

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

As Engrossed: S1/25/07 S2/7/07

# A Bill

SENATE BILL 119

5 By: Senators Horn, J. Jeffress, G. Jeffress, Altes, T. Smith, J. Taylor, Trusty, B. Pritchard, Baker  
6 By: Representatives Anderson, Maxwell, Key, Ragland, Reep, Medley, Rosenbaum, Sample, Cheatham,  
7 Berry, Burkes, Cornwell, L. Cowling, Flowers, Garner, Glidewell, R. Green, Hall, Lowery, M. Martin,  
8 Moore, Patterson, Pierce, Saunders, Wills, Burris, *Stewart*

## For An Act To Be Entitled

9  
10  
11 AN ACT TO PROMOTE ECONOMIC DEVELOPMENT WITHIN THE  
12 STATE BY REDUCING THE STATE SALES AND USE TAX ON  
13 NATURAL GAS AND ELECTRICITY USED OR CONSUMED IN  
14 MANUFACTURING; AND FOR OTHER PURPOSES.  
15

## Subtitle

16  
17 TO PROMOTE ECONOMIC DEVELOPMENT WITHIN  
18 THE STATE BY REDUCING THE STATE SALES  
19 AND USE TAX ON NATURAL GAS AND  
20 ELECTRICITY USED OR CONSUMED IN  
21 MANUFACTURING.  
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24  
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

29 26-52-319. Gas and electricity used in manufacturing.

30 (a)(1) Beginning July 1, 2007, in lieu of the gross receipts or gross  
31 proceeds tax levied in § 26-52-301 and § 26-52-302(a), (b), (c), and (d),  
32 there is levied an excise tax on the gross receipts or gross proceeds derived  
33 from the sale of natural gas and electricity to a manufacturer for use  
34 directly in the actual manufacturing process at the rate of four and three-  
35 eighths percent (4.375%).

36 (2) Beginning July 1, 2008, the tax rate imposed in subdivision



1 (a)(1) of this section shall be imposed at the rate of three and seven-eighths  
2 percent (3.875%).

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

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

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

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

14 (4)(A) The excise tax levied in this section shall apply only to  
15 natural gas and electricity sold for use directly in the actual manufacturing  
16 process.

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

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

24 (b) For purposes of this section, the term "manufacturer" shall mean a  
25 manufacturer classified within sectors 31 through 33 of the North American  
26 Industrial Classification System, as in effect on January 1, 2007.

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

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

36 (e) The director shall have and be invested with full power and

1 authority to promulgate rules for the proper administration of this section.

2 (f) The gross receipts or gross proceeds derived from the sale of  
3 natural gas and electricity to manufacturers shall continue to be subject to:

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

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

7  
8 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended  
9 to add an additional section to read as follows:

10 26-53-148. Gas and electricity used in manufacturing.

11 (a)(1) Beginning July 1, 2007, in lieu of the tax levied in § 26-53-  
12 106 and § 26-53-107 (a), (b), (c), and (d), there is levied an excise tax on  
13 the sales price of natural gas and electricity purchased by a manufacturer  
14 for use directly in the actual manufacturing process at the rate of four and  
15 three-eighths percent (4.375%).

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

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

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

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

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

30 (4)(A) The excise tax levied in this section shall apply only to  
31 natural gas and electricity purchased for use directly in the actual  
32 manufacturing process.

33 (B) Natural gas and electricity purchased for any other  
34 purpose shall be subject to the full compensating use tax levied under § 26-  
35 53-106 and § 26-53-107 (a), (b), (c), and (d).

36 (5) The excise tax levied in this section shall be collected,

1 reported, and paid in the same manner and at the same time as is prescribed  
2 by law for the collection, reporting, and payment of all other Arkansas  
3 compensating use taxes.

4 (b) For purposes of this section, the term "manufacturer" shall mean a  
5 manufacturer classified within sectors 31 through 33 of the North American  
6 Industrial Classification System, as in effect on January 1, 2007.

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

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

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

18 (f) The purchase of natural gas and electricity by manufacturers shall  
19 continue to be subject to:

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

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

23  
24 SECTION 3. All existing exemptions from the gross receipts tax levied  
25 by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the  
26 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §  
27 26-53-101 et seq., for natural gas and electricity used in manufacturing or  
28 other purposes that are otherwise provided by law shall continue in full  
29 force and effect.

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31 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
32 General Assembly that the current sales and use tax on utilities consumed by  
33 manufacturers located within this state creates a competitive disadvantage,  
34 that this bill is intended to address that problem by providing a reduced tax  
35 rate on utilities consumed by manufacturers located in this state, and that  
36 this act is immediately necessary to prevent the loss of manufacturing jobs

1 to other states that provide lower taxes on utilities consumed in  
2 manufacturing. Therefore, an emergency is hereby declared to exist and this  
3 Act being necessary for the immediate preservation of the public peace,  
4 health and safety shall become effective on:

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

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

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

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12 /s/ Horn  
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