

**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 83rd General Assembly  
3 Regular Session, 2001  
4

*As Engrossed: S3/28/01 S4/2/01*

# A Bill

**Act 1661 of 2001**  
SENATE BILL 972

5 By: Senators Cash, DeLay, *J. Jeffress, Horn*  
6 By: Representatives D. Elliott, Files, *Bolin, Cowling*  
7

## For An Act To Be Entitled

10 AN ACT TO PROVIDE AN ALTERNATIVE INCENTIVE TO THE  
11 ECONOMIC INVESTMENT TAX CREDIT ACT FOR EXISTING  
12 MANUFACTURING FIRMS IN ARKANSAS TO INVEST IN NEW  
13 PLANTS AND EQUIPMENT IN ORDER TO MODERNIZE AND  
14 STAY COMPETITIVE; TO ENCOURAGE MANUFACTURING  
15 FIRMS TO REMAIN IN BUSINESS IN THE STATE RATHER  
16 THAN DIVEST ARKANSAS OPERATIONS AND EXPAND  
17 ELSEWHERE; TO RETAIN AND CREATE JOBS; TO GRANT A  
18 CREDIT AGAINST STATE INCOME TAX FOR PURCHASES  
19 MADE AS PART OF CERTAIN QUALIFIED PROJECTS; TO  
20 PROVIDE FOR THE ADMINISTRATION OF THE  
21 MANUFACTURER'S INVESTMENT TAX CREDIT; AND FOR  
22 OTHER PURPOSES.

## Subtitle

24 THE MANUFACTURER'S INVESTMENT TAX CREDIT  
25 ACT OF 2001.  
26

27  
28  
29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

30  
31 SECTION 1. Title.

32 This act may be known and cited as the "Manufacturer's Investment Tax  
33 Credit Act".  
34

35 SECTION 2. Definitions.

36 For purposes of this act:

1           (1) "Director" means the Director of the Arkansas Department of  
2 Economic Development;

3           (2) "Eligible business" means any person engaged in a business  
4 classified as manufacturing-paper and allied products in Federal Standard  
5 Industrial Classification Code 26, that has been in continuous operation in  
6 Arkansas for at least two (2) years prior to the initial application to the  
7 Director of the Department of Economic Development for income tax credits  
8 under the provision of this act;

9           (3) "Modernization" means to increase efficiency or to increase  
10 productivity of the business through investment in machinery or equipment, or  
11 both, and shall not include costs for routine maintenance;

12           (4) "Person" means a person as defined by Arkansas Code 26-18-104;

13           (5) "Project" means any construction, expansion or modernization in  
14 Arkansas by an eligible business and the investment by the eligible business  
15 shall exceed one hundred million dollars (\$100,000,000) between the effective  
16 date of this act and December 31, 2004 for projects involving either single  
17 or multiple locations within the State of Arkansas, including the cost of the  
18 land, buildings, and equipment used in the construction, expansion, or  
19 modernization and which construction, expansion, or modernization has been  
20 approved by the Arkansas Department of Economic Development as a  
21 construction, expansion, or modernization project which qualifies for the  
22 credit under the provisions of this act; and

23           (6) "Routine maintenance" means the replacement of existing machinery  
24 parts with like parts.

25  
26           SECTION 3. Precluded provisions supplemental.

27           (a) Recipients of benefits under this act are precluded from receiving  
28 benefits under the Arkansas Enterprise Zone Act of 1993 for the same project.

29           (b) Recipients of benefits under this act are precluded from receiving  
30 benefits under the Economic Investment Tax Credit Act for the same project.

31  
32           SECTION 4. Credit granted.

33           There is granted a credit against the state income tax liability of an  
34 eligible business of seven percent (7%) of the amount of the total project  
35 cost of any project, subject to the limit set out in section 5 of this act.

