

1 State of Arkansas  
2 93rd General Assembly  
3 Second Extraordinary Session, 2021  
4

# A Bill

Call Item 7  
SENATE BILL 10

5 By: Senator D. Wallace  
6 By: Representatives Jett, M. Hodges, Rye  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND CERTAIN TAX INCENTIVES; TO AMEND THE  
10 INCOME TAX CREDIT FOR WASTE REDUCTION, REUSE, OR  
11 RECYCLING EQUIPMENT; TO CLARIFY THE DISTRIBUTION OF  
12 INCOME TAX CREDITS FOR WASTE REDUCTION, REUSE, OR  
13 RECYCLING EQUIPMENT; AND FOR OTHER PURPOSES.  
14  
15

## Subtitle

16 TO AMEND THE INCOME TAX CREDIT FOR WASTE  
17 REDUCTION, REUSE, OR RECYCLING EQUIPMENT.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. DO NOT CODIFY. Legislative findings.

24 The General Assembly finds that:

25 (1) Arkansas is one (1) of the leading producers of steel in the  
26 United States, and Mississippi County, Arkansas is ranked as one (1) of the  
27 top highest steel-producing counties in the United States;

28 (2) The steel industry in the United States is highly  
29 competitive, and there are presently rising prices and a high level of demand  
30 for raw materials in the domestic market;

31 (3) There is a need for the reshoring of well-paying  
32 manufacturing jobs, and Arkansas has an unprecedented opportunity to utilize  
33 existing incentive programs that are intended to encourage investment in this  
34 state to capitalize on this trend;

35 (4) When considering where to place new American manufacturing  
36 jobs, companies will consider the availability of incentives and credits; and



1           (5) In order to continue to attract well-paying manufacturing  
2 jobs to the State of Arkansas and encourage continuing capital investment by  
3 steel producers in this state, adjustments in the recycling tax credit are  
4 appropriate to allow the recycling tax credit to be utilized more fully to  
5 accomplish the purpose for which the recycling tax credit is intended.  
6

7           SECTION 2. Arkansas Code 26-51-506(b), concerning the definitions used  
8 in the income tax credit for waste reduction, reuse, or recycling equipment,  
9 is amended to add an additional subdivision to read as follows:

10           (17) "Qualified growth project" means a steel mill facility  
11 that:

12                   (A) Has common controlling ownership interest with a  
13 qualified manufacturer of steel as defined in § 26-51-1211, § 26-52-911, Acts  
14 2013, No. 1084, or Acts 2013, No. 1476 at the time the facility commenced  
15 operation;

16                   (B) Is commenced on or after January 1, 2021;

17                   (C) Is conducted on the site of or adjacent to a qualified  
18 manufacturer of steel, as defined in § 26-51-1211, § 26-52-911, Acts 2013,  
19 No. 1084, or Acts 2013, No. 1476;

20                   (D) Has a total investment of at least two billion dollars  
21 (\$2,000,000,000);

22                   (E)(i) Is undertaken by a taxpayer that has entered into  
23 an agreement with the State of Arkansas in which the taxpayer made a  
24 commitment to create at least seven hundred (700) net new direct positions  
25 with an average annual wage of at least one hundred twenty thousand dollars  
26 (\$120,000) and two hundred (200) net new independent direct positions with an  
27 average annual wage of at least sixty thousand dollars (\$60,000).

28                           (ii) As used in subdivision (b)(17)(E)(i) of this  
29 section, "direct positions" and "independent direct positions" mean the same  
30 as defined in Acts 2013, No. 1084, § 8;

31                   (F) Provides a positive cost-benefit analysis to the State  
32 of Arkansas as determined by the Arkansas Economic Development Commission and  
33 the Office of Economic Analysis and Tax Research of the Department of Finance  
34 and Administration before an incentive agreement between the state and the  
35 taxpayer is executed;

36                   (G) Is certified as having a closing date before July 1,

1 2023, by which the taxpayer has certified and the state has verified that  
 2 necessary capital acquisition and borrowing for the qualified growth project  
 3 have occurred to:

4 (i) Secure a site;

5 (ii) Obtain engineering services;

6 (iii) Purchase equipment; and

7 (iv) Commence initial construction; and

8 (H) Is undertaken by a taxpayer that has elected by  
 9 agreement with the State of Arkansas for the taxpayer's facility to be  
 10 classified as a qualified growth project under this section.

