

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 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 2575

4  
5 By: Representative Thomas

## For An Act To Be Entitled

6  
7  
8 AN ACT TO REPEAL CERTAIN TAX CREDITS; AND FOR  
9 OTHER PURPOSES.  
10

## Subtitle

11  
12 AN ACT TO REPEAL CERTAIN TAX CREDITS.  
13  
14  
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
17

18 SECTION 1. The purpose of this act is to repeal certain tax credits  
19 currently available under Arkansas law to increase revenues.  
20

21 SECTION 2. Arkansas Code Title 26, Chapter 51, Subchapter 5 is  
22 repealed.

23 ~~26-51-501. Personal tax credits.~~

24 ~~(a) There shall be deducted from the tax after the tax shall have been~~  
25 ~~computed as set forth in this act a personal tax credit as follows:~~

26 ~~(1) For a single individual, the adjusted individual credit.~~  
27 ~~However, a taxpayer who was blind or deaf at any time during the income year~~  
28 ~~shall be entitled to an additional tax credit of twenty dollars (\$20.00). A~~  
29 ~~single individual who is deaf blind shall be entitled to an additional tax~~  
30 ~~credit of forty dollars (\$40.00). A single individual of sixty five (65)~~  
31 ~~years of age or older shall be entitled to an additional tax credit of twenty~~  
32 ~~dollars (\$20.00);~~

33 ~~(2)(A)(i) For the head of household, surviving spouse, or a~~  
34 ~~married individual living with husband or wife, the adjusted joint credit. A~~  
35 ~~husband and wife living together and filing either jointly or separately on~~  
36 ~~the same income tax form shall receive but one (1) adjusted joint credit~~



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1 ~~against their aggregate tax.~~

2 ~~(ii) Subdivision (2)(A)(i) of this section shall~~  
 3 ~~apply if the Director of the Department of Finance and Administration~~  
 4 ~~continues to provide a tax return on which a husband and wife can elect to~~  
 5 ~~file jointly or separately on the same return.~~

6 ~~(B) However, in the event that the husband or wife shall~~  
 7 ~~be sixty five (65) years of age or older, each of them who is sixty five (65)~~  
 8 ~~years of age or older shall be entitled to an additional tax credit of twenty~~  
 9 ~~dollars (\$20.00).~~

10 ~~(C) However, any husband or wife filing a separate return~~  
 11 ~~on a separate tax form shall receive the adjusted individual credit on each~~  
 12 ~~return so filed, but if the husband or wife is sixty five (65) years of age~~  
 13 ~~or older, each of them who is sixty five (65) years of age or older shall be~~  
 14 ~~entitled to an additional tax credit of twenty dollars (\$20.00).~~

15 ~~(D) The term "head of household" shall have the same~~  
 16 ~~meaning as defined in section 2(b) of the Internal Revenue Code of 1986, as~~  
 17 ~~in effect on January 1, 2001.~~

18 ~~(E) The term "surviving spouse" shall have the same~~  
 19 ~~meaning as defined in section 2(a) of the Internal Revenue Code of 1986, as~~  
 20 ~~in effect on January 1, 2001;~~

21 ~~(3)(A) For each individual, other than husband or wife, who has~~  
 22 ~~a gross income for the tax year of less than three thousand dollars (\$3,000),~~  
 23 ~~who has not filed a joint return with his or her spouse for the taxable year,~~  
 24 ~~and who is dependent upon and receives his or her chief support from the~~  
 25 ~~taxpayer, the adjusted individual credit.~~

26 ~~(B) For the purposes of subdivision (a)(3)(A) of this~~  
 27 ~~section, the term "dependent" means any of the following persons over half of~~  
 28 ~~whose support for the income year was received from the taxpayer:~~

- 29 ~~(i) A son or daughter or descendant of either;~~
- 30 ~~(ii) A stepson or stepdaughter;~~
- 31 ~~(iii) A brother, sister, stepbrother, or stepsister;~~
- 32 ~~(iv) The father or mother or an ancestor of either;~~
- 33 ~~(v) A stepfather or stepmother;~~
- 34 ~~(vi) A son or daughter of a brother or sister;~~
- 35 ~~(vii) A brother or sister of the father or mother;~~

36 ~~or~~

1                   ~~(viii) A son in law, daughter in law, father in law,~~  
2 ~~mother in law, brother in law, or sister in law of the taxpayer.~~

3                   ~~(C) As used in subdivision (a)(3)(B) of this section, the~~  
4 ~~terms "brother" and "sister" include a brother or sister by half blood. For~~  
5 ~~the purpose of determining whether any of the foregoing relationships exist,~~  
6 ~~a legally adopted child of a person shall be considered a child of that~~  
7 ~~person by blood.~~

8                   ~~(D) The term "dependent" does not include any individual~~  
9 ~~who is a citizen or subject of a foreign country unless that individual is a~~  
10 ~~resident of the United States or a country contiguous to the United States;~~

11                   ~~(4) In the case of a fiduciary:~~

12                   ~~(A) If taxable under § 26 51 203(a)(1), the adjusted~~  
13 ~~individual credit;~~

14                   ~~(B) If taxable under § 26 51 203(a)(2), the same tax~~  
15 ~~credit as would be allowed the deceased if living;~~

