

As Engrossed: 3/5/93 3/26/93

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

ACT 820 OF 1993
SENATE BILL 574

4 **By: Senators Fitch, Bradford and Gordon**

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For An Act To Be Entitled

8 "AN ACT TO PROVIDE A SALES AND USE TAX EXEMPTION TO
9 BUSINESSES FOR THE INITIAL COST OF CONSTRUCTION MATERIALS
10 AND FURNISHINGS PURCHASED TO BUILD AND EQUIP *CHILD CARE*
11 CENTERS; TO PROVIDE FOR AN INCOME TAX CREDIT; AND FOR
12 OTHER PURPOSES."

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Subtitle

15 "AN ACT TO EXEMPT CONSTRUCTION MATERIALS AND FURNISHINGS
16 PURCHASED TO PROVIDE *CHILD CARE* CENTERS."

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Ark. Code Ann. §26-52-401 is amended by adding a new
21 subsection to read as follows:

22 "(29) (A) Gross receipts or gross proceeds derived from the sale of
23 construction materials and furnishings for use in the initial construction and
24 equipping of a *child care* facility operated by a business for the exclusive
25 purpose of providing child care services to their employees.

26 (B) Child care facility means a *child care* facility licensed pursuant
27 to Ark. Code Ann. §20-78-201 et seq. To qualify as a child care facility
28 the *child care* must provide an appropriate early childhood program as
29 defined in Ark. Code Ann. §6-45-103. A *child care* facility may be operated
30 for the use of one or more employers."

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32 SECTION 2. Subchapter 1 of Chapter 53 of Title 26 of the Arkansas Code
33 of 1987 is hereby amended by adding a new section to read as follows:

34 "(a) Construction materials and furnishings purchased for use in the
35 initial construction and equipping of a *child care* facility operated by a
36 business for the exclusive purpose of providing child care services to their

1 employees, shall be exempt from the state compensating tax levied by this
2 subchapter.

3 (b) *_Child care facility_* means a *child* care facility licensed pursuant
4 to Ark. Code Ann. §20-78-201 et seq. To qualify as a *_child care facility_*
5 the *child* care must provide an *_appropriate early childhood program_* as
6 defined in Ark. Code Ann. §6-45-103. A *child* care facility may be operated
7 for the use of one (1) or more employers."

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9 SECTION 3. Subchapter 5 of Chapter 51 of Title 26 of the Arkansas Code
10 of 1987 is hereby amended by adding a new section to read as follows:

11 "(a) A business which qualifies for the exemption from the Gross
12 Receipts Tax under Ark. Code Ann. §26-52-401(29), shall be allowed an income
13 tax credit of three and nine-tenths percent (3.9%) of the annual salary of
14 employees employed exclusively in providing *child* care services.

15 (b) If two (2) or more businesses participate in a *child* care program
16 for their employees as provided by Ark. Code Ann. §26-52-401(29), then each
17 business will be allowed an income tax credit of three and nine-tenths percent
18 (3.9%) of the annual salary of only those employees who are on the respective
19 business' payroll and are employed exclusively for providing *child* care
20 services.

21 (c) To qualify for the income tax credit, the revenue to the business
22 or businesses from the *child* care facility cannot exceed the direct operating
23 costs of the facility. If, on an annual basis, the *child* care facility
24 receives revenue which exceeds the direct operating costs of the facility, the
25 business(es) will not be entitled to the income tax credit. For the purposes
26 of this Act, direct operating costs means the cost of food and beverages
27 provided to the children; the cost of labor for personnel whose services are
28 performed exclusively on the premises of the *child* care facility for the care
29 of the children and all related employment taxes paid by the employer; and all
30 materials and supplies necessary to operate the *child* care facility.

31 (d) The income tax credit created by section (a) shall first be
32 available in the taxable year following the year the business makes payment of
33 wages to *child* care workers. To the extent that the credit is not fully
34 utilized in this first year, it may be carried forward for an additional two
35 (2) years. Any credit remaining thereafter shall expire."

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SECTION 4. The income tax provisions of this act shall be in full force and effect for all income tax years beginning on and after January 1, 1993. *The income tax credit provided by this act shall only be available to day care facilities which have an average daily attendance of children of employees of the facility in a number equal to at least eighty percent (80%) of the capacity of the facility.*

SECTION 5. The sales tax provisions of this act shall be in full force and effect on July 1, 1993.

SECTION 6. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 8. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 9. EMERGENCY. It is hereby found and determined by the General Assembly of this state that unemployment and economic underdevelopment has reached intolerable levels in certain portions of this state and the state as a whole has been unable to compete with other state's incentive programs for economic development, and, that the incentives afforded by this Act are critical to the development and expansion of job opportunities in the state. Therefore, an emergency is declared to exist and this act, being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

/s/ Senators Fitch, Bradford, and Gordon

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APPROVED: 4/1/93

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