11  
 12 SECTION 3. Arkansas Code 26-51-506(c)(3)(B), concerning the income tax  
 13 credit for waste reduction, reuse, or recycling equipment, is amended to read  
 14 as follows:

15 (B) Up to the following amounts of credit against tax or  
 16 an amount equal to the tax imposed by the Income Tax Act of 1929, § 26-51-101  
 17 et seq., whichever is less, issued to the taxpayer making the purchases of  
 18 waste reduction, reuse, or recycling equipment under subdivision (c)(1) of  
 19 this section may be claimed each tax year if the tax credits are allowed with  
 20 respect to a qualified steel specialty products manufacturing facility that  
 21 is owned by a taxpayer that, at the time of the agreement described in  
 22 subdivision (b)(11)(E) of this section or a qualified growth project that is  
 23 owned by a taxpayer that, at the time of the agreement described in  
 24 subdivision (b)(17)(E) of this section, is a proprietorship, partnership,  
 25 limited liability company, or other business organization treated as a  
 26 proprietorship or partnership for tax purposes, and that, as of the end of  
 27 the taxable year in which such tax credits are first allowed, does not have a  
 28 public retirement system of the State of Arkansas as a proprietor, partner,  
 29 member, or shareholder:

30 (i) For a total investment in the qualified steel  
 31 specialty products manufacturing facility of at least two hundred million  
 32 dollars (\$200,000,000) but less than two hundred seventy-five million dollars  
 33 (\$275,000,000), four million dollars (\$4,000,000);

34 (ii) For a total investment in the qualified steel  
 35 specialty products manufacturing facility of at least two hundred seventy-  
 36 five million dollars (\$275,000,000) but less than three hundred fifty million

1 dollars (\$350,000,000), five million dollars (\$5,000,000); ~~and~~

2 (iii) For a total investment in the qualified steel  
3 specialty products manufacturing facility of at least three hundred fifty  
4 million dollars (\$350,000,000), six million five hundred thousand dollars  
5 (\$6,500,000); and

6 (iv) For a qualified growth project, the lesser of  
7 the amount allowed under the incentive agreement between the taxpayer and the  
8 state or eleven million dollars (\$11,000,000).

9  
10 SECTION 4. Arkansas Code 26-51-506(c)(3)(D)(i)-(vi), concerning the  
11 income tax credit for waste reduction, reuse, or recycling equipment, are  
12 amended to read as follows:

13 (D)(i) If tax credits are allowed under this section with  
14 respect to a qualified expansion project ~~or~~, a qualified steel specialty  
15 products manufacturing facility, or a qualified growth project of a taxpayer  
16 that, at the time of the agreement described in subdivision (b)(10)(D) of  
17 this section for a qualified expansion project, ~~or~~ subdivision (b)(11)(E) of  
18 this section for a qualified specialty steel products manufacturing facility,  
19 or subdivision (b)(17)(E) of this section for a qualified growth project, is  
20 a proprietorship, partnership, limited liability company, or other business  
21 organization treated as a proprietorship or partnership for tax purposes, and  
22 any portion of the tax credits under this section would be apportioned to a  
23 public retirement system of the State of Arkansas as a proprietor, partner,  
24 member, or shareholder of the taxpayer, the public retirement system shall  
25 have the possession and control of all tax credits that are subject to  
26 subdivision (c)(3)(F)(i)(b) of this section, including any such tax credits  
27 otherwise apportioned to the other proprietors, partners, members,  
28 shareholders, or beneficiaries allowed under this section.

29 (ii) The possession and control of the tax credits  
30 by the public retirement system under this subdivision (c)(3)(D) shall be  
31 confirmed in writing by a legal opinion issued by the department under the  
32 rules promulgated by the department.

33 (iii)(a) The public retirement system shall sell or  
34 transfer for value the tax credits allowed under this ~~section~~ subdivision  
35 (c)(3)(D) to the State of Arkansas for eighty percent (80%) of the face  
36 value, in lieu of the right of a proprietor, partner, member, shareholder, or

1 beneficiary of the qualified expansion project ~~or~~ the qualified steel  
 2 specialty products manufacturing facility, or the qualified growth project to  
 3 claim the tax credits under subdivision (c)(3)(D) as allowed pursuant to  
 4 applicable state law.

5 (b) Subject to the total recycling tax credit  
 6 certification for a qualified expansion project, the maximum amount of tax  
 7 credits allowed under the agreement between the taxpayer and the state, and  
 8 the annual transfer by the Arkansas Economic Development Commission as agreed  
 9 by the state and the taxpayer, no more than eleven million dollars  
 10 (\$11,000,000) of the tax credits in possession and control of the public  
 11 retirement system with respect to a qualified expansion project under  
 12 subdivision (c)(3)(D)(i) of this section may be sold or transferred each  
 13 year.

14 (c) No more than the following amounts of the  
 15 tax credits in possession and control of the public retirement system  
 16 pursuant to this subdivision (c)(3)(D) with respect to a qualified steel  
 17 specialty products manufacturing facility pursuant to subdivision  
 18 (c)(3)(D)(i) of this section may be sold or transferred each year:

19 (1) For a total investment in the  
 20 qualified steel specialty products manufacturing facility of at least two  
 21 hundred million dollars (\$200,000,000) but less than two hundred seventy-five  
 22 million dollars (\$275,000,000), four million dollars (\$4,000,000);

23 (2) For a total investment in the  
 24 qualified steel specialty products manufacturing facility of at least two  
 25 hundred seventy-five million dollars (\$275,000,000) but less than three  
 26 hundred fifty million dollars (\$350,000,000), five million dollars  
 27 (\$5,000,000); ~~and~~

28 (3) For a total investment in the  
 29 qualified steel specialty products manufacturing facility of at least three  
 30 hundred fifty million dollars (\$350,000,000), six million five hundred  
 31 thousand dollars (\$6,500,000) ~~+~~; and

32 (4) Subject to the maximum amount of tax  
 33 credits allowed to be sold under the agreement between the taxpayer and the  
 34 state, and the annual transfer by the Arkansas Economic Development  
 35 Commission as agreed by the state and the taxpayer, eleven million dollars  
 36 (\$11,000,000) of the tax credits to be sold or transferred that are in the

1 possession and control of the public retirement system, with respect to a  
 2 qualified growth project under subdivision (c)(3)(D)(i) of this section.