16                   ~~(C) If taxable under § 26 51 203(a)(3), the tax credit to~~  
17 ~~which the beneficiary would be entitled; and~~

18                   ~~(5) In the case of a nonresident taxpayer, the taxpayer shall be~~  
19 ~~entitled to that proportion of the tax credit granted by this act that the~~  
20 ~~gross income within the state bears to the entire gross income wherever~~  
21 ~~earned.~~

22                   ~~(b) The status of the last day of the income year shall determine the~~  
23 ~~right to the tax credits provided in this section. However, a taxpayer shall~~  
24 ~~be entitled to tax credits for a husband or wife or a dependent who has died~~  
25 ~~during the income year.~~

26                   ~~(c)(1) For the purposes of this section, a blind person is any person:~~

27                   ~~(A) Who is totally blind, cannot tell light from darkness;~~

28                   ~~(B) A person whose central visual acuity does not exceed~~  
29 ~~20/200 in the better eye with correcting lenses; or~~

30                   ~~(C) Whose fields of vision are so limited that the widest~~  
31 ~~diameter of the visual field subtends an angle no greater than twenty degrees~~  
32 ~~(20°).~~

33                   ~~(2) For the purposes of subdivision (a)(1) of this section:~~

34                   ~~(A) An individual is deaf only if his or her average loss~~  
35 ~~in the speech frequencies which are 500 to 2,000 Hertz in the better ear is~~  
36 ~~86 decibels, I.S.O. or worse; and~~

1                   ~~(B) An individual is deaf blind only if he or she is both~~  
 2 ~~deaf and blind.~~

3           ~~(d) For the purposes of this section:~~

4                   ~~(1) "Adjusted individual credit" shall be twenty dollars~~  
 5 ~~(\$20.00); and~~

6                   ~~(2) "Adjusted joint credit" shall be forty dollars (\$40.00).~~

7           ~~(e)(1)(A) Not later than July 15 of calendar year 2003, and of each~~  
 8 ~~subsequent calendar year, the Director of the Department of Finance and~~  
 9 ~~Administration shall increase the adjusted individual credit and adjusted~~  
 10 ~~joint credit by the cost of living adjustment for that current calendar year,~~  
 11 ~~rounding each amount to the nearest dollar.~~

12                   ~~(B) The annual cost of living adjustment shall apply to~~  
 13 ~~the adjusted credits as contained in § 26-51-501(d)(1) and (2).~~

14                   ~~(2)(A) For purposes of subdivision (e)(1) of this section, the~~  
 15 ~~cost of living adjustment for any calendar year is the percentage, if any, by~~  
 16 ~~which the Consumer Price Index for the calendar year preceding the taxable~~  
 17 ~~year exceeds the Consumer Price Index for the calendar year 2001.~~

18                   ~~(B) The Consumer Price Index for any calendar year is the~~  
 19 ~~average of the Consumer Price Index as of the close of the twelve-month~~  
 20 ~~period ending on August 31 of that calendar year.~~

21                   ~~(C) For purposes of this subsection, "Consumer Price~~  
 22 ~~Index" means the last Consumer Price Index for all urban consumers published~~  
 23 ~~by the United States Department of Labor.~~

24                   ~~(3) The adjusted credit amounts shall apply for tax years~~  
 25 ~~beginning on and after January 1, 2003.~~

26                   ~~(4) The director shall not increase the adjusted credit for any~~  
 27 ~~calendar year unless the conditions of subsection (f) of this section are~~  
 28 ~~met.~~

29           ~~(f) The adjusted credit applicable for any calendar year beginning on~~  
 30 ~~and after January 1, 2003, shall not be increased unless:~~

31                   ~~(1) The net available general revenue forecast provided to the~~  
 32 ~~Joint Committee on Economic and Tax Policy pursuant to § 10-3-1404 in May of~~  
 33 ~~the calendar year for which a credit increase is contemplated indicates that~~  
 34 ~~net available general revenue growth for the fiscal year beginning in the~~  
 35 ~~calendar year for which a credit increase is contemplated will be 4.2% or~~  
 36 ~~greater; and~~

1           ~~(2) Either:~~

2                   ~~(A) The net available general revenues for the fiscal year~~  
3 ~~ending in the calendar year for which a credit increase is contemplated~~  
4 ~~exceed the official forecast by at least 0.5%; or~~

5                   ~~(B) The net available general revenues for the fiscal year~~  
6 ~~ending in the calendar year for which a credit increase is contemplated~~  
7 ~~exceed the total distributions for that fiscal year under the provisions of~~  
8 ~~the Revenue Stabilization Law, § 19-5-101 et seq.~~

9  
10           ~~26-51-502. Household and dependent care services.~~

11           ~~(a) A credit shall be allowed to individuals against the income tax~~  
12 ~~imposed by the Arkansas Income Tax Act, as amended, § 26-51-101 et seq., for~~  
13 ~~expenses for household and dependent care services necessary for gainful~~  
14 ~~employment in the manner prescribed by subsection (b) of this section.~~

