

*As Engrossed: 3/11/93*

1 **State of Arkansas**

2 **79th General Assembly**

3 **Regular Session, 1993**

4 **By: Representatives Wagner, Hogue, Baker, McGee**

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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*."

17

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

1 business for the exclusive purpose of providing child care services to their  
2 employees, shall be exempt from the state compensating tax levied by this  
3 subchapter.

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

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

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

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

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

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

1 (2) years. Any credit remaining thereafter shall expire."  
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3 SECTION 4. The income tax provisions of this act shall be in full force  
4 and effect for all income tax years beginning on and after January 1, 1993.  
5 *The income tax credit provided by this act shall only be available to day care*  
6 *facilities which have an average daily attendance of children of employees of*  
7 *the facility in a number equal to at least eighty percent (80%) of the*  
8 *capacity of the facility.*  
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10 SECTION 5. The sales tax provisions of this act shall be in full force  
11 and effect on July 1, 1993.  
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13 SECTION 6. All provisions of this act of a general and permanent  
14 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
15 Code Revision Commission shall incorporate the same in the Code.  
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17 SECTION 7. If any provision of this act or the application thereof to  
18 any person or circumstance is held invalid, such invalidity shall not affect  
19 other provisions or applications of the act which can be given effect without  
20 the invalid provision or application, and to this end the provisions of this  
21 act are declared to be severable.  
22

23 SECTION 8. All laws and parts of laws in conflict with this act are  
24 hereby repealed.  
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26 SECTION 9. EMERGENCY. It is hereby found and determined by the General  
27 Assembly of this state that unemployment and economic underdevelopment has  
28 reached intolerable levels in certain portions of this state and the state as  
29 a whole has been unable to compete with other state's incentive programs for  
30 economic development, and, that the incentives afforded by this Act are  
31 critical to the development and expansion of job opportunities in the state.  
32 Therefore, an emergency is declared to exist and this act, being necessary for  
33 the preservation of the public peace, health and safety, shall be in full  
34 force and effect from and after its passage and approval.  
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/s/W. Wagner, et al