

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 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/11/05

A Bill

HOUSE BILL 2103

5 By: Representatives Cowling, Bolin, Adams, Blair, Clemons, L. Evans, Flowers, Hardy, Harrelson,
6 Jeffrey, Mack, Maxwell, Ormond, Rankin, Reep, Roebuck, Sample, Saunders, Scroggin, Wells, Willis
7 By: Senators Horn, J. Jeffress, G. Jeffress, T. Smith, J. Taylor
8
9

For An Act To Be Entitled

11 AN ACT TO PROVIDE FOR THE CONTINUED ECONOMIC
12 DEVELOPMENT OF THE STATE OF ARKANSAS' NATURAL
13 RESOURCE MANUFACTURING BASE; AND FOR OTHER
14 PURPOSES.
15

Subtitle

17 AN ACT TO PROVIDE FOR THE CONTINUED
18 ECONOMIC DEVELOPMENT OF THE STATE OF
19 ARKANSAS' NATURAL RESOURCE MANUFACTURING
20 BASE.
21
22

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

SECTION 1. Legislative findings.

26 The General Assembly finds that:

27 (1) Attracting and retaining industry is vital to the Arkansas
28 economy;

29 (2) It is difficult and often impossible to compete with tax
30 incentives offered to manufacturers and other businesses by surrounding
31 states;

32 (3) Many states exempt electricity, natural gas, and other fuel
33 used by manufacturers from sales and use tax;

34 (3) Providing the tax incentives under this act to manufacturers
35 will allow existing manufacturers to continue to operate profitably and to
36 employ Arkansans, will increase the available jobs in Arkansas through the



1 expansion of existing manufacturing businesses and attraction of new
2 business, and will improve the Arkansas economy by providing additional
3 sources of state and local revenue; and

4 (4) The tax incentives provided in this act are designed to be
5 implemented gradually to reduce the immediate impact on existing revenues.

6
7 SECTION 2. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended
8 to add an additional section to read as follows:

9 26-52-438. Wood product, paper, and gypsum manufacturers.

10 (a) As used in this section "reduced gross receipts and compensating
11 use tax rate" means the state gross receipts and compensating use tax rate in
12 effect under subsection (b) of this section and § 26-53-145 during the month
13 in which the sale or purchase of natural gas, electricity, or solid wood
14 waste under this section or § 26-53-145 occurred, including the gross
15 receipts and compensating tax levied by Amendment 75 to the Arkansas
16 Constitution.

17 (b) The gross receipts or gross proceeds derived from the sale of
18 electricity, natural gas, and solid wood waste used as fuel in the process of
19 manufacturing wood products, paper, and gypsum building products by
20 manufacturers classified in North American Industry Classification System
21 industry groups 3211, 3212, 3221, 3222, and 3274 as of January 1, 2005, shall
22 be taxed as follows:

23 (1) Sales of electricity, natural gas, and solid wood waste
24 during the calendar year 2006 shall be subject to state gross receipts tax at
25 the rate of four percent (4%), which includes the one-eighth percent (1/8%)
26 tax levied by Amendment 75 to the Arkansas Constitution and a portion of tax
27 levied by §§ 26-52-301 and 26-52-302;

28 (2) Sales of electricity, natural gas, and solid wood waste
29 during the calendar year 2007 shall be subject to state gross receipts tax at
30 the rate of two percent (2%), which includes the one-eighth percent (1/8%)
31 tax levied by Amendment 75 to the Arkansas Constitution and a portion of tax
32 levied by §§ 26-52-301 and 26-52-302; and

33 (3) Sales of electricity, natural gas, and solid wood waste
34 during the calendar year 2008 and each year thereafter shall be exempt from
35 state gross receipts tax levied under the Arkansas Gross Receipts Act of
36 1941, § 26-52-101 et seq.

1 (c) The gross receipts or gross proceeds derived from the sale of
2 electricity, natural gas, and solid wood waste used as fuel in the process of
3 manufacturing wood products, paper, and gypsum building products by
4 manufacturers classified in North American Industry Classification System
5 industry groups 3211, 3212, 3221, 3222, and 3274 as of January 1, 2005, shall
6 continue to be subject to all municipal and county gross receipts taxes.

7 (d)(1) On the last day of each month beginning in February 2006, the
8 Chief Fiscal Officer of the State shall certify to the Treasurer of State the
9 amount of gross receipts and compensating use tax attributable to the sale or
10 purchase of natural gas, electricity, and solid wood waste under this section
11 and § 26-53-145 that was:

12 (A) Deposited to the Revenue Holding Fund Account of the
13 State Apportionment Fund pursuant to § 19-6-484(1); and

14 (B) Derived from the levy of all applicable state gross
15 receipts and compensating tax, including Amendment 75 to the Arkansas
16 Constitution.