36

1           SECTION 5. Qualification and determination of credit.

2           (a)(1) In order to qualify for and receive the credits afforded by  
3 this act, any eligible business undertaking a project shall submit a project  
4 plan to the Director of the Arkansas Department of Economic Development at  
5 least thirty (30) calendar days prior to the start of construction.

6           (2) The plan submitted to the department shall contain such  
7 information as may be required by the director to determine eligibility.

8           (b)(1) Upon determination by the director that the project qualifies  
9 for credit under this act, the director shall certify to the Director of the  
10 Department of Finance and Administration that the project is qualified and  
11 transmit with his or her certification the documents upon which the  
12 certification was based, or copies.

13           (2) Upon receipt by the Director of the Department of Finance  
14 and Administration of a certification from the director that an eligible  
15 business is entitled to credit under this act, the Director of the Department  
16 of Finance and Administration shall provide forms to the eligible business on  
17 which to claim the credit.

18           (c)(1) At the end of the calendar year in which the application was  
19 made to the director and at the end of each calendar year thereafter until  
20 the project is completed, the eligible business shall certify, on the form  
21 provided by the Director of the Department of Finance and Administration, the  
22 amount of expenditures on the project during the preceding calendar year.

23           (2)(A) Upon receipt of the form certifying expenditures, the  
24 Director of the Department of Finance and Administration shall determine the  
25 amount due as a credit for the preceding calendar year and issue a memorandum  
26 of credit to the eligible business in the amount of seven percent (7%) of the  
27 expenditure.

28           (B)(i) Except as provided in Section 7, the credit shall  
29 then be applied against the eligible business' state income tax liability in  
30 the year following the year of the expenditure. However, if the credit is  
31 not used in the calendar year following the expenditure, it may be carried  
32 over to the next succeeding calendar year for a total period of six (6) years  
33 following the year in which the credit was first available for use, or until  
34 the credit is exhausted, whichever occurs first.

35           (ii) In no event shall the credit used on any  
36 regular return be more than fifty percent (50%) of the eligible business'

1 total state income tax liability for the reporting period.

2 (iii) The Director of the Department of Finance and  
3 Administration may require proof of these expenditures.

4 (iv) The Director of the Department of Finance and  
5 Administration may examine those records necessary and specific to the  
6 project to determine credit eligibility. Any credits disallowed shall be  
7 subject to payment in full.

8 (d) In order to receive credit for project costs, the costs must be  
9 incurred within five (5) years from the date of certification of the project  
10 plan by the director.

11  
12 SECTION 6. Administration.

13 (a) Persons claiming credit under this act are "taxpayers" within the  
14 meaning of Arkansas Code 26-18-104 and shall be subject to all applicable  
15 provisions of that statute.

16 (b) Administration of the provisions of this act shall be under the  
17 provisions of the Arkansas Tax Procedure Act.

18 (c) The director shall also have authority to promulgate such rules  
19 and regulations as are necessary to carry out the intent and purposes of this  
20 act.

21  
22 *SECTION 7. The state income tax credit provided by this act shall not*  
23 *be claimed on any income tax return filed or required by law to be filed*  
24 *prior to July 1, 2003. State income tax credits arising under this act*  
25 *which, but for the provisions of this section, would be available to be*  
26 *claimed on an income tax return required to be filed before July 1, 2003,*  
27 *shall first be available on income tax returns due after July 1, 2003 and*  
28 *shall be subject to the same carryover provisions for unused credits as*  
29 *otherwise provided in this act.*

30  
31 SECTION 8. Arkansas Code 26-52-703 is amended to read as follows:  
32 26-52-703. Precluded provisions supplemental

33 (a) Recipients of benefits under this subchapter are precluded from  
34 receiving benefits under the Arkansas Enterprise Zone Act of 1993, § 15-4-  
35 1701, et seq., for the same project.

36 (b) Recipients of benefits under this subchapter are precluded from

1 receiving benefits under the Arkansas Manufacturer's Investment Tax Credit  
2 Act of 2001 for the same project.

3 /s/ Cash

4

5

6

APPROVED: 4/16/2001

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36