

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 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S2/24/05 S3/2/05

A Bill

SENATE BILL 417

5 By: Senators Wooldridge, Altes, Baker, Bisbee, J. Bookout, Broadway, Bryles, Capps, Higginbothom,
6 Hill, Horn, J. Jeffress, Malone, Trusty
7 By: Representatives Dunn, Dangeau, Edwards, George, J. Hutchinson, T. Hutchinson, Maxwell,
8 Rosenbaum, Thompson, Wells
9

For An Act To Be Entitled

12 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE
13 CONSOLIDATED INCENTIVE ACT OF 2003, TO ADD
14 DEFINITIONS TO AND TO CLARIFY THE TAX INCENTIVE
15 PROGRAM UNDER THE CONSOLIDATED INCENTIVE ACT OF
16 2003; AND FOR OTHER PURPOSES.

Subtitle

18 AN ACT TO AMEND THE CONSOLIDATED
19 INCENTIVE ACT OF 2003.
20
21
22

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

25 SECTION 1. Arkansas Code § 15-4-2703 is amended to read as follows:
26 15-4-2703. Definitions.

27 As used in this subchapter:

28 (1) "Applied research" means any activity that seeks to utilize,
29 synthesize, or apply existing knowledge, information, or resources to the
30 resolution of a specific problem, question, or issue;

31 (2) "Average hourly wage" means the weekly earnings, excluding
32 overtime, bonuses, and company-paid benefits, of all new full-time permanent
33 employees hired after the date of the signed financial incentive agreement,
34 divided by the number of new full-time permanent employees, divided by forty
35 (40);

36 (3) "Basic research" means any original investigation for the



1 advancement of scientific or technological knowledge;

2 (4) "Contractual employee" means an employee who:

3 (A) May be included in the payroll calculations of a
4 business qualifying for benefits under this subchapter and is under the
5 direct supervision of the business receiving benefits under this subchapter
6 but is an employee of a business other than the one receiving benefits under
7 this subchapter;

8 (B) Otherwise meets the requirements of a new full-time
9 permanent employee of the business receiving benefits under this subchapter;
10 and

11 (C) Receives a benefits package comparable to direct
12 employees of the business receiving benefits under this subchapter;

13 (5)(A) "Corporate headquarters" means the facility or portion of
14 a facility where corporate staff employees are physically employed and where
15 the majority of the company's financial, personnel, legal, planning,
16 information technology, or other headquarters-related functions are handled
17 either on a regional basis or national basis.

18 (B) A corporate headquarters must be a regional corporate
19 headquarters or a national corporate headquarters;

20 (6)(A) "County or state average hourly wage" means the weighted
21 average weekly earnings for Arkansans in all industries, both statewide and
22 countywide, as calculated by the Arkansas Employment Security Department in
23 *its most recent "Annual Covered Employment and Earnings" publication, divided*
24 *by forty (40).*

25 (B) The average hourly wage threshold determined at the
26 signing date of the financial incentive agreement shall be the threshold for
27 the term of the agreement;

28 (7) "Department" means the Department of Economic Development;

29 (8) "Director" means the Director of the Department of Economic
30 Development;

31 (9) "Distribution center" means a facility for the reception,
32 storage, ~~or~~ and shipping of:

33 (A) A business's own products or products that the
34 business wholesales to retail businesses or ships to its own retail outlets;

35 (B) Products owned by other companies with which the
36 business has contracts for storage and shipping if seventy-five percent (75%)

1 of the sales revenues of the product owner are from out-of-state customers;
2 or

3 (C) Products for sale to the general public if seventy-
4 five percent (75%) of the sales revenues are from out-of-state customers;

5 (10) "Eligible businesses" means nonretail businesses engaged in
6 commerce for profit that meet the eligibility requirements for the applicable
7 incentive offered by this subchapter and fall into one (1) or more of the
8 following categories:

9 (A) Manufacturers classified in sectors 31-33 in the North
10 American Industrial Classification System, as in effect January 1, 2003;

11 (B)(i) Businesses primarily engaged in the design and
12 development of prepackaged software, digital content production and
13 preservation, computer processing and data preparation services, or
14 information retrieval services.

15 (ii) All businesses in this group shall derive at
16 least seventy-five percent (75%) of their sales revenue from ~~out-of-state~~
17 sales out of state;

18 (C)(i) Businesses primarily engaged in motion picture
19 productions.

20 (ii) All businesses in this group shall derive at
21 least seventy-five percent (75%) of their sales revenue from ~~out-of-state~~
22 sales out of state;

23 (D) Distribution centers or intermodal facilities;

24 (E) Office sector businesses;

25 (F) National or regional corporate headquarters, North
26 American Industrial Classification System Code 551114, as in effect January
27 1, 2005;

28 (G) Firms primarily engaged in commercial, physical, and
29 biological research as classified in the North American Industrial
30 Classification System Code 541710, as in effect January 1, 2003 January 1,
31 2005; and

32 (H)(i) Scientific and technical services businesses.

33 (ii)(a) All businesses in this group shall derive at
34 least seventy-five percent (75%) of their sales revenue from ~~out-of-state~~
35 sales out of state.

36 (b)(1) The average hourly wages paid by

1 businesses in this group shall exceed one hundred fifty percent (150%) of the
2 county or state average hourly wage, whichever is less.

3 (2) The average hourly wage threshold
4 determined at the signing date of the financial incentive agreement shall be
5 the threshold for the term of the agreement; and

6 (I) The director may classify a nonretail business as an
7 eligible business if the following conditions exist:

8 (i) The business receives at least seventy-five
9 percent (75%) of its sales revenue from out of state; and

10 (ii) The business proposes to pay wages in excess of
11 one hundred ten percent (110%) of the county or state average wage, whichever
12 is less;

13 (11) "Equity investment" means capital invested in common or
14 preferred stock, royalty or intellectual property rights, limited partnership
15 interests, limited liability company interests, and any other securities or
16 rights that evidence ownership in private businesses, including a federal
17 agency's award of a Small Business Innovative Research grant or a Small
18 Business Technology Transfer grant;

19 (12)(A) "Existing employees" means those employees hired by the
20 business before the date the financial incentive agreement was signed.

21 (B) Existing employees may be considered new full-time
22 permanent employees only if:

23 (i) The position or job filled by the existing
24 employee was created in accordance with the signed financial incentive
25 agreement; and

26 (ii) The position vacated by the existing employee
27 was either filled by a subsequent employee or no subsequent employee will be
28 hired because the business no longer conducts the particular business
29 activity requiring that classification;

30 (13) "Facility" means a single physical location at which the
31 eligible business is conducting its operations;

32 ~~(13)~~(14) "Financial incentive agreement" means an agreement
33 entered into by an eligible business and the department to provide the
34 business an incentive to locate a new business or expand an existing business
35 in Arkansas;

36 ~~(14)~~(15) "Fund" means the Economic Development Incentive Fund;

1 ~~(15)~~(16) "Governing authority" means the quorum court of a
2 county or the governing body of a municipality;

3 ~~(16)(A)(i)~~(17)(A)(i) "In-house research" means applied research
4 supported by the business through the purchase of supplies for research
5 activities and payment of wages and usual fringe benefits for employees of
6 the business who conduct research activities in research facilities:

7 (a) Dedicated to the conduct of research
8 activities;

9 (b) Operated by the business; and

10 (c) Performed primarily under laboratory,
11 clinical, or field experimental conditions for the purpose of reducing a
12 concept or idea to practice or to advance a concept or idea or improvement
13 thereon to the point of practical application.

