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: S3/26/09	
2	87th General Assembly	A B1ll	
3	Regular Session, 2009		SENATE BILL 990
4			
5	By: Senator G. Jeffress		
6			
7			
8		For An Act To Be Entitled	
9	AN ACT TO INCLUDE HIGH EFFICIENCY ELECTRIC POWER		
10	GENERATORS	S IN THE DEFINITION OF MANUFACTUR	ER FOR
11	THE PURPOS	SE OF THE REDUCED EXCISE TAX RATE	ON
12	NATURAL GA	AS USED IN MANUFACTURING, SUBJECT	ΤΟ Α
13	PHASE-IN O	OF THE REDUCED RATE OF TAX; AND FO	OR
14	OTHER PURP	POSES.	
15			
16		Subtitle	
17	TO INCL	LUDE HIGH EFFICIENCY ELECTRIC	
18	POWER G	GENERATORS IN THE DEFINITION OF	
19	MANUFAC	CTURER FOR THE PURPOSE OF THE	
20	PHASE-I	IN OF THE REDUCED EXCISE TAX RATE	
21	ON NATU	JRAL GAS USED IN MANUFACTURING.	
22			
23			
24	BE IT ENACTED BY THE GEN	ERAL ASSEMBLY OF THE STATE OF ARK	CANSAS:
25			
26	SECTION 1. Arkans	eas Code § 26-52-319(b)-(f), conce	erning the sales tax
27	on natural gas and elect.	ricity used by manufacturers, is	amended to read as
28	follows:		
29	(b) As used in th	is section, "manufacturer" means	a <u>:</u>
30	<u>(1)</u> <del>manufae</del>	<del>turer</del> <u>Manufacturer</u> classified wit	thin sectors 31
31	through 33 of the North .	American Industry Classification	System, as in effect
32	on January 1, 2007 <del>.</del> ; and	1	
33	<u>(2)</u> Generate	or of electric power classified w	vithin sector 22 of
34	<u>the North American Indus</u>	try Classification System that us	ses 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		



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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>		
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>(f)</u> The director shall <del>have and be invested with full power and</del></del>		
24	authority to promulgate rules for the proper administration of this section.		
25	<del>(f)</del> (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 <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)</del> (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 $\frac{(e)}{(f)}$ of		
22	this section.		
23	<del>(d)(e)</del>		
24	the reduced excise tax rate levied in this section, the director may require		
25	any 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>(c)<u>(f)</u> The director shall <del>have and be invested with full power and</del></del>		
30	authority to 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			

3

## As Engrossed: S3/26/09

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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20	/s/ G. Jeffress
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