

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.

Act 185 of the Regular Session

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H2/14/07

A Bill

HOUSE BILL 1420

5 By: Representatives Maxwell, Anderson, Sullivan, Thyer, Sample, Medley, Abernathy, Adcock, Allen,  
6 T. Baker, Berry, Blount, T. Bradford, Breedlove, E. Brown, J. Brown, Burkes, Cash, Cheatham,  
7 Chesterfield, Cook, Cooper, Cornwell, L. Cowling, Davenport, Davis, Dickinson, S. Dobbins, Dunn, D.  
8 Evans, L. Evans, Everett, Flowers, Garner, Gaskill, George, Glidewell, R. Green, Greenberg, Hall,  
9 Hardwick, Hardy, Harris, Hawkins, House, Hoyt, D. Hutchinson, Hyde, Jeffrey, Kenney, Key, Kidd,  
10 King, Lamoureux, Lovell, Lowery, Maloch, M. Martin, Moore, Norton, Overbey, Pace, Patterson,  
11 Pennartz, Petrus, Pickett, Pierce, Powers, S. Prater, Pyle, Ragland, Reep, Reynolds, J. Roebuck, Rogers,  
12 Rosenbaum, Saunders, Shelby, Stewart, Sumpter, Wagner, Walters, Wells, Wills, Wood, Woods, Wyatt  
13 By: Senator Horn  
14  
15

16 **For An Act To Be Entitled**

17 AN ACT TO REDUCE THE SALES AND USE TAX RATE ON  
18 NATURAL GAS AND ELECTRICITY USED OR CONSUMED IN  
19 MANUFACTURING IN THIS STATE; AND FOR OTHER  
20 PURPOSES.  
21

22 **Subtitle**

23 TO REDUCE THE SALES AND USE TAX RATE ON  
24 NATURAL GAS AND ELECTRICITY USED OR  
25 CONSUMED IN MANUFACTURING IN THIS STATE.  
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
29

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

32 26-52-319. Natural gas and electricity used by manufacturers.

33 (a)(1) Beginning July 1, 2007, in lieu of the gross receipts or gross  
34 proceeds tax levied in §§ 26-52-301 and 26-52-302(a), (b), (c), and (d),  
35 there is levied an excise tax on the gross receipts or gross proceeds derived



1 from the sale of natural gas and electricity to a manufacturer for use  
2 directly in the actual manufacturing process at the rate of four and three-  
3 eighths percent (4.375%).

4 (2) Beginning July 1, 2008, the tax rate levied in subdivision  
5 (a)(1) of this section shall be imposed at the rate of three and seven-eights  
6 percent (3.875%).

7 (3) The taxes levied in this subsection (a) shall be distributed  
8 as follows:

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

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

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

18 (4)(A) The excise tax levied in this section applies only to  
19 natural gas and electricity sold for use directly in the actual manufacturing  
20 process.

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

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

28 (b) As used in this section, "manufacturer" means a manufacturer  
29 classified within sectors 31 through 33 of the North American Industry  
30 Classification System, as in effect on January 1, 2007.

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

35 (d) Prior to the sale of natural gas or electricity at the reduced  
36 excise tax rate levied in this section, the director may require any seller

1 of natural gas or electricity to obtain a certificate from the consumer, in  
2 the form prescribed by the director, certifying that the manufacturer is  
3 eligible to purchase natural gas and electricity at the reduced excise tax  
4 rate.

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

7 (f) The gross receipts or gross proceeds derived from the sale of  
8 natural gas and electricity to a manufacturer shall continue to be subject  
9 to:

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

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

13  
14 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended  
15 to add an additional section to read as follows:

16 26-53-148. Natural gas and electricity used by manufacturers.

17 (a)(1) Beginning July 1, 2007, in lieu of the tax levied in §§ 26-53-  
18 106 and 26-53-107 (a), (b), (c), and (d), there is levied an excise tax on  
19 the sales price of natural gas and electricity purchased by a manufacturer  
20 for use directly in the actual manufacturing process at the rate of four and  
21 three-eighths percent (4.375%).

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

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

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

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

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

36 (4)(A) The excise tax levied in this section applies only to

1 natural gas and electricity purchased for use directly in the actual  
2 manufacturing process.

3 (B) Natural gas and electricity purchased for any other  
4 purpose shall be subject to the full compensating use tax levied under §§ 26-  
5 53-106 and 26-53-107 (a), (b), (c), and (d).

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

10 (b) As used in this section, "manufacturer" means a manufacturer  
11 classified within sectors 31 through 33 of the North American Industry  
12 Classification System, as in effect on January 1, 2007.

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

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

23 (e) 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) The purchase of natural gas and electricity by a manufacturer  
26 shall continue to be subject to:

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

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

30  
31 SECTION 3. All existing exemptions from the gross receipts tax levied  
32 by the Arkansas Gross Receipts Act or 1941, § 26-52-101 et seq., and the  
33 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §  
34 26-53-101 et seq., for natural gas or electricity used in manufacturing or  
35 other purposes that are otherwise provided by law shall continue in full  
36 force and effect.

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SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly that the current sales and use tax on utilities consumed by manufacturers located within this state creates a competitive disadvantage, that this bill is intended to address that problem by providing a reduced tax rate on utilities consumed by manufacturers located in this state; and that this act is immediately necessary to prevent the loss of manufacturing jobs to other states that provide lower taxes on utilities consumed in manufacturing. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of public peace, health, and safety shall become effective on:

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

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

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

*/s/ Maxwell, et al*

**APPROVED: 3/1/2007**