14 (ii) "In-house research" includes experimental or
15 laboratory activity to develop new products, improve existing products, or
16 develop new uses of products, but only to the extent that activity is
17 conducted in Arkansas.

18 (B) "In-house research" does not include tests or
19 inspections of materials or products for quality control, efficiency surveys,
20 management studies, other market research, or any other ordinary and
21 necessary expenses of conducting business;

22 ~~(17)~~(18) "Intellectual property" means an invention, discovery,
23 or new idea that the legal entity responsible for commercialization has
24 decided to legally protect for possible commercial gain, based on the
25 disclosure of the creator;

26 (19) "Intermodal facility" means a facility with more than one
27 (1) mode of interconnected movement of freight, commerce, or passengers;

28 (20) "Investment threshold" means the minimum amount of
29 investment in project costs that must be incurred in order to qualify for
30 eligibility;

31 (21) "Invests" or "Investment" means money expended by or on
32 behalf of an approved eligible business that seeks to begin or expand
33 operations in Arkansas and, without this infusion of capital, the location or
34 expansion may not take place;

35 (22) "Lease" means a right to possession of real property for a
36 specific term in return for consideration, as determined in a lease agreement

1 by both parties;

2 ~~(18)(A)(23)(A)~~ "Modernization" means an increase in efficiency
3 or productivity of a business through investment in machinery or equipment,
4 or both.

5 (B) "Modernization" does not include costs for routine
6 maintenance or the installation of equipment that does not improve efficiency
7 or productivity except for expenditures for pollution control equipment
8 mandated by state or federal laws or regulations;

9 ~~(19)(24)~~ "National corporate headquarters" means the sole
10 corporate headquarters in the nation that handles headquarters-related
11 functions on a national basis;

12 ~~(20)(A)(i)(25)(A)(i)~~ "New full-time permanent employee" means a
13 position or job that was created pursuant to the signed financial incentive
14 agreement and that is filled by one (1) or more employees or contractual
15 employees who ~~were~~;

16 (a) Were Arkansas taxpayers during the year in
17 which the tax credits or incentives were earned;

18 (b) Work at the facility identified in the
19 financial incentive agreement; and

20 (c) Are not existing employees, except as
21 allowed under § 15-4-2703(12).

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

25 (B) However, to qualify under this subchapter, a
26 contractual employee shall be offered a benefits package comparable to a
27 direct employee of the business seeking incentives under this subchapter;

28 ~~(21)(26)~~ "Nonretail business" means a business that derives less
29 than ten percent (10%) of its total Arkansas revenue from sales to the
30 general public;

31 ~~(22)(A)(27)(A)~~ "Office sector business" means business
32 operations that support primary business needs, including, but not limited
33 to, customer service, credit accounting, telemarketing, claims processing,
34 and other administrative functions.

35 (B) All businesses in this group must be nonretail
36 businesses and derive at least seventy-five percent (75%) of their sales

1 revenue from ~~out-of-state sales~~ out of state;

2 ~~(23)~~(28) "Payroll" means the total taxable wages, including
3 overtime and bonuses, paid during the preceding tax year of the eligible
4 business to new full-time permanent employees hired after the date of the
5 signed financial incentive agreement;

6 ~~(24)(A)~~(29)(A) "Person" means an individual, trust, estate,
7 fiduciary, firm, partnership, limited liability company, or corporation.

8 (B) "Person" includes:

9 (i) The directors, officers, agents, and employees
10 of any person;

11 (ii) Beneficiaries, members, managers, and partners;
12 and

13 (iii) Any county or municipal subdivision of the
14 state;

15 (30) "Preconstruction costs" means the cost of eligible items
16 incurred before the start of construction, including:

17 (A) Project planning costs;

18 (B) Architectural and engineering fees;

19 (C) Right-of-way purchases;

20 (D) Utility extensions;

21 (E) Site preparations;

22 (F) Purchase of mineral rights;

23 (G) Building demolition;

24 (H) Builders risk insurance;

25 (I) Capitalized start-up costs;

26 (J) Deposits and process payments on eligible machinery
27 and equipment; and

28 (K) Other costs necessary to prepare for the start of
29 construction;

30 ~~(25)(A) "Project" means, if costs are incurred within four (4)~~
31 ~~years from the date a financial incentive agreement was signed by the~~
32 ~~department;~~

33 ~~(i) All activities and costs associated with the~~
34 ~~construction of a new plant or facility;~~

35 ~~(ii) The expansion of an established plant or~~
36 ~~facility by adding to the building, production equipment, or support~~

1 ~~infrastructure; or~~

2 ~~(iii) Modernization through the replacement of~~
3 ~~production or processing equipment or support infrastructure that improves~~
4 ~~efficiency or productivity.~~

5 ~~(B) "Project" does not include:~~

6 ~~(i) Expenditures for routine repair and maintenance~~
7 ~~that do not result in new construction or expansion; or~~

8 ~~(ii) Routine operating expenditures;~~

9 (31)(A) "Project" means costs associated with the:

10 (i) Construction of a new plant or facility
11 including, but not limited to land, building, production equipment, or
12 support infrastructure;

13 (ii) Expansion of an established plant or facility
14 by adding to the building, production equipment, or support infrastructure;

15 or

16 (iii) Modernization of an established plant or
17 facility through the replacement of production or processing equipment or
18 support infrastructure that improves efficiency or productivity.

19 (B) "Project" does not include:

20 (i) Expenditures for routine repair and maintenance
21 that do not result in new construction or expansion;

22 (ii) Routine operating expenditures;

23 (iii) Expenditures incurred at multiple facilities;

24 or

25 (iv) The purchase or acquisition of an existing
26 business unless:

27 (a) There is sufficient documentation that the
28 existing business was closed; and

29 (b) The purchase of the existing business will
30 result in the retention of the jobs that would have been lost due to the
31 closure.

