

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: H3/19/01 H3/21/01

## A Bill

HOUSE BILL 2537

5 By: Representative Gillespie  
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### For An Act To Be Entitled

9 AN ACT TO PROVIDE A SALES AND USE TAX REFUND AND  
10 INCOME TAX CREDITS FOR QUALIFIED PUMPED STORAGE  
11 PROJECTS; TO PRESCRIBE THE CONDITIONS UNDER WHICH  
12 TAX CREDITS OR REFUNDS MIGHT BE EARNED; AND FOR  
13 OTHER PURPOSES.  
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### Subtitle

15 AN ACT TO PROVIDE SALES AND USE TAX  
16 REFUNDS AND INCOME TAX CREDITS TO  
17 QUALIFIED PUMPED STORAGE PROJECTS.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Definitions. For the purposes of this act:

25 (1) "Average hourly wage" means the average wage of the net new full-  
26 time permanent employees based on payroll for the most recent quarter  
27 reported to the Arkansas Employment Security Department and is computed by  
28 using the total of the net new full-time permanent employee's reported  
29 taxable earnings, including overtime pay and one-quarter (1/4) of the  
30 employee's annual bonus amount, divided by the number of weeks worked during  
31 the most recent quarter, divided by the average hours worked per week per net  
32 new full-time permanent employee;

33 (2) "Endorsement resolution" means a resolution passed by a city  
34 council or quorum court approving the location and operation of the qualified  
35 pumped storage project and indicating whether the project is authorized to  
36 receive a refund of any applicable local sales and use taxes;

1 (3) "Existing employees" means those employees hired by the business  
2 prior to the date of the endorsement resolution;

3 (4)(A)(i) "Net new full-time permanent employee" means a position or  
4 job which is filled by one (1) or more employees or contractual employees who  
5 were Arkansas taxpayers during the year in which the tax credits or  
6 incentives were earned.

7 (ii) The position or job held by the employee or employees  
8 shall have been filled for at least twenty-six (26) consecutive weeks with an  
9 average of at least thirty (30) hours per week.

10 (B) However, in order to qualify for the provisions of this act,  
11 a contractual employee shall be offered a benefits package comparable to a  
12 direct employee of the qualified pumped storage project seeking incentives  
13 under this act.

14 (C) Employees shall not have been claimed for tax credits or  
15 incentives under this act during the preceding taxable year.

16 (D) The number of net new full-time permanent employees shall be  
17 equal to the total number of new full-time permanent employees for the  
18 current year minus the total number of new full-time permanent employees for  
19 the previous tax year; and

20 (5) "Qualified pumped storage project" means:

21 (A) All activities and costs associated with the construction of  
22 a new facility with a generating capacity of at least four hundred (400)  
23 megawatts of electricity by releasing stored water to turn turbines; and

24 (B) A pumped storage facility costing in excess of fifty million  
25 dollars (\$50,000,000).

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27 SECTION 2. Refund of sales and use tax – Tax credit.

28 (a) The Revenue Division of the Department of Finance and  
29 Administration shall authorize a refund of sales and use taxes imposed by the  
30 state and a municipality or county, if the municipality or county authorized  
31 the refund of its local tax on the purchases of the material used in the  
32 construction of a qualified pumped storage project, or any buildings or  
33 equipment necessary for the operations of the project.

34 (b) In order to qualify for the benefits of subsection (a) and  
35 subsection (g) of this section, a qualified pumped storage project shall  
36 create ten (10) or more net new full-time permanent jobs.

1 (c)(1) The qualified pumped storage project shall file an endorsement  
2 resolution with the Department of Finance and Administration.

3 (2) The endorsement resolution shall be approved by the  
4 governing body of a municipality or county in whose jurisdiction the  
5 qualified pumped storage project is located and shall:

6 (A) Approve the specific entity's location and operation  
7 in the municipality or county; and

8 (B)(i) Specifically state whether the municipality or  
9 county authorizes the Department of Finance and Administration to refund  
10 local sales and use taxes to the qualified pumped storage project.

