

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

SENATE BILL 226

5 By: Senator M. Pitsch  
6 By: Representative Wing  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE INCOME TAX CREDIT ALLOWED FOR  
10 DONATIONS OR SALES OF MACHINERY AND EQUIPMENT TO  
11 CERTAIN EDUCATIONAL INSTITUTIONS; TO ALLOW AN INCOME  
12 TAX CREDIT FOR CASH DONATIONS TO CERTAIN EDUCATIONAL  
13 INSTITUTIONS FOR THE PURCHASE OF MACHINERY AND  
14 EQUIPMENT; TO CREATE AN APPLICATION PROCESS FOR BEING  
15 GRANTED AN INCOME TAX CREDIT FOR A DONATION OR SALE  
16 TO CERTAIN EDUCATIONAL INSTITUTIONS; AND FOR OTHER  
17 PURPOSES.  
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## Subtitle

21 TO AMEND THE INCOME TAX CREDIT ALLOWED  
22 FOR DONATIONS OR SALES OF MACHINERY AND  
23 EQUIPMENT TO CERTAIN EDUCATIONAL  
24 INSTITUTIONS.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. Arkansas Code § 26-51-1101(2), concerning the definitions  
30 used in relation to the treatment of donations or sales of equipment to  
31 educational institutions for income tax purposes, is amended to read as  
32 follows:

33 (2) "Cost" means:

34 (A) In the case of a donation or sale below cost by a  
35 wholesale or retail business, the amount actually paid by the wholesaler or  
36 retailer to the supplier for the machinery ~~or~~ and equipment; ~~or~~



1 (B) In the case of a donation or sale below cost by a  
 2 manufacturer of machinery ~~or~~ and equipment, the enhanced value of the  
 3 materials used to produce the machinery ~~or~~ and equipment, which shall be  
 4 deemed to be the lowest price at which the manufacturer sells the machinery  
 5 ~~or~~ and equipment; or

6 (C) In the case of a cash donation by a taxpayer to a  
 7 qualified educational institution for the purchase of new machinery and  
 8 equipment, the amount actually paid by the qualified educational institution  
 9 to the wholesale, retail, or manufacturing business, as documented by  
 10 itemized receipts;

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 12 SECTION 2. Arkansas Code § 26-51-1101(5)-(6), concerning the  
 13 definitions used in relation to the treatment of donations or sales of  
 14 equipment to educational institutions for income tax purposes, are amended to  
 15 read as follows:

16 (5) “Qualified education program” means a program conducted by a  
 17 qualified educational institution under rules prescribed by the Department of  
 18 Higher Education for programs in colleges, universities, or junior colleges,  
 19 by the Department of ~~Workforce~~ Career Education for programs in vocational  
 20 technical training schools and by the Department of Education for programs in  
 21 ~~elementary~~ ~~or~~ secondary schools, all of which programs are for the purpose of  
 22 promoting the use of new machinery and equipment for classroom, laboratory,  
 23 and other educational instruction;

24 (6) “Qualified educational institution” means:

25 (A) ~~Any~~ A public university, college, junior college, or  
 26 vocational technical training school located in and supported by the State of  
 27 Arkansas;

28 (B) ~~Any~~ A private university, college, junior college, or  
 29 vocational technical training school located in Arkansas and qualified for  
 30 tax-exempt status under the Income Tax Act of 1929, § 26-51-101 et seq.; ~~or~~  
 31 and

32 (C) ~~Any~~ A public ~~elementary~~ ~~or~~ secondary school;

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 34 SECTION 3. Arkansas Code § 26-51-1101(8), concerning the definitions  
 35 used in relation to the treatment of donations or sales of equipment to  
 36 educational institutions for income tax purposes, is amended to read as

1 follows:

2 (8) "Qualified research program" means a program of applied or  
3 basic research undertaken by a qualified educational institution ~~pursuant to~~  
4 under rules jointly prescribed promulgated by the ~~Division of Science and~~  
5 ~~Technology~~ Executive Director of the Arkansas Economic Development Commission  
6 and the Department of Higher Education under § 15-3-110;

7  
8 SECTION 4. Arkansas Code § 26-51-1102(a), concerning the income tax  
9 credit granted in relation to donations or sales of equipment to educational  
10 institutions, is amended to read as follows:

11 (a)(1) There is granted a credit against a taxpayer's Arkansas  
12 corporate income tax or Arkansas individual income tax for ~~donations by any~~  
13 ~~taxpayer~~ the following types of donations or sales, or both, of new machinery  
14 and equipment to a qualified educational institution in connection with a  
15 qualified education program or a qualified research program:

16 (A) Donations of new machinery ~~or~~ and equipment; ~~and for~~  
17 ~~sales~~

18 (B) Sales below cost of machinery and equipment by  
19 ~~taxpayers to qualified educational institutions in connection with a~~  
20 ~~qualified education program or a qualified research program; and~~

21 (C) Cash donations for the purchase of new machinery and  
22 equipment by a qualified educational institution.