15           ~~(b)(1) Section 21 of the Internal Revenue Code of 1986, as amended and~~  
16 ~~in effect on January 1, 1997, is adopted for purposes of determining the~~  
17 ~~allowable credit under the Arkansas Income Tax Act, as amended, § 26-51-101~~  
18 ~~et seq., for household and dependent care services necessary for gainful~~  
19 ~~employment.~~

20           ~~(2) The amount of credit shall be twenty percent (20%) of the~~  
21 ~~federal credit allowable.~~

22           ~~(c)(1) A credit, which is equal to twenty percent (20%) of the federal~~  
23 ~~child care credit as allowed under Section 21 of the Internal Revenue Code,~~  
24 ~~as in effect on January 1, 1993, shall be allowed to qualified individuals~~  
25 ~~against the income tax imposed by the Arkansas Income Tax Act, as amended, §~~  
26 ~~26-51-101 et seq. The twenty percent (20%) child care credit is refundable.~~  
27 ~~The excess of the credit over tax liability will be returned to the taxpayer~~  
28 ~~as an overpayment of tax.~~

29           ~~(A) A "qualified individual" is a taxpayer who has a~~  
30 ~~dependent child with respect to whom the taxpayer is entitled to a credit~~  
31 ~~under § 26-51-501(a)(3), and who incurs child care expenses necessary for~~  
32 ~~gainful employment at an approved child care facility, as defined in~~  
33 ~~subdivision (c)(1)(B) of this section.~~

34           ~~(B) An "approved child care facility" is a child care~~  
35 ~~facility which provided an appropriate early childhood program, as defined in~~  
36 ~~§ 6-45-103(2), and which is approved in accordance with § 6-45-109.~~

1                   ~~(2) A taxpayer cannot claim both the credit allowed in~~  
 2 ~~subsections (a) and (b) of this section and the credit allowed in subsection~~  
 3 ~~(c) of this section.~~

4                   ~~(3) The credit allowed in this subsection shall be effective for~~  
 5 ~~taxable years beginning January 1, 1993.~~

6  
 7                   ~~26-51-503. Support of a child with a developmental disability.~~

8                   ~~(a) In addition to the state income tax credit permitted by § 26-51-~~  
 9 ~~501(a) and (b), any taxpayer in this state who is maintaining, supporting,~~  
 10 ~~and caring for an individual with a diagnosis of developmental disability in~~  
 11 ~~his home shall be permitted, in addition to all other income tax credits, a~~  
 12 ~~credit of five hundred dollars (\$500) for each income year for that~~  
 13 ~~individual.~~

14                   ~~(b)(1) Any person wishing to take advantage of this tax credit must~~  
 15 ~~have certification by a licensed physician, licensed psychologist, or~~  
 16 ~~licensed psychological examiner that the individual has a diagnosis of~~  
 17 ~~developmental disability.~~

18                   ~~(2) The certification shall be valid for five (5) years for~~  
 19 ~~income tax purposes.~~

20                   ~~(3) If any person wishes to take advantage of this tax credit~~  
 21 ~~after using the certification for five (5) income years, the person must have~~  
 22 ~~the individual reevaluated by a licensed physician, licensed psychologist, or~~  
 23 ~~licensed psychological examiner for recertification.~~

24                   ~~(4) The recertification process shall be valid for another five~~  
 25 ~~(5) years for income tax purposes.~~

26                   ~~(c) As used in this section, the following terms shall have the~~  
 27 ~~following meanings:~~

28                   ~~(1) "Diagnosis of developmental disability" means that the~~  
 29 ~~individual meets the criteria for a diagnosis of developmental disability as~~  
 30 ~~provided in §§ 20-48-202(6) and 20-48-101(1) respectively; and~~

31                   ~~(2) "Individual" means a child of the taxpayer's blood, an~~  
 32 ~~adopted child, or a dependent within the meaning of § 26-51-501(a)(3)(B).~~

33  
 34                   ~~26-51-504. Income from sources outside Arkansas.~~

35                   ~~(a)(1) For the purpose of ascertaining the income tax due by an~~  
 36 ~~individual resident of Arkansas whose gross income includes income derived~~

1 from property located outside the State of Arkansas, or from business  
 2 transacted outside the State of Arkansas, the tax shall first be computed as  
 3 if all of the income of the resident were derived from sources within the  
 4 State of Arkansas, but a credit shall then be given on the tax as so  
 5 computed, for the amount of income tax actually owed by the resident for the  
 6 year to any other state or territory on account of income from property owned  
 7 or business transacted in the other state or territory. However, credit  
 8 shall not exceed what the tax would be on the outside income, if added to the  
 9 Arkansas income, and calculated at Arkansas income tax rates.

10 (2)(A) For purposes of subdivision (a)(1) of this section, the  
 11 amount of income tax owed to any other state or territory by a resident  
 12 shareholder of an S corporation shall be considered to include an amount  
 13 equal to the shareholder's pro rata share of any net income tax owed by the S  
 14 corporation to a state which does not recognize S corporations.

15 (B) For purposes of subdivision (a)(2)(A) of this section,  
 16 the term "net income tax" means any tax imposed on or measured by a  
 17 corporation's net income.