3 (iv) Any unused tax credit that cannot be sold or  
 4 transferred in a tax year by the operation of subdivision (c)(3)(D)(iii) of  
 5 this section may be carried forward as allowed by law. If a tax credit amount  
 6 disallowed by operation of subdivision (c)(3)(D)(iii) of this section would  
 7 otherwise expire, the carry-forward period for such unused tax credit shall  
 8 instead be extended each year, for one (1) additional year at a time, to  
 9 preserve the ability of the public retirement system to sell or transfer all  
 10 unused tax credits in future years.

11 (v) ~~Beginning July 1, 2020, by~~ Between July 1 and  
 12 July 15 of each year, the public retirement system with possession and  
 13 control of the tax credits under this subdivision (c)(3)(D) shall provide  
 14 notice to the department of the amount of tax credits, including tax credits  
 15 expected to receive certification during the fiscal year by the Division of  
 16 Environmental Quality, subject to the limitations in subdivision  
 17 (c)(3)(D)(iii) of this section, to be sold or transferred for value.

18 (vi) The State of Arkansas shall pay the purchase  
 19 price equal to eighty percent (80%) of the face value of all of the tax  
 20 credits included in the notice required in subdivision (c)(3)(D)(v) of this  
 21 section on or before June 30 of the calendar year following the calendar year  
 22 in which the notice was provided for all tax credits certified by the  
 23 Division of Environmental Quality ~~by June 30 of the calendar year following~~  
 24 ~~the calendar year in which the notice was provided~~ by warrant from the  
 25 Economic Development Incentive Fund funded by a transfer from general  
 26 revenue.

27  
 28 SECTION 5. Arkansas Code § 26-51-506(c)(3)(E), concerning the income  
 29 tax credit for waste reduction, reuse, or recycling equipment, is amended to  
 30 read as follows:

31 (E) An expansion project or a manufacturing facility that  
 32 does not meet the requirements to be a qualified expansion project, ~~or a~~  
 33 qualified steel specialty products manufacturing facility, or a qualified  
 34 growth project is not subject to this subdivision (c)(3) and is eligible to  
 35 receive the tax credits otherwise provided in this section and § 26-51-1215.

36

1 SECTION 6. Arkansas Code § 26-51-506(c)(3)(F), concerning the income  
2 tax credit for waste reduction, reuse, or recycling equipment, is amended to  
3 add an additional subdivision as follows:

4 (iii)(a) If a qualified growth project that, at the  
5 time of the agreement described in subdivision (b)(17)(E) of this section, is  
6 a proprietorship, partnership, limited liability company, or other business  
7 organization treated as a proprietorship or partnership for tax purposes, and  
8 that has any portion of the tax credits under this subdivision (c)(3) of this  
9 section that would be apportioned to a public retirement system of the State  
10 of Arkansas as a proprietor, partner, member, or shareholder of the taxpayer,  
11 would qualify for an amount of recycling tax credit under subsection (e) of  
12 this section in excess of the amount authorized in subdivision  
13 (c)(3)(F)(i)(b) of section, the amount of credits in excess of the amount  
14 authorized in subdivision (c)(3)(F)(i)(b) shall be:

15 (1) Acknowledged as part of the  
16 incentive agreement executed between the taxpayer and the State of Arkansas;

17 (2) In the possession and control of the  
18 taxpayer making the purchases of waste reduction, reuse, or recycling  
19 equipment notwithstanding subdivision (c)(3)(D)(i); and

20 (3) Claimed by the taxpayer making the  
21 purchases of waste reduction, reuse, or recycling equipment as a credit  
22 against each tax year in the lesser of twenty-seven million five hundred  
23 thousand dollars (\$27,500,000) or the amount equal to the tax imposed by the  
24 Income Tax Act of 1929, § 26-51-101 et seq.

25 (b) Any unused tax credit that cannot be  
26 claimed in a tax year by operation of subdivision (c)(3)(F)(iii)(a)(3) of  
27 this section may be carried forward as allowed by law. If the tax credit  
28 amount disallowed by operation of subdivision (c)(3)(F)(iii)(a)(3) of this  
29 section would otherwise expire, the carry-forward period for such unused tax  
30 credit shall be extended each year, for one (1) additional year at a time, to  
31 preserve the ability of the taxpayer to apply the unused tax credit to future  
32 tax liability.

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35 **APPROVED: 12/9/21**  
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