32 (C) Eligible project costs must be incurred within four
33 (4) years from the date a financial incentive agreement was signed by the
34 department;

35 ~~(26)-(32)~~ "Project plan" means a plan:

36 (A) Submitted to the department containing such

1 information as may be required by the director to determine eligibility for
2 benefits; and

3 (B) That if approved is a supplement to the financial
4 incentive agreement;

5 ~~(27)~~(33) "Qualified business" means an eligible business that:

6 (A) Has met the qualifications for one (1) or more
7 economic development incentives authorized by this subchapter; and

8 (B) Has signed a financial incentive agreement with the
9 department or is involved in a research and development program administered
10 by the Arkansas Science and Technology Authority;

11 ~~(28)~~(34) "Qualified research expenditures" means the sum of any
12 amounts which are paid or incurred by an Arkansas taxpayer during the taxable
13 year in funding a qualified research program that has been approved for tax
14 credit treatment under rules and regulations promulgated by the department;

15 ~~(29)~~(35) "Region" or "regional" means a geographic area
16 comprising two (2) or more states, including this state;

17 ~~(30)~~(36) "Regional corporate headquarters" means a site that:

18 (A) Is the sole corporate headquarters within the region;
19 and

20 (B) Handles headquarters-related functions on a regional
21 basis;

22 ~~(31)~~(37) "Research and development programs of the Arkansas
23 Science and Technology Authority" means statutory programs operated by the
24 Arkansas Science and Technology Authority under § 15-3-101 et seq.;

25 ~~(32)~~(38) "Research area of strategic value" means research in
26 fields having long-term economic or commercial value to the state and that
27 have been identified in the research and development plan approved from time
28 to time by the Board of Directors of the Arkansas Science and Technology
29 Authority;

30 ~~(33)~~(39) "Scientific and technical services business" means a
31 business:

32 (A) Primarily engaged in performing scientific and
33 technical activities for others, including:

34 (i) Architectural and engineering design;

35 (ii) Computer programming and computer systems
36 design; and

1 (iii) Scientific research and development in the
2 physical, biological, and engineering sciences;

3 (B) Selling expertise;

4 (C) Having production processes that are almost wholly
5 dependent on worker skills;

6 (D) Deriving at least seventy-five percent (75%) of its
7 sales revenue from ~~out-of-state sales~~ out of state; and

8 (E) Paying average hourly wages that exceed one hundred
9 fifty percent (150%) of the county or state average hourly wage, whichever is
10 less;

11 ~~(34)~~(40) "Start of construction" means any activity that causes
12 a physical change to the building, ~~or~~ property, or both, identified as the
13 site of the approved project but excluding engineering surveys, soil tests,
14 land clearing, and extension of roads and utilities to the project site;

15 ~~(35)~~(41) "Strategic research" means research that has strategic
16 economic or long-term commercial value to the state and that is identified in
17 the research and development plan approved from time to time by the Board of
18 Directors of the Arkansas Science and Technology Authority;

19 ~~(36)~~(42) "Support infrastructure" means physical assets
20 necessary for the business to operate, including, but not limited to, water
21 systems, wastewater systems, gas and electric utilities, roads, bridges,
22 parking lots, and communication infrastructure;

23 ~~(37)~~(A)(43)(A) "Targeted businesses" means a grouping of growing
24 business sectors, not to exceed six (6), that include the following:

- 25 (i) Advanced materials and manufacturing systems;
- 26 (ii) Agriculture, food, and environmental sciences;
- 27 (iii) Biotechnology, bioengineering, and life
28 sciences;
- 29 (iv) Information technology;
- 30 (v) Transportation logistics; and
- 31 (vi) Bio-based products.

32 (B) In order to receive benefits as a targeted business,
33 the business must:

- 34 (i) Have been operating in the state for less than
35 five (5) years;
- 36 (ii) Pay not less than one hundred fifty percent

1 (150%) of the lesser of the county or state average wage; and
 2 (iii) Have been selected to receive special
 3 benefits; and

4 ~~(38)~~(44) "Tiers" means the ranking of the seventy-five (75)
 5 counties of Arkansas into four (4) divisions that delineate the economic
 6 prosperity of the counties and allow for different levels of benefits.

7
 8 SECTION 2. Arkansas Code § 15-4-2704(e) and (f), concerning the tier
 9 system under the Consolidated Incentive Act, are amended to read as follows:

10 ~~(e) For a project located in multiple tiers, the eligible business~~
 11 ~~shall:~~

- 12 ~~(1) Receive the benefit of the county with the lower benefits; or~~
- 13 ~~(2) Submit separate applications, each of which shall meet the~~
 14 ~~incentive requirements of the county in which the project is located.~~

15 ~~(f)~~(e)(1) A county that has experienced a sudden and severe period of
 16 economic distress caused by the closing of a business entity that results in
 17 the loss of a minimum of five percent (5%) of the employed labor force, as
 18 determined by the most recent Labor Market Information publication published
 19 by the Arkansas Employment Security Department, may be moved up one (1) tier
 20 upon submitting a request to and being approved by the Arkansas Economic
 21 Development Commission.

22 (2) If the commission approves a county's move to a higher tier,
 23 any qualified business having signed a financial incentive agreement with the
 24 Department of Economic Development dated before the commission's action shall
 25 receive the benefits for the duration of the term of the agreement that were
 26 assigned to the county to which it located at the time the financial
 27 incentive agreement was signed by the Department of Economic Development
 28 regardless of any subsequent change to the tier in which the county is
 29 assigned.

30
 31 SECTION 3. Arkansas Code § 15-4-2705 is amended to read as follows:
 32 15-4-2705. Job-creation tax credit.

- 33 (a) There is established a job-creation tax credit to encourage:
- 34 (1) The creation of new jobs; and
- 35 (2) Business growth and expansion.

36 ~~(b) After receiving an approved financial incentive agreement from the~~

1 Department of Economic Development, the Revenue Division of the Department of
2 Finance and Administration shall authorize an income tax credit for tax years
3 beginning after December 31, 2002, as follows:

4 (1)(A) For tier 1 counties, qualified businesses are eligible to
5 receive a tax credit equal to one percent (1%) of the payroll for new full-
6 time permanent employees of the business for each of the first sixty (60)
7 months following the date of the approved financial incentive agreement.

8 (B) The tax credits may offset fifty percent (50%) of the
9 business's tax liability in any one (1) year, and any unused tax credits may
10 be carried forward for nine (9) years after the year in which the credit was
11 first earned.

12 (C) To qualify for this tax credit, a business must have a
13 payroll for new full-time permanent employees in excess of two hundred
14 thousand dollars (\$200,000) annually;

15 (2)(A) For tier 2 counties, qualified businesses are eligible to
16 receive a tax credit equal to two percent (2%) of the payroll for new full-
17 time permanent employees of the business for each of the first sixty (60)
18 months following the date of the approved financial incentive agreement.

19 (B) The tax credits may offset fifty percent (50%) of the
20 business's tax liability in any one (1) year, and any unused tax credits may
21 be carried forward for nine (9) years after the year in which the credit was
22 first earned.

