

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

A Bill

SENATE BILL 226

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

For An Act To Be Entitled

9 AN ACT TO AMEND THE INCOME TAX CREDIT ALLOWED FOR
10 DONATIONS OR SALES OF MACHINERY AND EQUIPMENT TO
11 CERTAIN EDUCATIONAL INSTITUTIONS; TO ALLOW AN INCOME
12 TAX CREDIT FOR CASH DONATIONS TO CERTAIN EDUCATIONAL
13 INSTITUTIONS FOR THE PURCHASE OF MACHINERY AND
14 EQUIPMENT; TO CREATE AN APPLICATION PROCESS FOR BEING
15 GRANTED AN INCOME TAX CREDIT FOR A DONATION OR SALE
16 TO CERTAIN EDUCATIONAL INSTITUTIONS; AND FOR OTHER
17 PURPOSES.
18
19

Subtitle

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

33 (2) "Cost" means:

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



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

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

11
12 SECTION 2. Arkansas Code § 26-51-1101(5)-(6), concerning the
13 definitions used in relation to the treatment of donations or sales of
14 equipment to educational institutions for income tax purposes, are amended to
15 read as follows:

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

24 (6) "Qualified educational institution" means:

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

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

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

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

1 follows:

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

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

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

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

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

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

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

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

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

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

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

35 26-51-1104. Documentation required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9
10 SECTION 6. Arkansas Code Title 26, Chapter 51, Subchapter 11, is
11 amended to add an additional section to read as follows:

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

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

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

19 (1) Approve the application; or

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

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

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

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

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