

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 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: H3/19/09

# A Bill

HOUSE BILL 2250

5 By: Representative M. Burris  
6  
7

## For An Act To Be Entitled

9 AN ACT TO INCLUDE HIGH EFFICIENCY ELECTRIC POWER  
10 GENERATORS IN THE DEFINITION OF MANUFACTURER FOR  
11 THE PURPOSE OF THE REDUCED EXCISE TAX RATE ON  
12 NATURAL GAS USED IN MANUFACTURING, SUBJECT TO A  
13 PHASE-IN OF THE REDUCED RATE OF TAX; AND FOR  
14 OTHER PURPOSES.

## Subtitle

15  
16 TO INCLUDE HIGH EFFICIENCY ELECTRIC  
17 POWER GENERATORS IN THE DEFINITION OF  
18 MANUFACTURER FOR THE PURPOSE OF THE  
19 PHASE-IN OF THE REDUCED EXCISE TAX RATE  
20 ON NATURAL GAS USED IN MANUFACTURING.  
21  
22  
23

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

26 *SECTION 1. Arkansas Code § 26-52-319(b)-(f), concerning the sales tax*  
27 *on natural gas and electricity used by manufacturers, is amended to read as*  
28 *follows:*

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

30 *(1) ~~manufacturer~~ Manufacturer classified within sectors 31*  
31 *through 33 of the North American Industry Classification System, as in effect*  
32 *on January 1, 2007-; and*

33 *(2) Generator of electric power classified within sector 22 of*  
34 *the North American Industry Classification System that uses natural gas on or*  
35 *after the effective date of this subdivision to operate a generating facility*  
36 *that uses emission reduction technology that emits nitrogen oxides (NOx) less*



1 than three and five-tenths parts per million (3.5 ppm) on average annually  
 2 for all operating hours.

3 (c) In lieu of the tax rate under subsection (a) of this section, the  
 4 excise tax rate levied on the gross receipts or gross proceeds derived from  
 5 the sale of natural gas and electricity to a manufacturer as defined under  
 6 subdivision (b)(2) of this section is as follows:

7 (1) Beginning July 1, 2010, five and one-fourth percent (5.25%);

8 (2) Beginning July 1, 2011, four and one-fourth percent (4.25%);

9 and

10 (3) Beginning July 1, 2012, the rate under subsection (a) of  
 11 this section.

12 ~~(e)~~(d) Natural gas and electricity subject to the reduced tax rate  
 13 levied in this section shall be separately metered from natural gas and  
 14 electricity used for any other purpose by the manufacturer or otherwise  
 15 established in accordance with the rules issued under subsection ~~(e)~~(f) of  
 16 this section.

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

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

25 ~~(f)~~(g) The gross receipts or gross proceeds derived from the sale of  
 26 natural gas and electricity to a manufacturer shall continue to be subject  
 27 to:

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

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

31  
 32 SECTION 2. Arkansas Code § 26-53-148(b)-(f), concerning the  
 33 compensating use tax on natural gas and electricity used by manufacturers, is  
 34 amended to read as follows:

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

36 (1) ~~manufacturer~~ Manufacturer classified within sectors 31

1 through 33 of the North American Industry Classification System, as in effect  
2 on January 1, 2007~~+~~; and

3 (2) Generator of electric power classified within sector 22 of  
4 the North American Industry Classification System that uses natural gas on or  
5 after the effective date of this subsection to operate a generating facility  
6 that uses emission reduction technology that emits nitrogen oxides (NOx) less  
7 than three and five-tenths parts per million (3.5 ppm) on average annually  
8 for all operating hours.

9 (c) In lieu of the tax rate under subsection (a) of this section, the  
10 excise tax rate levied on the gross receipts or gross proceeds derived from  
11 the sale of natural gas and electricity to a manufacturer as defined under  
12 subdivision (b)(2) of this section is as follows:

13 (1) Beginning July 1, 2010, five and one-fourth percent (5.25%);

14 (2) Beginning July 1, 2011, four and one-fourth percent (4.25%);

15 and

16 (3) Beginning July 1, 2012, the rate provided in subsection (a)  
17 of this section.

18 ~~(e)(d)~~ Natural gas and electricity subject to the reduced tax rate  
19 levied in this section shall be separately metered from natural gas and  
20 electricity used for any other purpose by the manufacturer or otherwise  
21 established in accordance with the rules issued under subsection ~~(e)(f)~~ of  
22 this section.

23 ~~(d)(e)~~ Prior to ~~Before~~ purchasing any natural gas or electricity at the  
24 reduced excise tax rate levied in this section, the director may require any  
25 seller of natural gas or electricity to obtain a certificate from the  
26 consumer, in the form prescribed by the director, certifying that the  
27 manufacturer is eligible to purchase natural gas and electricity at the  
28 reduced excise tax rate.

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

31 ~~(f)(g)~~ The purchase of natural gas and electricity by a manufacturer  
32 shall continue to be subject to:

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

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

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