

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 *As Engrossed: S1/25/07 S2/7/07 H2/19/07*

2 86th General Assembly

A Bill

3 Regular Session, 2007

SENATE BILL 119

4

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*

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For An Act To Be Entitled

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

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Subtitle

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TO PROMOTE ECONOMIC DEVELOPMENT WITHIN
THE STATE BY REDUCING THE STATE SALES
AND USE TAX ON NATURAL GAS AND
ELECTRICITY USED OR CONSUMED IN
MANUFACTURING.

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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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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, or otherwise established in
30 accordance with the rules issued under subsection (e) of this section.

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

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

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

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

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

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

11 26-53-148. Gas and electricity used in manufacturing.

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

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

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

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

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

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

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

34 (B) Natural gas and electricity purchased for any other
35 purpose shall be subject to the full compensating use tax levied under § 26-
36 53-106 and § 26-53-107 (a), (b), (c), and (d).

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

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

8 (c) Natural gas and electricity subject to the reduced tax rate levied
9 in this section shall be separately metered from natural gas and electricity
10 used for any other purpose by the manufacturer, or otherwise established in
11 accordance with the rules issued under subsection (e) of this section.

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

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

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

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

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

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

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33 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
34 General Assembly that the current sales and use tax on utilities consumed by
35 manufacturers located within this state creates a competitive disadvantage,
36 that this bill is intended to address that problem by providing a reduced tax

1 rate on utilities consumed by manufacturers located in this state, and that
2 this act is immediately necessary to prevent the loss of manufacturing jobs
3 to other states that provide lower taxes on utilities consumed in
4 manufacturing. Therefore, an emergency is hereby declared to exist and this
5 Act being necessary for the immediate preservation of the public peace,
6 health and safety shall become effective on:

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

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

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

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14 /s/ Horn
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