23 (2) The amount of the credit granted by this section shall be:

24 (A) In the case of a donation, thirty-three percent (33%)  
25 of the cost of the machinery and equipment donated; ~~and~~

26 (B) In the case of a sale below cost, thirty-three percent  
27 (33%) of the amount by which the cost is reduced; and

28 (C) In the case of a cash donation, thirty-three percent  
29 (33%) of the amount of the cash donation used by the qualified educational  
30 institution to purchase new machinery and equipment from a wholesale, retail,  
31 or manufacturing business.

32  
33 SECTION 5. Arkansas Code §§ 26-51-1104 and 26-51-1105 are amended to  
34 read as follows:

35 26-51-1104. Documentation required.

36 (a) To claim the credit granted by § 26-51-1102, the taxpayer ~~must~~

1 shall provide the following for each piece of machinery and equipment  
 2 donated, ~~or~~ sold below cost, or purchased by a qualified educational  
 3 institution with a cash donation:

4 (1) ~~A statement~~ An affidavit from the receiving qualified  
 5 educational institution that ~~it~~:

6 (A) The qualified educational institution has received the  
 7 machinery ~~or~~ and equipment; ~~that the~~

8 (B) The machinery ~~or~~ and equipment is new machinery ~~or~~ and  
 9 equipment within the meaning of this subchapter; ~~that it~~

10 (C) The qualified educational institution received the  
 11 machinery ~~or~~ and equipment as a donation or, if ~~it~~ the qualified educational  
 12 institution purchased the machinery ~~or~~ and equipment ~~below cost~~, a statement  
 13 of the amount paid for the machinery ~~or~~ and equipment; and ~~that the~~

14 (D) The machinery ~~or~~ and equipment has been donated,  
 15 purchased by the qualified educational institution with a cash donation  
 16 provided by a taxpayer, or sold to the qualified educational institution for  
 17 use in a qualified education program or a qualified research program; and

18 (2)(A) In the case of a donation or sale by a retail or  
 19 wholesale business, a copy of the invoice from the business' supplier showing  
 20 the actual cost of the machinery ~~or~~ and equipment.

21 (B) In the case of a donation or sale below cost by a  
 22 manufacturer, a copy of the manufacturer's wholesale price list showing the  
 23 lowest price of the machinery ~~or~~ and equipment for which credit is claimed.

24 (C) In the case of a purchase by a qualified educational  
 25 institution with a cash donation, itemized receipts documenting the amount of  
 26 the cash donation and the purchase costs of the new machinery and equipment.

27 (b) To claim the credit granted by § 26-51-1102, the taxpayer ~~must~~  
 28 shall show that the ~~Division of Science and Technology~~ Executive Director of  
 29 the Arkansas Economic Development Commission and the Director of the  
 30 Department of Higher Education have approved the qualified research  
 31 expenditure as a part of a qualified research program.

32 (c) Copies of each of the above documents shall be filed by the  
 33 taxpayer with the Arkansas Economic Development Commission and with his or  
 34 her return as an attachment to the form prescribed by the Director of the  
 35 Department of Finance and Administration.

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1           26-51-1105. Rules ~~and regulations~~.

2           The Director of the Department of Finance and Administration, the  
3 Director of the Department of Higher Education, the Director of the  
4 Department of Career Education, ~~the Director of the Department of Workforce~~  
5 ~~Education~~ the Commissioner of the Department of Education, and the Executive  
6 Director of the Arkansas Economic Development Commission shall jointly  
7 promulgate ~~such reasonable rules as they shall deem necessary and appropriate~~  
8 to carry out the purposes of this subchapter.

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10           SECTION 6. Arkansas Code Title 26, Chapter 51, Subchapter 11, is  
11 amended to add an additional section to read as follows:

12           26-51-1106. Application for credit approval.

13           (a) To apply for a credit under this subchapter, a taxpayer shall  
14 submit an original application and one (1) copy to the Executive Director of  
15 the Arkansas Economic Development Commission on the forms prescribed by the  
16 executive director.

17           (b) The executive director shall review each application submitted  
18 under this subchapter and shall either:

19                   (1) Approve the application; or

20                   (2) Reject the application and notify the applicant of the  
21 deficiencies in the application.

22           (c) An applicant that receives approval from the executive director  
23 under this section shall sign a financial incentive agreement outlining the  
24 terms and conditions of the credit granted under this subchapter.

25           (d) An applicant may resubmit a rejected application after addressing  
26 any deficiencies identified by the executive director.

27           (e) For an application submitted on or after the effective date of  
28 this act, an expenditure incurred before the approval date of the financial  
29 incentive agreement required under subsection (b) of this section shall be  
30 denied a credit under this subchapter.

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33                                   **APPROVED: 2/26/19**  
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