23 (C) To qualify for this tax credit, a business must have a
24 payroll for new full-time permanent employees in excess of one hundred fifty
25 thousand dollars (\$150,000) annually;

26 (3)(A) For tier 3 counties, qualified businesses are eligible to
27 receive a tax credit equal to three percent (3%) of the payroll for new full-
28 time permanent employees of the business for each of the first sixty (60)
29 months following the date of the approved financial incentive agreement.

30 (B) The tax credits may offset fifty percent (50%) of the
31 business's tax liability in any one (1) year, and any unused tax credits may
32 be carried forward for nine (9) years after the year in which the credit was
33 first earned.

34 (C) To qualify for this tax credit, a business must have a
35 payroll for new full-time permanent employees in excess of one hundred
36 twenty five thousand dollars (\$125,000) annually; and

1 ~~(4)(A) For tier 4 counties, qualified businesses are eligible to~~
2 ~~receive a tax credit equal to four percent (4%) of the payroll for new full-~~
3 ~~time permanent employees of the business for each of the first sixty (60)~~
4 ~~months following the date of the approved financial incentive agreement.~~

5 ~~(B) The tax credits may offset fifty percent (50%) of the~~
6 ~~business's tax liability in any one (1) year, and any unused tax credits may~~
7 ~~be carried forward for nine (9) years after the year in which the credit was~~
8 ~~first earned.~~

9 ~~(C) To qualify for this tax credit, a business must have a~~
10 ~~payroll for new full-time permanent employees in excess of one hundred~~
11 ~~thousand dollars (\$100,000) annually.~~

12 (b) An application for the income tax credit under this section shall
13 be submitted to the Department of Economic Development.

14 (c) To qualify for this credit, an eligible business shall have an
15 annual payroll for new full-time permanent employees in excess of the payroll
16 threshold for the county tier in which the project is located, as follows:

17 (1) For tier 1 counties, the annual payroll threshold is one
18 hundred twenty-five thousand dollars (\$125,000);

19 (2) For tier 2 counties, the annual payroll threshold is one
20 hundred thousand dollars (\$100,000);

21 (3) For tier 3 counties, the annual payroll threshold is
22 seventy-five thousand dollars (\$75,000); and

23 (4) For tier 4 counties, the annual payroll threshold is fifty
24 thousand dollars (\$50,000).

25 (d)(1) The credit earned under this section is a percentage of the
26 payroll of the new full-time permanent employees hired following the date of
27 the approved financial incentive agreement.

28 (2) The percentage shall be determined by the county tier in
29 which the project is located, as follows:

30 (A) For tier 1 counties, the credit is one percent (1%) of
31 the payroll for the new full-time permanent employees of the business;

32 (B) For tier 2 counties, the credit is two percent (2%) of
33 the payroll for the new full-time permanent employees of the business;

34 (C) For tier 3 counties, the credit is three percent (3%)
35 of the payroll for the new full-time permanent employees of the business; and

36 (D) For tier 4 counties, the credit is four percent (4%)

1 of the payroll for the new full-time permanent employees of the business.

2 (e) The term of the financial incentive agreement shall be for a
3 period of sixty (60) months, beginning on the date of the approved financial
4 incentive agreement.

5 (f)(1) After receiving an approved financial incentive agreement from
6 the Department of Economic Development, the qualified business shall certify
7 to the Revenue Division of the Department of Finance and Administration the
8 payroll of the new full-time permanent employees annually at the end of each
9 tax year during the term of the agreement.

10 (2) Upon verification of the reported payroll amounts, the
11 Revenue Division of the Department of Finance and Administration shall
12 authorize the appropriate income tax credit.

13 (g)(1) The tax credits earned under this section may offset fifty
14 percent (50%) of the business's tax liability in any one (1) year.

15 (2) Any unused tax credits may be carried forward for nine (9)
16 years after the year in which the credit was first earned or until exhausted,
17 whichever event occurs first.

18 ~~(e)-(1)~~(h)(1) If a business fails to meet the payroll threshold within
19 two (2) years after the signing of the financial incentive agreement or
20 within the time period established by an extension approved by the Director
21 of the Department of Finance and Administration and the Director of the
22 Department of Economic Development, that business will be liable for
23 repayment of all benefits previously received by the business.

24 (2) After a business has failed to reach the payroll threshold
25 of this section in a timely manner, the Department of Finance and
26 Administration shall have two (2) years to collect benefits previously
27 received by the business or file a lawsuit to enforce the repayment
28 provisions.

29
30 SECTION 4. Arkansas Code § 15-4-2706 is amended to read as follows:
31 15-4-2706. Investment tax incentives.

32 (a) There are established investment tax incentives to:

33 (1) Encourage capital investment for the long-term viability of
34 businesses in the state; and

35 (2) Create new jobs.

36 (b)(1)~~(A) An application for an income tax credit under this~~

1 ~~subsection shall be submitted to the Department of Economic Development.~~

2 ~~(B) An~~ The award of this ~~credit~~ incentive shall be at the
3 discretion of the Director of the Department of Economic Development.

4 (2) ~~The director may offer this incentive if a business meets at~~
5 ~~least one (1) of the following criteria:~~ If offered, an application for an
6 income tax credit under this section shall be submitted to the Department of
7 Economic Development.

8 (3) Eligibility for this incentive is dependent upon the tier in
9 which the project is located, as follows:

10 (A) For tier 1 counties, the business ~~invests~~ shall invest
11 five million dollars (\$5,000,000) or more and ~~has~~ have an annual payroll for
12 new full-time permanent employees in excess of two million dollars
13 (\$2,000,000);

14 (B) For tier 2 counties, the business ~~invests four million~~
15 ~~dollars (\$4,000,000)~~ shall invest three million seven hundred fifty thousand
16 dollars (\$3,750,000) or more and ~~has~~ have an annual payroll for new full-time
17 permanent employees in excess of one million five hundred thousand dollars
18 (\$1,500,000);

19 (C) For tier 3 counties, the business ~~invests~~ shall invest
20 three million dollars (\$3,000,000) or more and ~~has~~ have an annual payroll for
21 new full-time permanent employees in excess of ~~one million two hundred fifty~~
22 ~~thousand dollars (\$1,250,000)~~ one million two hundred thousand dollars
23 (\$1,200,000); or

24 (D) For tier 4 counties, the business ~~invests~~ shall invest
25 two million dollars (\$2,000,000) or more and ~~has~~ have an annual payroll for
26 new full-time permanent employees in excess of ~~one million dollars~~
27 ~~(\$1,000,000)~~ eight hundred thousand dollars (\$800,000).

28 ~~(3)(4) If the director offers this credit,~~ Upon approval by the
29 department, the director shall transmit an approved financial incentive
30 agreement to the approved company and the Revenue Division of the Department
31 of Finance and Administration.

32 ~~(4)(5) If the director offers this credit,~~ The qualified
33 ~~business must~~ shall reach the investment threshold within four (4) years from
34 the date of the signing of the financial incentive agreement, except for
35 lease payments authorized by subdivision (b)(6)(D) of this section or
36 subdivision (c)(6) of this section.