11 (ii) A municipality or county may authorize the  
12 refund of all or part of a tax levied by it, but shall not authorize the  
13 refund of any tax not levied by it.

14 (d) In order to receive a credit for project costs, the costs shall be  
15 incurred within five (5) years after the date of the endorsement resolution.

16 (e) In the event it is found that a qualified pumped storage project  
17 receiving the benefits contained in subsection (a) of this section has failed  
18 to comply with the conditions contained in subsections (b) and (c) of this  
19 section, the qualified pumped storage project shall be liable for the payment  
20 of all sales and use taxes which were refunded under subsection (a) of this  
21 section.

22 (f)(1) In the event that a qualified pumped storage project fails to  
23 notify the Department of Finance and Administration that the number of  
24 employees has fallen below the required number to continue to receive  
25 benefits under this subchapter, that qualified pumped storage project shall  
26 be liable for the repayment of all benefits which were paid to the qualified  
27 pumped storage project after it no longer qualified for the benefits.

28 (2) Interest shall also be due at the rate of ten percent (10%)  
29 per annum.

30 (g)(1) The requisite number of net new full-time permanent employees  
31 shall be employed by the qualified pumped storage project within sixty (60)  
32 months following the date of the endorsement resolution.

33 (2)(A) In the event that the requisite number of net new full-  
34 time permanent employees cannot be employed within the sixty (60) month  
35 period, the qualified pumped storage project may file a written application  
36 with the Commissioner of Revenues explaining why additional time is

1 necessary.

2 (B) The qualified pumped storage project may be given an  
3 additional twenty-four (24) months to hire the requisite number of employees  
4 if the Commissioner of Revenues finds that the need for additional time is  
5 due to:

6 (i) Unanticipated and unavoidable delay in the  
7 construction of the project before the employees can be hired;

8 (ii) The project as originally planned will require  
9 more than sixty (60) months to complete; or

10 (iii) A change in the ownership or business  
11 structure due to a merger or acquisition.

12 (h)(1) The Revenue Division of the Department of Finance and  
13 Administration shall authorize an income tax credit equal to one hundred  
14 (100) times the hourly average wage paid, with a maximum of three thousand  
15 dollars (\$3,000) per net new full-time permanent employee of a qualified  
16 pumped storage project qualifying under this act.

17 (2)(A) This tax credit shall be used for the taxable year in  
18 which the net new full-time permanent employee was hired.

19 (B) However, for qualified pumped storage projects with an  
20 endorsement resolution dated after March 1, 2001, the credit may be applied  
21 against income tax for the succeeding nine (9) years or until the credit is  
22 entirely used, whichever occurs first.

23 (i)(1) An income tax credit as provided for in this section shall be  
24 authorized, provided that:

25 (A) The request for the credit is accompanied by an  
26 endorsement resolution approved by the governing body of the appropriate  
27 municipality or county in whose jurisdiction the qualified pumped storage  
28 facility is to be located; and

29 (B) All of the net new full-time permanent employees are  
30 employed at the qualified pumped storage facility.

31 (2)(A) In the event it is found that any qualified pumped  
32 storage project receiving the benefits contained in this act has failed to  
33 comply with the conditions contained in this act, that qualified pumped  
34 storage project shall be disqualified from receiving any further benefits and  
35 shall be liable for the payment of such additional income taxes as may be due  
36 after the income tax credits provided for this act are disallowed.

1                                    (B) Interest shall also be due at the rate of ten percent  
2 (10%) per annum.

3                                    (j) To be counted as a net new full-time permanent employee for the  
4 purpose of qualifying for the tax credits and incentives provided in this  
5 act, the employee in the position or job must have been an Arkansas taxpayer  
6 during the year in which the tax credits or incentives were earned.

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8                                    /s/ Gilliespie  
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