18 (b) Before a resident of Arkansas may claim the credit allowed under  
 19 this section, he shall file with his income tax return any such additional  
 20 information as the Director of the State Income Tax Division or the Director  
 21 of the Department of Finance and Administration may by regulation require  
 22 showing in detail the amount of gross and net income derived from property  
 23 owned or business transacted without this state, together with the amount of  
 24 tax actually owed on the income to another state or territory.

25 (c) The credit against Arkansas income tax afforded individual  
 26 residents of Arkansas under this section shall also be available to  
 27 fiduciaries and partnerships residing or domiciled in Arkansas which are  
 28 subject to Arkansas income tax or which have to report income for purposes of  
 29 Arkansas income tax.

30  
 31 26-51-505. Establishment or expansion of manufacturing enterprise.

32 (a) There shall be allowed a credit against the tax imposed by the  
 33 Arkansas Income Tax Act, as amended, § 26-51-101 et seq., § 26-51-205, and §  
 34 26-51-303, an amount as determined in subsection (c) of this section, for any  
 35 taxpayer who establishes or expands a manufacturing enterprise in the State  
 36 of Arkansas which results in the creation of new additional full-time or

1 ~~part-time jobs within this state.~~

2 ~~(b)(1) For the purposes of this section, the term "manufacturing"~~  
3 ~~refers to and includes those operations commonly understood within their~~  
4 ~~ordinary meaning and shall also include mining, quarrying, refining,~~  
5 ~~extracting oil and gas, cotton ginning, the drying of rice, soybeans, and~~  
6 ~~other grains, the manufacturing of feed, processing of poultry or eggs and~~  
7 ~~livestock, and the hatching of poultry.~~

8 ~~(2)(A) A "new employee" shall be a person residing and domiciled~~  
9 ~~in this state, hired by the taxpayer to fill a new additional job in this~~  
10 ~~state which previously did not exist in the manufacturing enterprise during~~  
11 ~~the taxable year for which the credit allowed by this section is claimed.~~

12 ~~(B) To qualify for the credit provided in this section,~~  
13 ~~the employment of a new employee by the manufacturer must increase the total~~  
14 ~~number of employees who are employed by the manufacturer. In no case shall~~  
15 ~~the new employees allowed for the purpose of the credit exceed the total~~  
16 ~~increase in employment.~~

17 ~~(C) A person shall be deemed to be so engaged if that~~  
18 ~~person performs duties in connection with the operation of the business~~  
19 ~~enterprise on:~~

20 ~~(i) A regular full-time basis;~~

21 ~~(ii) A part-time basis if the person is customarily~~  
22 ~~performing such duties at least twenty (20) hours per week for at least six~~  
23 ~~(6) months during the taxable year.~~

24 ~~(c)(1) The credit shall be a portion of the state individual or~~  
25 ~~corporate income tax paid by the taxpayer but not in excess of fifty percent~~  
26 ~~(50%) of the tax. The portion shall be an amount determined by multiplying~~  
27 ~~the number of new employees, as defined in subdivision (b)(2) of this~~  
28 ~~section, by one hundred dollars (\$100) per eligible new employee per taxable~~  
29 ~~year.~~

30 ~~(2) The amount of the credit allowed under subdivision (c)(1) of~~  
31 ~~this section for the taxable year shall be an amount equal to the sum of:~~

32 ~~(A) A carryover of prior unused credits arising from the~~  
33 ~~taxable years beginning on or after January 1, 1983, carried to the taxable~~  
34 ~~year; plus~~

35 ~~(B) The amount of the credit allowed by subdivision (c)(1)~~  
36 ~~of this section for the taxable year.~~



1           ~~(3) If the sum of the amount of the credits under subdivisions~~  
 2 ~~(c)(2)(A) and (B) of this section for the taxable year exceeds the limitation~~  
 3 ~~imposed by subdivision (c)(1) of this section, the excess shall be treated as~~  
 4 ~~a carryover credit and may be carried over for a maximum of three (3)~~  
 5 ~~consecutive years following the taxable year in which the credit originated.~~

6           ~~(d)(1) In the case of a proprietorship or partnership, the amount of~~  
 7 ~~the credit determined under this section for any taxable year shall be~~  
 8 ~~apportioned to each proprietor or partner in proportion to the amount of~~  
 9 ~~income from the manufacturing entity which the proprietor or partner is~~  
 10 ~~required to include in his gross income.~~

11           ~~(2) In the case of a Subchapter S corporation, as allowed by §~~  
 12 ~~26-51-409, the amount of the credit determined under this section for any~~  
 13 ~~taxable year shall be apportioned pro rata among the persons who are~~  
 14 ~~shareholders of the corporation on the last day of the taxable year.~~

15           ~~(3) No credit shall be allowed under this section to any~~  
 16 ~~organization which is exempt from state income tax.~~

17           ~~(4) In the case of an estate or trust:~~

18                   ~~(A) The amount of the credit determined under this section~~  
 19 ~~for any taxable year shall be apportioned between the estate or trust and the~~  
 20 ~~beneficiaries on the basis of the income of the estate or trust allocable to~~  
 21 ~~each; and~~

22                   ~~(B) Any beneficiary to whom any amount has been~~  
 23 ~~apportioned under subdivision (d)(4)(A) of this section shall be allowed,~~  
 24 ~~subject to the limitations contained in this section, a credit under this~~  
 25 ~~section for the amount.~~

26           ~~(e)(1) The Revenue Division of the Department of Finance and~~  
 27 ~~Administration shall promulgate such rules and regulations as may be deemed~~  
 28 ~~necessary to carry out the purposes of this section.~~

29           ~~(2) The Revenue Division shall consult with the Arkansas~~  
 30 ~~Employment Security Department and the Arkansas Economic Development~~  
 31 ~~Commission during the promulgation of the rules and regulations.~~

32           ~~(f) The tax credit provided by this section shall expire on June 30,~~  
 33 ~~1988. Any unused credits may be carried over beyond this date in accordance~~  
 34 ~~with subdivision (b)(3) of this section.~~

35  
 36           ~~26-51-506. Tax credit for waste reduction, reuse, or recycling~~

1 equipment—Eligibility.