1 ~~(5)-(A)(6)(A)(i)~~ After receiving an approved financial incentive
2 agreement from the Department of Economic Development, the approved company
3 shall certify eligible project costs annually at the end of each calendar
4 year for the term of the agreement to the Revenue Division of the Department
5 of Finance and Administration.

6 (ii) Upon verification of eligible project costs,
7 the Revenue Division of the Department of Finance and Administration shall
8 authorize an income tax credit of ten percent (10%) based on the total
9 investment in land, buildings, equipment, and costs related to licensing and
10 protecting intellectual property.

11 (B) The amount of credit taken during any tax year shall
12 not exceed fifty percent (50%) of the business's income tax liability
13 resulting from the project or facility.

14 (C) Unused tax credits may be carried forward for up to
15 nine (9) years after the year in which the credit was first earned.

16 (D) A qualified business that enters into a lease for a
17 building or equipment for a period in excess of five (5) years may count the
18 lease payments for five (5) years as a qualifying expenditure for the
19 investment threshold required for this investment incentive.

20 (c)(1)(A) An application for a retention tax credit under this
21 subsection shall be submitted to the Department of Economic Development.

22 (B)(i) ~~The application must~~ shall ~~be accompanied by a~~
23 ~~project plan at least thirty (30) days before the start of construction~~
24 submitted to the Department of Economic Development before incurring any
25 project costs.

26 (ii) With the exception of preconstruction costs,
27 only those costs incurred after the department's approval are eligible for
28 the tax credit.

29 (2) The tax credit against the qualified business' sales and use
30 tax liability is available only to Arkansas businesses that:

31 (A) Have been in continuous operation in the state for at
32 least two (2) years;

33 (B) Invest a minimum of five million dollars (\$5,000,000)
34 in a project, including land, buildings, and equipment used in the
35 construction, expansion, or modernization; and

36 (C) Hold a direct-pay sales and use tax permit from the

1 Revenue Division of the Department of Finance and Administration before
2 submitting an application for benefits.

3 (3)(A) If allowed, the credit shall be a percentage of the
4 eligible project costs.

5 (B) The amount of the credit shall be one-half percent
6 (0.5%) above the state sales and use tax rate in effect at the time a
7 financial incentive agreement is signed with the Department of Economic
8 Development.

9 (C) In any one (1) year following the year of the
10 expenditures, credits taken cannot exceed fifty percent (50%) of the direct
11 pay sales and use tax liability of the business for taxable purchases.

12 (D) Unused credits may be carried forward for a period of
13 up to five (5) years beyond the year in which the credit was first earned.

14 (4)(A) Upon determination by the Director of the Department of
15 Economic Development that the project qualifies for credit under this
16 subsection, the Director of the Department of Economic Development shall
17 certify to the Director of the Department of Finance and Administration that
18 the project qualifies and shall transmit with his or her certification the
19 documents or copies of the documents upon which the certification was based.

20 (B) The Director of the Department of Finance and
21 Administration shall provide forms to the qualified business on which to
22 claim the credit.

23 (C) At the end of the calendar year in which the
24 application is made and at the end of each calendar year thereafter until the
25 project is completed, the qualified business shall certify on the form
26 provided by the Director of the Department of Finance and Administration the
27 amount of expenditures on the project during the preceding calendar year.

28 (D) Upon receipt of the form certifying expenditures, the
29 Director of the Department of Finance and Administration shall determine the
30 amount due as a credit for the preceding calendar year and issue a memorandum
31 of credit to the qualified business.

32 (E) The credit against the qualified business' sales and
33 use tax liability shall be a percentage of the eligible project costs equal
34 to one-half percent (0.5%) above the state sales and use tax rate in effect
35 at the time the financial incentive agreement was signed by the Department of
36 Economic Development.

1 (5) If a business plans to apply for benefits under this
2 subsection and also plans to apply for benefits under § 15-4-2705, the
3 financial incentive agreement under § 15-4-2705 must be signed within twenty-
4 four (24) months after signing the financial incentive agreement under this
5 subsection.

6 (6) A qualified business that enters into a lease for a building
7 or equipment for a period in excess of five (5) years may count the lease
8 payments for five (5) years as a qualifying expenditure for the investment
9 threshold required for this investment incentive.

10 (d)(1)(A) An application for a state and local sales and use tax
11 refund ~~from~~ for a new and expanding eligible business ~~shall include~~ shall be
12 filed with the department contingent upon the approval of an endorsement
13 resolution from the governing authority of a municipality or county, or both
14 in whose jurisdiction the business will be located.

15 (B) The resolution shall:

16 (i) Endorse the applicant's participation in this
17 sales and use tax refund program; and

18 (ii)(a) Specify that the Department of Finance and
19 Administration is authorized to refund local sales taxes to the qualified
20 business.

21 (b) whether the A municipality or county, or
22 both authorizes may authorize the refund of all or part of any sales or use
23 tax levied by the municipality or county but may not authorize the refund of
24 any sales or use tax not levied by the municipality or county in which the
25 qualified business is located.

26 (C) Any eligible business that applies for a sales and use
27 tax refund under this subsection shall invest in excess of one hundred
28 thousand dollars (\$100,000) in order to qualify for the sales and use tax
29 refund.

30 (2)(A)(i) A sales and use tax refund of state and local sales
31 and use taxes, excepting the sales and use taxes dedicated to the Educational
32 Adequacy Fund, created in § 19-5-1227, and the Conservation Tax Fund, as
33 authorized by § 19-6-484, on the purchases of the material used in the
34 construction of a building or buildings or any addition, modernization, or
35 improvement thereon for housing any new or expanding qualified business and
36 machinery and equipment to be located in or in connection with such a

1 building shall be authorized by the Director of the Department of Finance and
2 Administration ~~and a refund of sales and use taxes imposed by a municipality~~
3 ~~or a county if the municipality or county has authorized the refund in an~~
4 ~~endorsement resolution that was submitted along with the application to the~~
5 ~~Department of Economic Development.~~

6 (ii) The local sales and use tax may be refunded
7 only from the municipality or county, or both in which the qualified business
8 is located.

9 (B) A refund shall not be authorized for:

10 (i) Routine operating expenditures; or

11 (ii) The purchase of replacements of items
12 previously purchased as part of a project under this subsection unless the
13 items previously purchased are necessary for the implementation or completion
14 of the project.

15 (3) Subject to the approval of the Department of Economic
16 Development, a program participant may make changes in a project by written
17 amendment to the project plan filed with the Department of Economic
18 Development.

19 (4) All claims for sales and use tax refunds under this
20 subsection shall be denied unless they are filed with the Revenue Division of
21 the Department of Finance and Administration within three (3) years from the
22 date of the qualified purchase or purchases.

