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: H3/19/09		
2	87th General Assembly	A Bill		
3	Regular Session, 2009	HOUSE B	ILL	2250
4				
5	By: Representative M. Burn	is		
6				
7				
8		For An Act To Be Entitled		
9	AN ACT TO INCLUDE HIGH EFFICIENCY ELECTRIC POWER			
10	GENERA	TORS IN THE DEFINITION OF MANUFACTURER FOR		
11	THE PU	RPOSE OF THE REDUCED EXCISE TAX RATE ON		
12	NATURA	L GAS USED IN MANUFACTURING, SUBJECT TO A		
13	PHASE-	IN OF THE REDUCED RATE OF TAX; AND FOR		
14	OTHER	PURPOSES.		
15				
16		Subtitle		
17	TO	INCLUDE HIGH EFFICIENCY ELECTRIC		
18	POW	ER GENERATORS IN THE DEFINITION OF		
19	MAN	UFACTURER FOR THE PURPOSE OF THE		
20	PHA	SE-IN OF THE REDUCED EXCISE TAX RATE		
21	ON 1	NATURAL GAS USED IN MANUFACTURING.		
22				
23				
24	BE IT ENACTED BY THE	GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:		
25				
26	SECTION 1. Art	kansas Code § 26-52-319(b)-(f), concerning the sa	les	tax
27	on natural gas and el	lectricity used by manufacturers, is amended to r	ead a	as
28	follows:			
29	(b) As used in	this section, "manufacturer" means a <u>:</u>		
30	<u>(1)</u> mant	<del>afacturer</del> <u>Manufacturer</u> classified within sectors	31	
31	through 33 of the Nor	rth American Industry Classification System, as i	n ef	fect
32	on January 1, 2007 <del>.</del> ; and			
33	(2) Generator of electric power classified within sector 22 of			
34	<u>the North American In</u>	ndustry Classification System that uses natural g	as of	<u>n or</u>
35	<u>after the effective o</u>	late of this subdivision to operate a generating	faci.	<u>lity</u>
36	<u>that uses emission re</u>	eduction technology that emits nitrogen oxides (N	0x)	<u>less</u>



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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	<del>(c)<u>(</u>d)</del> 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 $\frac{(e)(f)}{(e)}$ of		
16	this section.		
17	<del>(d)(e)</del> 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	<del>(e)<u>(</u>f)</del> The director shall <del>have and be invested with full power and</del>		
24	authority to promulgate rules for the proper administration of this section.		
25	<del>(f)(g)</del> 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 <u>:</u>		
36	(1) manufacturer Manufacturer classified within sectors 31		

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1	through 33 of the North American Industry Classification System, as in effect
2	on January 1, 2007 <del>., and</del>
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	<del>(c)<u>(</u>d)</del> 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 $\frac{(e)}{(f)}$ of
22	this section.
23	<del>(d)(e)</del> <del>Prior to</del> <u>Before</u> 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	<del>(e)<u>(f)</u> The director shall <del>have and be invested with full power and</del></del>
30	<del>authority to</del> promulgate rules for the proper administration of this section.
31	<del>(f)</del> (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.
36	

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## As Engrossed: H3/19/09

1	SECTION 3. Emergency Clause. It is found and determined by the General
2	Assembly of the State of Arkansas that the sales and use taxes that Arkansas
3	imposes on natural gas used in high-efficiency electric generating facilities
4	far exceed the taxes imposed by most surrounding states; that electric power
5	generation has historically been treated as manufacturing for sales and use
6	tax purposes in Arkansas; that the state has an interest in encouraging the
7	use of clean and efficient generating technologies pending the development of
8	alternative energy technologies; that the price of natural gas has been
9	subject to substantial increases in the marketplace resulting in a dramatic
10	increase in the cost of electricity that has been compounded by sales and
11	compensating use tax on natural gas used as fuel, and this trend is likely to
12	continue; and that including high-efficiency power generation in the
13	definition of manufacturing for purposes of the reduced sales and use tax on
14	natural gas will stabilize the tax burden, preserve the funding source, and
15	encourage the use of natural gas in high-efficiency power generating
16	facilities in Arkansas. Therefore, an emergency is declared to exist and this
17	act being immediately necessary for the preservation of the public peace,
18	health, and safety shall become effective on July 1, 2009.
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21	/s/ M. Burris
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