2 (a) ~~The intent and purpose of this section is to increase capacity in~~  
 3 ~~the State of Arkansas for the use of recovered materials.~~

4 (b) ~~For the purposes of this section:~~

5 (1) ~~"Cost", in the case of a transfer of title or a finance~~  
 6 ~~lease, means the amount of the purchase price, and, in the case of a lease~~  
 7 ~~which is not a finance lease but which otherwise qualifies as a purchase~~  
 8 ~~under this section, means the amount of the lease payments due to be paid~~  
 9 ~~during the term of the lease after deducting any portion of the lease~~  
 10 ~~payments attributable to interest, insurance, and taxes;~~

11 (2) ~~"Equipment to service waste reduction, reuse, or recycling~~  
 12 ~~equipment" means expenditures, machinery, or equipment that keeps existing~~  
 13 ~~machinery or equipment in running order by providing repair, maintenance,~~  
 14 ~~adjustment, inspection, or supplies;~~

15 (3) ~~"Finance lease" means a lease agreement which is treated as~~  
 16 ~~a purchase by a lessee for Arkansas income tax purposes;~~

17 (4) ~~"Home scrap" means materials or by products generated from~~  
 18 ~~and commonly reused within an original manufacturing process;~~

19 (5) ~~"Maintenance" means expenditures, machinery, or equipment~~  
 20 ~~used to keep existing machinery or equipment in a condition that approaches~~  
 21 ~~or equates to its original condition;~~

22 (6) ~~"Motor vehicle" means a vehicle or trailer that is licensed,~~  
 23 ~~or that normally would be licensed, for use on highways in Arkansas;~~

24 (7) ~~"Postconsumer waste" means products or other materials~~  
 25 ~~generated by a business, governmental entity, or consumer which have served~~  
 26 ~~their intended end use and have been recovered from or otherwise diverted~~  
 27 ~~from the solid waste stream for the purpose of recycling;~~

28 (8) ~~"Preconsumer material" means material generated during any~~  
 29 ~~step in the production of a product and recovered or otherwise diverted from~~  
 30 ~~the solid waste stream for the purpose of recycling but does not include home~~  
 31 ~~scrap;~~

32 (9) ~~"Purchase" means a transaction under which title to an item~~  
 33 ~~is transferred for consideration or a lease contract for a period of at least~~  
 34 ~~three (3) years regardless of whether title to the item is transferred at the~~  
 35 ~~end of such period;~~

36 (10) ~~"Recovered materials" means those materials which have been~~

1 separated, diverted, or removed from the waste stream for the purpose of  
 2 recycling and includes preconsumer material and postconsumer waste but not  
 3 home scrap;

4 (11) "Recycling" means the systematic collecting, sorting,  
 5 decontaminating, and returning of waste materials to commerce as commodities  
 6 for use or exchange;

7 (12) "Repair" means expenditures, machinery, or equipment used  
 8 to restore existing machinery or equipment to its original or similar  
 9 condition and capacity after damage or after deterioration from use;

10 (13) "Solid waste" means all putrescible and nonputrescible  
 11 wastes in solid or semisolid form, including, but not limited to, yard or  
 12 food waste, waste glass, waste metals, waste plastics, wastepapers, waste  
 13 paperboard, and all other solid or semisolid wastes resulting from  
 14 industrial, commercial, agricultural, community, and residential activities;  
 15 and

16 (14)(A) "Waste reduction, reuse, or recycling equipment" means  
 17 new or used machinery or equipment located in Arkansas on the last day of the  
 18 taxable year which is operated or used exclusively in Arkansas to collect,  
 19 separate, process, modify, convert, or treat solid waste so that the  
 20 resulting product may be used as a raw material or for productive use or to  
 21 manufacture products containing recovered materials. The term also includes  
 22 devices which are directly connected with or are an integral and necessary  
 23 part of such machinery or equipment and are necessary for such collection,  
 24 separation, processing, modification, conversion, treatment, or  
 25 manufacturing.

26 (B) "Waste reduction, reuse, or recycling equipment" does  
 27 not include motor vehicles.

28 (c) There shall be allowed a credit against the tax imposed by the  
 29 Income Tax Act of 1929, § 26-51-101 et seq., as amended, in an amount as  
 30 determined in subsection (e) of this section for any taxpayer engaged in the  
 31 business of reducing, reusing, or recycling solid waste for commercial  
 32 purposes who purchases waste reduction, reuse, or recycling equipment used  
 33 exclusively for the purpose of reducing, reusing, or recycling solid waste.

