28 (B) Eight and one-half percent (8.5%) of the tax,
29 interest, penalties, and costs received by the director shall be deposited
30 into the Property Tax Relief Trust Fund; and

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

34 (4)(A) The excise tax levied in this section applies only to
35 natural gas and electricity purchased for use directly in the actual
36 manufacturing process.

1 (B) Natural gas and electricity purchased for any other
 2 purpose shall be subject to the full compensating use tax levied under §§ 26-
 3 53-106 and 26-53-107 (a), (b), (c), and (d).

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

8 (b) As used in this section, "manufacturer" means a manufacturer
 9 classified within sectors 31 through 33 of the North American Industry
 10 Classification System, as in effect on January 1, 2007.

11 (c) Natural gas and electricity subject to the reduced tax rate levied
 12 in this section shall be separately metered from natural gas and electricity
 13 used for any other purpose by the manufacturer.

14 (d) Prior to purchasing any natural gas or electricity at the reduced
 15 excise tax rate levied in this section, the director may require any seller
 16 of natural gas or electricity to obtain a certificate from the consumer, in
 17 the form prescribed by the director, certifying that the manufacturer is
 18 eligible to purchase natural gas and electricity at the reduced excise tax
 19 rate.

20 (e) The director shall have and be invested with full power and
 21 authority to promulgate rules for the proper administration of this section.

22 (f) The purchase of natural gas and electricity by a manufacturer
 23 shall continue to be subject to:

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

26 (2) All municipal and county compensating use taxes.

27
 28 SECTION 3. All existing exemptions from the gross receipts tax levied
 29 by the Arkansas Gross Receipts Act or 1941, § 26-52-101 et seq., and the
 30 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §
 31 26-53-101 et seq., for natural gas or electricity used in manufacturing or
 32 other purposes that are otherwise provided by law shall continue in full
 33 force and effect.

34
 35 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
 36 General Assembly that the current sales and use tax on utilities consumed by

1 manufacturers located within this state creates a competitive disadvantage,
2 that this bill is intended to address that problem by providing a reduced tax
3 rate on utilities consumed by manufacturers located in this state; and that
4 this act is immediately necessary to prevent the loss of manufacturing jobs
5 to other states that provide lower taxes on utilities consumed in
6 manufacturing. Therefore, an emergency is hereby declared to exist and this
7 act being immediately necessary for the preservation of public peace, health,
8 and safety shall become effective on:

9 (1) The date of its approval by the Governor;

10 (2) If the bill is neither approved nor vetoed by the Governor, the
11 expiration of the period of time during which the Governor may veto the bill;
12 or

13 (3) If the bill is vetoed by the Governor and the veto is overridden,
14 the date the last house overrides the veto.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36