23 (5)(A) In order to be eligible for the benefits under this
24 subsection, a business shall sign a job creation financial incentive
25 agreement under § 15-4-2705, § 15-4-2707, or subsection (b) of this section
26 and comply with the eligibility requirements of the incentive agreements.

27 (B) The financial incentive agreement under § 15-4-2705, §
28 15-4-2707, or subsection (b) of this section shall be signed within twenty-
29 four (24) months after signing the financial incentive agreement under this
30 subsection.

31 ~~(6) To qualify for the sales and use tax refund authorized by~~
32 ~~this subsection, the eligible business must meet the following criteria:~~

33 ~~(A) For tier 1 counties, the business must have an annual~~
34 ~~payroll for new full-time permanent employees of two hundred thousand dollars~~
35 ~~(\$200,000) or more and invest in excess of one hundred thousand dollars~~
36 ~~(\$100,000);~~

1 ~~(B) For tier 2 counties, the business must have an annual~~
 2 ~~payroll for new full-time permanent employees of one hundred fifty thousand~~
 3 ~~dollars (\$150,000) or more and invest in excess of one hundred thousand~~
 4 ~~dollars (\$100,000);~~

5 ~~(C) For tier 3 counties, the business must have an annual~~
 6 ~~payroll of new full-time permanent employees of one hundred twenty-five~~
 7 ~~thousand dollars (\$125,000) or more and invest in excess of one hundred~~
 8 ~~thousand dollars (\$100,000); and~~

9 ~~(D) For tier 4 counties, the business must have an annual~~
 10 ~~payroll for new full-time permanent employees of one hundred thousand dollars~~
 11 ~~(\$100,000) or more and invest in excess of one hundred thousand dollars~~
 12 ~~(\$100,000).~~

13 (e)(1) A new targeted business shall be eligible for a refund of state
 14 and local sales and use taxes for qualified expenditures identified in the
 15 project plan if:

16 (A) The annual payroll of the business for Arkansas
 17 taxpayers is greater than ~~two hundred thousand dollars (\$200,000)~~ one hundred
 18 thousand dollars (\$100,000); and

19 (B) The business shows proof of an equity investment of at
 20 least ~~five hundred thousand dollars (\$500,000)~~ four hundred thousand dollars
 21 (\$400,000).

22 (2)(A) An application for the targeted business state and local
 23 sales and use tax refund program ~~from~~ for a new targeted business ~~shall~~
 24 ~~include~~ shall be filed with the Department of Economic Development
 25 contingent upon the approval of an endorsement resolution from the governing
 26 authority of a municipality or county, or both in whose jurisdiction the
 27 business will be located.

28 (B) The resolution shall:

29 (i) Endorse the applicant's participation in this
 30 sales and use tax refund program; and

31 (ii)(a) Specify that the Department of Finance and
 32 Administration is authorized to refund local sales and use taxes to the
 33 targeted business.

34 **(b)** ~~whether the~~ A municipality or county, or
 35 both can ~~authorizes~~ authorize the refund of ~~all or part of~~ any sales tax
 36 levied by the municipality or county but cannot authorize the refund of any

1 sales or use tax not levied by the municipality or county in which the
2 targeted business is located.

3 (3) After the Director of the Department of Economic Development
4 has determined that the project is eligible for the sales and use tax refund,
5 this determination, accompanied by the financial incentive agreement and any
6 other pertinent documentation, shall be forwarded to the Director of the
7 Department of Finance and Administration.

8 (4)(A)(i) A sales and use tax refund of state and local sales
9 and use taxes, excepting the sales and use taxes dedicated to the Educational
10 Adequacy Fund, as authorized by § 26-57-1002(d)(1)(A)(ii)(a) and the
11 Conservation Tax Fund as authorized by § 19-6-484, on the purchases of the
12 material used in the construction of a building or buildings or any addition,
13 modernization, or improvement thereon for housing any new or expanding
14 qualified business and machinery and equipment to be located in or in
15 connection with such a building shall be authorized by the Director of the
16 Department of Finance and Administration ~~and a refund of sales and use taxes~~
17 ~~imposed by a municipality or a county if the municipality or county has~~
18 ~~authorized the refund in an endorsement resolution that was submitted along~~
19 ~~with the application to the Department of Economic Development.~~

20 (ii) The local sales and use tax may be refunded
21 only from the municipality or county, or both in which the qualified business
22 is located.

23 (B) A refund shall not be authorized for:

24 (i) Routine operating expenditures; or

25 (ii) The purchase of ~~replacements of items~~
26 ~~previously purchased as part of a project~~ replacement items under this
27 subsection unless the items ~~previously purchased~~ are necessary for the
28 implementation or completion of the project.

29 (5) Subject to the approval of the Department of Economic
30 Development, a program participant may make changes in a project by written
31 amendment to the project plan filed with the Department of Economic
32 Development.

33 (6) All claims for sales and use tax refunds under this
34 subsection shall be denied unless they are filed with the Revenue Division of
35 the Department of Finance and Administration within three (3) years after the
36 date of the qualified purchase or purchases.

1 (7) If a targeted business plans to apply for benefits under
2 this subsection and also plans to apply for benefits under § 15-4-2709, the
3 financial incentive agreement under § 15-4-2709 must be signed within twenty-
4 four (24) months of signing the financial incentive agreement under this
5 subsection and comply with the eligibility requirements of the agreements.

6 ~~(8) The Revenue Division of the Department of Finance and~~
7 ~~Administration shall authorize a refund for all eligible expenditures if the~~
8 ~~Director of the Department of Economic Development approves the project and~~
9 ~~if the project provides at least one (1) of the following:~~

10 ~~(A) For tier 1 counties, average hourly wages in excess of~~
11 ~~one hundred eighty percent (180%) of the county or state average hourly wage,~~
12 ~~whichever is less;~~

13 ~~(B) For tier 2 counties, average hourly wages in excess of~~
14 ~~one hundred seventy percent (170%) of the county or state average hourly~~
15 ~~wage, whichever is less;~~

16 ~~(C) For tier 3 counties, average hourly wages in excess of~~
17 ~~one hundred sixty percent (160%) of the county or state average hourly wage,~~
18 ~~whichever is less; and~~

19 ~~(D) For tier 4 counties, average hourly wages in excess of~~
20 ~~one hundred fifty percent (150%) of the county or state average hourly wage,~~
21 ~~whichever is less.~~

22
23 SECTION 5. Arkansas Code § 15-4-2707(d), concerning payroll rebates
24 under the Consolidated Incentive Act, is amended to read as follows:

25 (d)(1) The award of this incentive is at the discretion of the
26 Director of the Department of Economic Development and may be offered for a
27 period of up to ten (10) years.

28 (2) Benefits are conditioned upon the hiring of new full-time
29 permanent employees with an annual payroll threshold of two million dollars
30 (\$2,000,000) and certifying to the Department of Finance and Administration
31 that the requisite payroll ~~thresholds have~~ threshold has been met.