34 (d) To claim the benefits of this section, a taxpayer must obtain a  
 35 certification from the Director of the Arkansas Department of Environmental  
 36 Quality certifying to the Revenue Division of the Department of Finance and

1 Administration that:

2           (1) ~~The taxpayer is engaged in the business of reducing,~~  
 3 ~~reusing, or recycling solid waste material for commercial purposes, whether~~  
 4 ~~or not for profit;~~

5           (2) ~~The machinery or equipment purchased is waste reduction,~~  
 6 ~~reuse, or recycling equipment;~~

7           (3) ~~The machinery or equipment is being used in the collection,~~  
 8 ~~separation, processing, modification, conversion, treatment, or manufacturing~~  
 9 ~~of products containing at least fifty percent (50%) recovered materials,~~  
 10 ~~provided that at least ten percent (10%) of the recovered materials shall be~~  
 11 ~~post-consumer waste; and~~

12           (4) ~~The taxpayer has filed a statement with the Director of the~~  
 13 ~~Arkansas Department of Environmental Quality acknowledging that the taxpayer~~  
 14 ~~will make a good faith effort to utilize post-consumer waste generated in~~  
 15 ~~Arkansas as at least ten percent (10%) of the post-consumer waste being used~~  
 16 ~~in the equipment, to the extent available at a competitive price.~~

17           (e)(1) ~~The amount of the credit allowed under subsection (c) of this~~  
 18 ~~section shall be equal to thirty percent (30%) of the cost of waste~~  
 19 ~~reduction, reuse, or recycling equipment, including the cost of installation.~~

20           (2) ~~The cost of installation shall not include the cost of:~~

21                   (A) ~~Feasibility studies;~~

22                   (B) ~~Engineering costs of a building to house the equipment~~  
 23 ~~and related machinery; or~~

24                   (C) ~~Equipment used to service the waste reduction, reuse,~~  
 25 ~~or recycling equipment.~~

26           (3) ~~The cost of replacement parts which serve only to keep~~  
 27 ~~existing waste reduction, reuse, or recycling equipment in its ordinary~~  
 28 ~~efficient operating condition shall not be included in determining the amount~~  
 29 ~~of the credit. The cost of replacement of existing waste reduction, reuse,~~  
 30 ~~or recycling equipment shall not be included in determining the amount of the~~  
 31 ~~credit unless the replacement provides greater capacity for recycling or~~  
 32 ~~provides the capability to collect, separate, process, modify, convert,~~  
 33 ~~treat, or manufacture additional or a different type of solid waste.~~

34           (4) ~~The cost of service contracts, sales tax, maintenance, and~~  
 35 ~~repairs shall not be included in determining the amount of the credit.~~

36           (f)(1) ~~The taxpayer shall refund the amount of the tax credit~~

1 determined by subdivision (f)(2) of this section if, within three (3) years  
2 of the taxable year for which a credit is allowed;

3 (A) The waste reduction, reuse, or recycling equipment is  
4 removed from Arkansas, is disposed of, is transferred to another person, or  
5 the taxpayer otherwise ceases to use the required materials or operate in the  
6 manner required by this section;

7 (B) The Director of the Arkansas Department of  
8 Environmental Quality finds that the taxpayer has demonstrated a pattern of  
9 intentional failure to comply with final administrative or judicial orders  
10 which clearly indicates a disregard for environmental regulation or a pattern  
11 of prohibited conduct which could reasonably be expected to result in adverse  
12 environmental impact.

13 (2) If the provisions of subdivision (f)(1) of this section  
14 apply, the taxpayer shall refund the amount of the tax credit which was  
15 deducted from income tax liability which exceeds the following amounts:

16 (A) Within the first year, zero dollars (\$0);

17 (B) Within the second year, an amount equal to thirty-  
18 three percent (33%) of the amount of credit allowed; and

19 (C) Within the third year, an amount equal to sixty-seven  
20 percent (67%) of the credit allowed.

21 (3) Any refund required by subdivision (f)(1)(A) of this section  
22 shall apply only to the credit given for the particular waste reduction,  
23 reuse, or recycling equipment to which that subdivision applies.

24 (4) Any taxpayer who is required to refund part of a credit  
25 pursuant to this subsection shall no longer be eligible to carry forward any  
26 amount of that credit which had not been used as of the date such refund is  
27 required.

28 (5)(A) This subsection shall apply to all credits which are  
29 certified as a result of applications for certification filed with the  
30 Arkansas Department of Environmental Quality on or after July 1, 1993.

31 (B) This subsection shall not apply to credits which are  
32 certified as a result of applications for certification filed with the  
33 Arkansas Department of Environmental Quality prior to July 1, 1993.

34 (C) Taxpayers who file written notice and a project plan  
35 with the Arkansas Department of Environmental Quality prior to July 1, 1993,  
36 shall be deemed to have filed an application for certification for purposes

1 of subdivision (f)(5) of this section, provided that all the information  
 2 necessary to complete the application for certification is provided to the  
 3 department on or before December 31, 1993.