17 (2) The amount of tax certified pursuant to subdivision (c)(1)
18 of this section shall be distributed as follows:

19 (A) That percentage of tax equal to a fraction in which
20 the denominator is the reduced gross receipts and compensating use tax rate
21 and the numerator is one hundred twenty-five thousandths percent (0.125%)
22 shall be transferred to the Special Revenue Fund Account for subsequent
23 distribution to the Conservation Tax Fund in accordance with § 19-6-484;

24 (B) That percentage of tax equal to a fraction in which
25 the denominator is the reduced gross receipts and compensating use tax rate
26 and the numerator is one-half of one percent (0.5%) shall be transferred to
27 the Property Tax Relief Trust Fund; and

28 (C) The tax remaining after the distributions under
29 subdivisions (c)(2)(A) and (B) of this section shall be credited as follows:

30 (i) Fifteen percent (15%) shall be credited to the
31 Educational Adequacy Fund; and

32 (ii) Eighty-five percent (85%) shall be credited to
33 the General Revenue Fund Account of the State Apportionment Fund.

34
35 SECTION 3. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended
36 to add a new section as follows:

1 26-53-145. Wood product, paper, and gypsum manufacturers.

2 (a) The sale or purchase of electricity, natural gas, and solid wood
3 waste used as fuel in the process of manufacturing wood products, paper, and
4 gypsum building products by manufacturers classified in North American
5 Industry Classification System industry groups 3211, 3212, 3221, 3222, and
6 3274 as of January 1, 2005, shall be taxed as follows:

7 (1) Purchases of electricity, natural gas, and solid wood waste
8 during the calendar year 2006 shall be subject to state compensating tax at
9 the rate of four percent (4%), which includes the one-eighth percent (1/8%)
10 tax levied by Amendment 75 to the Arkansas Constitution and a portion of tax
11 levied by §§ 26-53-106 and 26-53-107;

12 (2) Purchases of electricity, natural gas, and solid wood waste
13 during the calendar year 2007 shall be subject to state compensating tax at
14 the rate of two percent (2%), which includes the one-eighth percent (1/8%)
15 tax levied by Amendment 75 to the Arkansas Constitution and a portion of tax
16 levied by §§ 26-53-106 and 26-53-107; and

17 (3) Purchases of electricity, natural gas, and solid wood waste
18 during the calendar year 2008 and each year thereafter shall be exempt from
19 state compensating use tax levied under the Arkansas Compensating Tax Act of
20 1949, § 26-53-101 et seq.

21 (b) The sale or purchase of electricity, natural gas, and solid wood
22 waste used as fuel in the process of manufacturing wood products, paper, and
23 gypsum building products by manufacturers classified in North American
24 Industry Classification System industry groups 3211, 3212, 3221, 3222, and
25 3274 as of January 1, 2005, shall continue to be subject to all municipal
26 and county use taxes.

27
28 SECTION 4. (a) By January 1, 2012, the Legislative Auditor shall
29 provide a report to the chairs of the House Interim Revenue and Taxation
30 Committee and the Senate Interim Revenue and Taxation Committee and the
31 Legislative Council which provides the following information:

32 (1) The number and location by county of manufacturers engaging
33 in business in Arkansas and classified in North American Industry
34 Classification System industry groups 3211, 3212, 3221, 3222, or 3274 as of
35 January 1 of each calendar year 2006 through 2009;

36 (2) The number of full-time permanent employees employed on each

1 January 1 by each manufacturer meeting the requirements of subdivision (a)(1)
2 of this section for each calendar year 2006 through 2009;

3 (3) The annual salary including bonuses and overtime paid to
4 each full-time permanent employee described in subdivision (a)(2) of this
5 section as of January 1 of each calendar year 2006 through 2009;

6 (4) The approximate amount of state sales and use tax not paid
7 by each manufacturer on purchases of electricity, natural gas, and solid wood
8 waste as a result of the exemptions provided in Arkansas Code §§ 26-52-438
9 and 26-53-145;

10 (5) A determination of whether any increase in the number of
11 manufacturers, employees of manufacturers, or salaries of employees of
12 manufacturers is attributable to the exemptions provided in Arkansas Code
13 §§ 26-52-438 and 26-53-145; and

14 (6) The recommendation of the Legislative Auditor on whether the
15 exemptions provided in Arkansas Code §§ 26-52-438 and 26-53-145 should
16 continue in effect.

17 (b)(1) The Director of the Department of Finance and Administration
18 and the Director of the Department of Economic Development shall provide
19 information to the Legislative Auditor as requested in order to allow the
20 Legislative Auditor to compile his or her report under this section.

21 (2)(A) The provisions against disclosure under Arkansas Code
22 § 26-18-303(a) shall not apply to information provided by the Director of the
23 Department of Finance and Administration under this section to the
24 Legislative Auditor.

25 (B) However, the Legislative Auditor shall not disclose or
26 include in his or her report any information provided by the Director of the
27 Department of Finance and Administration if the information would have
28 otherwise been confidential under Arkansas Code § 26-18-303(a).

29
30 SECTION 5. EFFECTIVE DATE. Sections 2 and 3 of this act shall become
31 effective on the first day of the calendar month following the effective date
32 of this act.

33
34 */s/ Cowling, et al*