

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 850 OF 1995
SENATE BILL 589

4 **By: Senators Cassady, Scott, Fitch, and Bell**
5 **By: Representatives Roberts, Hogue, and Wagner**

For An Act To Be Entitled

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7
8 "AN ACT TO REPEAL ARKANSAS CODE 26-52-401(30) AND TO AMEND
9 VARIOUS SECTIONS OF THE ARKANSAS CODE TO CLARIFY THE
10 PROVISIONS RELATING TO THE REFUND OF SALES AND USE TAXES
11 PAID ON CONSTRUCTION MATERIALS AND FURNISHINGS FOR CERTAIN
12 CHILD CARE SERVICES FACILITIES AND THE PROVISIONS RELATING
13 TO INCOME TAX CREDITS FOR BUSINESSES WHICH PROVIDE CHILD
14 CARE SERVICES FOR EMPLOYEES; AND FOR OTHER PURPOSES."

Subtitle

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17 "TO CLARIFY PROVISIONS RELATING TO
18 REFUND OF TAXES ON CONSTRUCTION
19 MATERIALS FOR CHILD CARE SERVICES AND
20 RELATING TO TAX CREDITS FOR BUSINESSES
21 WHICH PROVIDE CHILD CARE SERVICES FOR
22 EMPLOYEES."

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

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26 SECTION 1. Ark. Code Ann. §6-45-109 is hereby amended to read as
27 follows:

28 "6-45-109. Certification by the Department of Education.

29 (a) The Arkansas Department of Education shall certify child care
30 facilities which have an appropriate early childhood program, as defined in §
31 6-45-103(2). Certification numbers shall be issued to those child care
32 facilities which meet the applicable qualifications.

33 (b) Upon certification of the child care facilities, the Department of
34 Education shall provide a listing of all certified facilities and their
35 certification numbers to the Director of the Department of Finance and
36 Administration for the purpose of the income tax credit or refund provided for

1 in § 26-51-507."

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3 SECTION 2. Ark. Code Ann. § 26-52-401(30) is repealed in its entirety.

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5 SECTION 3. Chapter 52 of Title 26 is amended by adding a new section to
6 read as follows:

7 "(a) A business which operates, or contracts for the operation of, a
8 child care facility for the primary purpose of providing child care services
9 to its employees may obtain a refund of the gross receipts tax paid on the
10 purchase of construction materials and furnishings used in the initial
11 construction and equipping of the child care facility after the facility is
12 licensed pursuant to Ark. Code Ann. § 20-78-201 et seq. and certified as
13 having an appropriate early childhood program pursuant to Ark. Code Ann. § 6-
14 45-109.

15 (b) Child care facility means a child care facility licensed pursuant
16 to Ark. Code Ann. § 20-78-201 et seq. To qualify as a child care facility,
17 the child care must provide an appropriate early childhood program as
18 defined in Ark. Code Ann. § 6-45-103(2). A child care facility may be
19 operated for the use of one (1) or more employers."

20

21 SECTION 4. Ark. Code Ann. § 26-53-132 is amended to read as follows:

22 "26-53-132. Refund for construction of child care facility.

23 (a) A business which operates, or contracts for the operations of, a
24 child care facility for the primary purpose of providing child care services
25 to its employees may obtain a refund of the compensating use tax paid on the
26 purchase of construction materials and furnishings used in the initial
27 construction and equipping of the child care facility after the facility is
28 licensed pursuant to Ark. Code Ann. § 20-78-201 et seq.

29 (b) Child care facility means a child care facility licensed pursuant
30 to Ark. Code Ann. § 20-78-201 et seq. To qualify as a child care facility,
31 the child care must provide an appropriate early childhood program as
32 defined in Ark. Code Ann. § 6-45-103(2). A child care facility may be
33 operated for the use of one (1) or more employers."

34

35 SECTION 5. Subchapter 5 of Chapter 51 of Title 26 of the Arkansas Code

1 of 1987 is hereby amended by adding a new section to read as follows:

2 "(a) A business which qualifies for the refund of the Gross Receipts
3 Tax or Compensating Use Tax under Section 3 or 4 of this Act shall be allowed
4 an income tax credit of three and nine-tenths percent (3.9%) of the annual
5 salary of its employees employed exclusively in providing child care service,
6 or a five thousand dollar (\$5,000) income tax credit for the first tax year
7 the business provides its employees with a child care facility.

8 (b) If two (2) or more businesses participate in a child care program
9 for their employees as provided by Section 3 or 4 of this Act, then each
10 business will be allowed an income tax credit of three and nine-tenths percent
11 (3.9%) of the annual salary of only those employees who are on the respective
12 business' payroll and are employed exclusively for providing child care
13 services. The first year five thousand dollar (\$5,000) credit will be
14 prorated among the businesses based upon the percentage of the cost paid by
15 each business for the initial construction and equipping of the child care
16 facility.

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

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

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34 SECTION 6. Arkansas Code § 26-51-507(e) is amended to read as follows:

35 "(e) The income tax provisions of this section shall be in full force

1 and effect for all income tax years beginning on and after January 1, 1993."

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3 SECTION 7. Arkansas Code § 26-51-507(f) is hereby repealed.

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5 SECTION 8. All provisions of this act shall become effective for
6 taxable years beginning January 1, 1995.

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8 SECTION 9. All provisions of this act of a general and permanent nature
9 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
10 Revision Commission shall incorporate the same in the Code.

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12 SECTION 10. If any provision of this act or the application thereof to
13 any person or circumstance is held invalid, such invalidity shall not affect
14 other provisions or applications of the act which can be given effect without
15 the invalid provision or application, and to this end the provisions of this
16 act are declared to be severable.

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18 SECTION 11. All laws and parts of laws in conflict with this act are
19 hereby repealed.

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21 SECTION 12. EMERGENCY CLAUSE. It is hereby found and determined by the
22 General Assembly that the State of Arkansas is in serious need to provide for
23 the health, welfare and education of the State's children by encouraging child
24 care facilities to offer an "appropriate early childhood program" and this Act
25 is designed to meet that need by providing tax incentives to encourage
26 construction of these facilities. Therefore, an emergency is hereby declared
27 to exist and this act being necessary for the preservation of the public
28 peace, health and safety shall be in full force and effect from and after its
29 passage and approval.

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31 /s/Cassady

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33 APPROVED: 3-31-95

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