4 ~~(g) Waste reduction, reuse, or recycling equipment shall only be~~  
 5 ~~eligible for one (1) tax credit. The sale or transfer of such equipment~~  
 6 ~~shall not recreate the eligibility for a tax credit.~~

7 ~~(h)(1) In the case of a proprietorship or partnership engaged in the~~  
 8 ~~business of waste reduction, reuse, or recycling of solid waste, the amount~~  
 9 ~~of the credit determined under this section for any taxable year shall be~~  
 10 ~~apportioned to each proprietor or partner in proportion to the amount of~~  
 11 ~~income from the entity which the proprietor or partner is required to include~~  
 12 ~~as gross income.~~

13 ~~(2) In the case of a Subchapter S corporation, as allowed by §~~  
 14 ~~26-51-409, the amount of the credit determined under this section for any~~  
 15 ~~taxable year shall be apportioned among the persons who are shareholders of~~  
 16 ~~the corporation on the last day of the taxable year based on each person's~~  
 17 ~~percentage of ownership.~~

18 ~~(3) In the case of an estate or trust:~~

19 ~~(A) The amount of the credit determined under this section~~  
 20 ~~for any taxable year shall be apportioned between the estate or trust and the~~  
 21 ~~beneficiaries on the basis of the income of the estate or trust allocable to~~  
 22 ~~each; and~~

23 ~~(B) Any beneficiary to whom any amount has been~~  
 24 ~~apportioned under this subsection shall be allowed, subject to limitations~~  
 25 ~~contained in this section, a credit under this section for the amount.~~

26 ~~(i) The amount of the credit that may be used by a~~  
 27 ~~taxpayer for a taxable year may not exceed the amount of state, individual,~~  
 28 ~~or corporate income tax otherwise due. Any unused credit may be carried over~~  
 29 ~~for a maximum of three (3) consecutive years following the taxable year in~~  
 30 ~~which the credit originated.~~

31 ~~(j) A taxpayer who receives a credit under this section shall not be~~  
 32 ~~entitled to claim any other state or local tax credit or deduction based on~~  
 33 ~~the purchase of the machinery or equipment, except for the deduction for~~  
 34 ~~normal depreciation.~~

35 ~~(k)(1) The Arkansas Department of Environmental Quality and the~~  
 36 ~~Revenue Division of the Department of Finance and Administration shall~~

1 ~~promulgate rules or regulations as are necessary to administer this section.~~  
 2 ~~These rules or regulations may include, but are not limited to, the~~  
 3 ~~establishment of technical specifications and of requirements for information~~  
 4 ~~and documentation for taxpayers seeking a credit under this section and shall~~  
 5 ~~encourage, but not require, the use of Arkansas contractors and post-consumer~~  
 6 ~~waste generated in Arkansas in recycling projects which qualify for credits~~  
 7 ~~provided by this section.~~

8 ~~(2) In order to determine eligibility for the credit or to~~  
 9 ~~ensure that the machinery or equipment is being utilized in the required~~  
 10 ~~manner, each agency shall have the right to inspect facilities and records of~~  
 11 ~~a taxpayer requesting or receiving a credit under this section.~~

12 ~~(1) Any person or legal entity aggrieved by a decision of the Director~~  
 13 ~~of the Arkansas Department of Environmental Quality under subsection (d) or~~  
 14 ~~subdivision (f)(1)(B) of this section may appeal to the Arkansas Pollution~~  
 15 ~~Control and Ecology Commission through administrative procedures adopted by~~  
 16 ~~the commission and to the courts in the manner provided in §§ 8-4-222—8-4-~~  
 17 ~~229.~~

18  
 19 ~~26-51-507. Employer provided child care—As qualified under § 26-52-~~  
 20 ~~401.~~

21 ~~(a) A business which qualifies for the exemption from the gross~~  
 22 ~~receipts tax under § 26-52-401(29) shall be allowed an income tax credit of~~  
 23 ~~three and nine tenths percent (3.9%) of the annual salary of employees~~  
 24 ~~employed exclusively in providing child care services.~~

25 ~~(b) If two (2) or more businesses participate in a child care program~~  
 26 ~~for their employees as provided by § 26-52-401(29), then each business will~~  
 27 ~~be allowed an income tax credit of three and nine tenths percent (3.9%) of~~  
 28 ~~the annual salary of only those employees who are on the respective business'~~  
 29 ~~payroll and are employed exclusively for providing child care services.~~

30 ~~(c)(1) To qualify for the income tax credit, the revenue to the~~  
 31 ~~business or businesses from the child care facility cannot exceed the direct~~  
 32 ~~operating costs of the facility. If, on an annual basis, the child care~~  
 33 ~~facility receives revenue which exceeds the direct operating costs of the~~  
 34 ~~facility, the business or businesses will not be entitled to the income tax~~  
 35 ~~credit.~~

36 ~~(2) For the purposes of this subsection, direct operating costs~~

1 means:

2                                   (A) ~~The cost of food and beverages provided to the~~  
 3 ~~children;~~

4                                   (B) ~~The cost of labor for personnel whose services are~~  
 5 ~~performed exclusively on the premises of the child care facility for the care~~  
 6 ~~of the children and all related employment taxes paid by the employer; and~~

7                                   (C) ~~All materials and supplies necessary to operate the~~  
 8 ~~child care facility.~~