32 (3) Payments are subject to the following conditions:

33 (A)~~(i)~~ For tier 1 counties, ~~for qualified businesses with~~
34 ~~an annual payroll for new full-time permanent employees in excess of two~~
35 ~~million dollars (\$2,000,000), the benefit is three and nine-tenths percent~~
36 (3.9%) of the annual payroll of new full-time permanent employees.

1 credit established under § 26-51-1102(b) for qualified research expenditures,
2 subject to the limitations established under § 26-51-1103 and the
3 documentation requirements of § 26-51-1104.

4 (b)(1) Eligible businesses that conduct in-house research in a research
5 facility operated by the business may qualify for an income tax credit equal
6 to ten percent (10%) of the amount spent on in-house research, subject to the
7 limitations established under § 26-51-1103.

8 (2) However, the maximum tax credit for in-house research for
9 each qualified business shall not exceed ten thousand dollars (\$10,000) per
10 year.

11 (3) A business claiming tax credits earned under this subsection
12 may not receive the credit granted by § 26-51-1102(b) for the same
13 expenditures.

14 (4)(A) The term of the financial incentive agreement for in-
15 house research authorized by this subsection shall be for a period not to
16 exceed five (5) years.

17 (B) The financial incentive agreement may be renewed for a
18 period not to exceed five (5) years upon the submittal and approval of a new
19 application and project plan for benefits under this subsection.

20 (C) The business claiming a tax credit under this
21 subsection shall certify annually to the department the amount expended on
22 in-house research.

23 (c)(1) Targeted businesses may qualify for an income tax credit equal
24 to thirty-three percent (33%) of the amount spent on in-house research per
25 year for the first five (5) tax years following the business's signing a
26 financial incentive agreement with the Department of Economic Development,
27 subject to the limitations established under § ~~26-51-1103~~ § 15-4-2709(d)(3).

28 (2) The credits earned by targeted businesses may be sold as
29 authorized in § 15-4-2709.

30 (d)(1) An Arkansas taxpayer may qualify for an income tax credit equal
31 to thirty-three percent (33%) of the amount spent on the research for the
32 first five (5) tax years following the business's signing a financial
33 incentive agreement with the Department of Economic Development, subject to
34 the limitations established under § 26-51-1103 (a) and (c) if the taxpayer
35 invests in:

36 (A) In-house research in a strategic research area; or

1 (B) Projects under the research and development programs
2 of the Arkansas Science and Technology Authority when the projects directly
3 involve an Arkansas business and are approved by the Board of Directors of
4 the Arkansas Science and Technology Authority under rules promulgated by the
5 authority for those programs.

6 (2) However, the maximum tax credit for ~~businesses~~ a qualified
7 business engaged in a research area of strategic value or involved in
8 research and development programs sponsored by the authority shall not exceed
9 fifty thousand dollars (\$50,000) per year.

10 (3) A business claiming tax credits earned under this subsection
11 shall be prohibited from receiving the credit granted by § 26-51-1102(b) for
12 the same expenditures.

13 (4)(A) A business claiming tax credits earned under this
14 subsection (d) may offset fifty percent (50%) of the business' tax liability
15 in any one (1) year.

16 (B) Any unused tax credits may be carried forward for nine
17 (9) years after the year in which the credit was first earned or until
18 exhausted, whichever event occurs first.

19
20 SECTION 7. Arkansas Code § 15-4-2709(a) and (b), concerning targeted
21 business special incentives under the Consolidated Incentive Act, are amended
22 to read as follows:

23 (a) A special incentive based on the payroll of the ~~for job creation~~
24 ~~by~~ new targeted businesses in the state is established to:

25 (1) Encourage the development of jobs that pay significantly
26 more than the county average wage in the county in which the business locates
27 or the state average wage if the state average wage is less than the county
28 average wage; and

29 (2) Provide an incentive to assist with the start-up of
30 businesses targeted for growth.

31 (b) In order to qualify for the special incentive provided by
32 subsection (c) of this section, a new business shall:

33 (1) Be identified by the Department of Economic Development as
34 being one of those business sectors targeted for growth under § 15-4-2703;

35 (2) Have an annual payroll of the business for Arkansas
36 taxpayers of not less than ~~two hundred thousand dollars (\$200,000)~~ one

1 hundred thousand dollars (\$100,000) or more than one million dollars
2 (\$1,000,000);

3 (3) Show proof of an equity investment of ~~five hundred thousand~~
4 ~~dollars (\$500,000)~~ four hundred thousand dollars (\$400,000) or more; and

5 (4) Pay average hourly wages ~~as follows~~, in excess of one
6 hundred fifty percent (150%) of the county or state average wage, whichever
7 is less.

8 ~~(A) For tier 1 counties, average hourly wages in excess of~~
9 ~~one hundred eighty percent (180%) of the county or state average hourly wage,~~
10 ~~whichever is less;~~

11 ~~(B) For tier 2 counties, average hourly wages in excess of~~
12 ~~one hundred seventy percent (170%) of the county or state average hourly~~
13 ~~wage, whichever is less;~~

14 ~~(C) For tier 3 counties, average hourly wages in excess of~~
15 ~~one hundred sixty percent (160%) of the county or state average hourly wage,~~
16 ~~whichever is less; and~~

17 ~~(D) For tier 4 counties, average hourly wages in excess of~~
18 ~~one hundred fifty percent (150%) of the county or state average hourly wage,~~
19 ~~whichever is less.~~

20

21 SECTION 8. Arkansas Code 15-4-2709(d), concerning targeted business
22 special incentives under the Consolidated Incentive Act, is amended to read
23 as follows:

24 (d)(1) In order to sell income tax credits earned through incentives
25 authorized by this subchapter, the new targeted business must apply to the
26 department and furnish information necessary to facilitate the sale of income
27 tax credits.

28 (2) The income tax credit ~~shall be sold within one (1) year of~~
29 ~~issuance and~~ may be sold only one (1) time.

30 (3)(A) ~~The limitations established in § 26-51-1103 shall apply~~
31 ~~to the tax credits sold by targeted businesses under this section or § 15-4-~~
32 ~~2708.~~ Any unused tax credits may be carried forward for nine (9) years after
33 the year in which the credit was first earned or until exhausted, whichever
34 occurs first.

35 (B) The ultimate recipient of the tax credits shall be
36 subject to the same ~~provisions for carry forward~~ carry-forward provisions as

1 the targeted business that earned the credits.

2 (C) The purchase of the tax credits will not establish a
3 new ~~carry forward~~ carry-forward period for the ultimate recipient.

4
5 SECTION 9. Arkansas Code § 15-4-2711(g) -- (i), concerning
6 administration of the Consolidated Incentive Act, are amended to read as
7 follows:

8 (g)(1) If the annual payroll of the business applying for benefits
9 under this subchapter ~~does not reach the payroll threshold necessary to~~
10 ~~qualify for benefits authorized under this subchapter~~ is not met within
11 twenty-four (24) months after the signing of the financial incentive
12 agreement, the ~~applicant~~ business may request in writing for an extension of
13 time to reach the required payroll threshold.

14 (2)(A) If the Director of the Department of Economic Development
15 and the Director of the Department of Finance and Administration find that
16 the ~~applicant's~~ approved business has presented compelling reasons for an
17 extension of time, the Director of the Department of Economic Development may
18 grant an extension of time not to exceed forty-eight (48) months.

19 (B) However, the extension on projects applying for
20 benefits under § 15-4-2705 is limited to a twenty-four (24) - month
21 extension.

22 (3)(A) If a business fails to reach the annual payroll threshold
23 before the expiration of the twenty-four (24) months or the time period
24 established by a subsequent extension of time, the business will be liable
25 for the repayment of all benefits previously received by the business.

26 (B) After a business has failed to reach the annual
27 payroll threshold in a timely manner, the Department of Finance and
28 Administration shall have two (2) years to collect benefits previously
29 received by the business or file a lawsuit to enforce the repayment
30 provisions.

31 (h)(1) If a business fails to reach the investment threshold before
32 the expiration of the four-year time limit, the business will be liable for
33 the repayment of all benefits previously received by the business.

34 (2) After a business has failed to reach the investment
35 threshold of this subchapter in a timely manner, the Department of Finance
36 and Administration shall have two (2) years to collect benefits previously

1 received by the business or file a lawsuit to enforce the repayment
2 provisions.

3 (i)(1) If the annual payroll of a business receiving benefits under
4 this subchapter falls below the payroll threshold for qualification in a year
5 subsequent to the one in which it initially qualified for the incentive, the
6 benefits outlined in the financial incentive agreement will be terminated
7 unless the business files a written application for an extension of benefits
8 with the Department of Economic Development explaining why the payroll has
9 fallen below the level required for qualification.

10 (2) The Director of the Department of Economic Development and
11 the Director of the Department of Finance and Administration may approve the
12 request for extension of time, benefits not to exceed twenty-four (24)
13 months, ~~and may authorize an extension of time~~ for the business to ~~meet the~~
14 ~~payroll requirements of the incentive received~~ bring the payroll back up to
15 the requisite threshold amount and may approve the continuation of benefits
16 during the period the extension is granted.

17 (3) If a business fails to reach the payroll threshold before
18 the expiration of the twenty-four (24) months or the time period established
19 by a subsequent extension of time, the business shall be liable for the
20 repayment of all benefits previously received by the business.

21 (B) After a business has failed to reach the payroll
22 threshold in a timely manner, the Department of Finance and Administration
23 shall have two (2) years to collect benefits previously received by the
24 business or file a lawsuit to enforce the repayment provisions.

25
26 SECTION 10. Arkansas Code § 15-4-2711(k) and (l), concerning
27 administration of the Consolidated Incentive Act, are amended to read as
28 follows:

29 (k)(1) If a business fails to meet the nonretail business requirements
30 of this subchapter, the business will be liable for the repayment of all
31 benefits previously received by the business.

32 (2) After a business has failed to meet the nonretail business
33 requirements, the Department of Finance and Administration shall have two (2)
34 years to collect benefits previously received by the business or file a
35 lawsuit to enforce the repayment provisions.

36 (l)(1) Eligible businesses whose qualification depends on receiving

1 seventy-five percent (75%) of their sales revenue from out-of-state customers
2 shall meet this requirement within three (3) years from the date of their
3 financial incentive agreement.

4 (2)(A) If the requirement is not met within three (3) years of
5 the signed financial incentive agreement, the ~~applicant~~ business may request
6 in writing an extension of time to reach the required sales threshold.

7 (B) If the Director of the Department of Economic
8 Development finds that the ~~applicant~~ business has presented compelling
9 reasons for an extension of time, the Director of the Department of Economic
10 Development may grant an extension of time not to exceed twenty-four (24)
11 months.

12
13 SECTION 11. Arkansas Code § 15-4-2711(n)(1), concerning administration
14 of the Consolidated Incentive Act, is amended to read as follows:

15 (n)(1) If a business fails to notify the Department of Finance and
16 Administration that the annual payroll of the business has fallen below the
17 payroll threshold for qualification for and retention of any incentive
18 authorized by this subchapter, the business will be liable for the repayment
19 of all benefits that were paid to the business after it no longer qualified
20 for the benefits.

21
22 SECTION 12. Arkansas Code § 15-4-2711(r)(1), concerning administration
23 of the Consolidated Incentive Act, is amended to read as follows:

24 (r)(1) If a business fails to satisfy or maintain any other
25 requirement or threshold of this subchapter, the business will be liable for
26 the repayment of all benefits ~~previously received by the business~~ that were
27 paid to the business after it no longer qualified.

28
29 SECTION 13. Arkansas Code § 15-4-2713 is repealed.

30 ~~15-4-2713. Industrial development compacts.~~

31 ~~(a) If four (4) or more contiguous counties establish an industrial~~
32 ~~development compact as authorized by Arkansas Constitution, Amendment 62, §~~
33 ~~9, counties participating in the compact may be eligible for special benefits~~
34 ~~under this subchapter.~~

35 ~~(b) Each of the four (4) or more contiguous counties that enter into~~
36 ~~an industrial development compact in accordance with Arkansas Constitution,~~

1 ~~Amendment 62, may apply the benefits of the tier of the most impoverished~~
2 ~~county participating in the compact.~~

3 ~~(c)(1) For the counties within a compact to share property tax~~
4 ~~revenues from new business locations or expansions, the businesses shall~~
5 ~~qualify for and receive benefits from one (1) or more of the incentives~~
6 ~~offered under this subchapter.~~

7 ~~(2) A business subject to the benefits of this subsection may~~
8 ~~not be offered Act No. 9 bond financing as a means to abate any portion of~~
9 ~~the property taxes that would otherwise apply unless the property tax~~
10 ~~abatement agreement is approved by each of the parties participating in the~~
11 ~~compact.~~

12 ~~(d) A county may not be a member of more than one (1) regional compact~~
13 ~~under this section.~~

14
15 SECTION 14. Effective Date.

16 The benefits afforded by this act shall only apply to the qualified
17 businesses approved by the Department of Economic Development with a signed
18 financial incentive agreement dated on or after July 1, 2005.

19
20 SECTION 11. Emergency Clause. It is found and determined by the
21 General Assembly that this act is designed to bring new jobs to this state;
22 that current financial conditions dictate that unless industries can take
23 advantage of the provisions of this act they may be forced to locate in
24 another state; that unless this bill takes effect on the prescribed date
25 significant numbers of jobs will be lost to this state. Therefore, an
26 emergency is declared to exist and this act being necessary for the
27 preservation of the public peace, health, and safety shall become effective
28 on July 1, 2005.

29
30 /s/ Wooldridge
31
32
33
34
35
36