9                   (d) ~~The income tax credit created by subsection (a) of this section~~  
 10 ~~shall first be available in the taxable year following the year the business~~  
 11 ~~makes payment of wages to child care workers. To the extent that the credit~~  
 12 ~~is not fully utilized in this first year, it may be carried forward for an~~  
 13 ~~additional two (2) years. Any credit remaining thereafter shall expire.~~

14                   (e) ~~The income tax provisions of this section shall be in full force~~  
 15 ~~and effect for all income tax years beginning on and after January 1, 1993.~~

16                   (f) ~~[Repealed.]~~

17  
 18                   ~~26-51-508. Employer provided child care—As qualified under § 26-52-~~  
 19 ~~516 or § 26-53-132.~~

20                   (a) ~~A business which qualifies for the refund of the gross receipts~~  
 21 ~~tax or compensating use tax under § 26-52-516 or § 26-53-132 shall be allowed~~  
 22 ~~an income tax credit of three and nine tenths percent (3.9%) of the annual~~  
 23 ~~salary of its employees employed exclusively in providing child care service,~~  
 24 ~~or a five thousand dollar (\$5,000) income tax credit for the first tax year~~  
 25 ~~the business provides its employees with a child care facility.~~

26                   (b) ~~If two (2) or more businesses participate in a child care program~~  
 27 ~~for their employees as provided by § 26-52-516 or § 26-53-132, then each~~  
 28 ~~business will be allowed an income tax credit of three and nine tenths~~  
 29 ~~percent (3.9%) of the annual salary of only those employees who are on the~~  
 30 ~~respective business' payroll and are employed exclusively for providing child~~  
 31 ~~care services. The first year's five thousand dollar (\$5,000) credit will be~~  
 32 ~~prorated among the businesses based upon the percentage of the cost paid by~~  
 33 ~~each business for the initial construction and equipping of the child care~~  
 34 ~~facility.~~

35                   (c)(1)(A) ~~To qualify for the income tax credit, the revenue to the~~  
 36 ~~business or businesses from the child care facility cannot exceed the direct~~



1 ~~operating costs of the facility.~~

2 ~~(B) If, on an annual basis, the business receives revenues~~  
 3 ~~from the operation of the child care facility which exceed the direct~~  
 4 ~~operating costs of the facility, the businesses will not be entitled to the~~  
 5 ~~income tax credit.~~

6 ~~(2) For the purposes of this subsection, "direct operating~~  
 7 ~~costs" means:~~

8 ~~(A) The cost of food and beverages provided to the~~  
 9 ~~children;~~

10 ~~(B) The cost of labor for personnel whose services are~~  
 11 ~~performed exclusively on the premises of the child care facility for the care~~  
 12 ~~of the children and all related employment taxes paid by the employer; and~~

13 ~~(C) All materials and supplies necessary to operate the~~  
 14 ~~child care facility.~~

15 ~~(d) The income tax credit created by subsection (a) of this section~~  
 16 ~~shall first be available in the taxable year following the year the business~~  
 17 ~~makes payment of wages to child care workers. To the extent that the credit~~  
 18 ~~is not fully utilized in this first year, it may be carried forward for an~~  
 19 ~~additional two (2) years. Any credit remaining thereafter shall expire.~~

20  
 21 ~~26-51-509. Youth apprenticeship program.~~

22 ~~(a) For the purposes of this section:~~

23 ~~(1) "Bureau" means the Bureau of Apprenticeship and Training of~~  
 24 ~~the United States Department of Labor;~~

25 ~~(2) "Department" means the Department of Finance and~~  
 26 ~~Administration; and~~

27 ~~(3) "Youth apprentice" means an individual between the ages of~~  
 28 ~~sixteen (16) and twenty one (21) years who is enrolled in a public or private~~  
 29 ~~secondary or postsecondary school.~~

30 ~~(b)(1) A taxpayer who employs a youth apprentice in a registered~~  
 31 ~~apprenticeship program as provided in Title 29, Subtitle (a), Part 29 of the~~  
 32 ~~Code of Federal Regulations, as in effect on January 1, 1995, shall be~~  
 33 ~~allowed a credit in the amount of two thousand dollars (\$2,000) or ten~~  
 34 ~~percent (10%) of the wages earned by the youth apprentice, whichever is less,~~  
 35 ~~against the tax imposed by the Arkansas Income Tax Act of 1929, as amended, §~~  
 36 ~~26-51-101 et seq., for each such apprentice.~~

1           ~~(2)(A) A partner's or member's distributive share of the credit~~  
 2 ~~shall be determined by the partnership or limited liability company~~  
 3 ~~agreement, unless the agreement does not have substantial economic effect or~~  
 4 ~~does not provide for the allocation of credits.~~

5           ~~(B) If the agreement does not have substantial economic~~  
 6 ~~effect or does not provide for the allocation of the credit, the credit shall~~  
 7 ~~be allocated according to the partner's or member's interest in the~~  
 8 ~~partnership, pursuant to federal Internal Revenue Code section 704(b), as in~~  
 9 ~~effect on January 1, 1995.~~

10          ~~(c)(1) To claim the benefits of this section, a taxpayer must obtain a~~  
 11 ~~certification from the bureau certifying to the Revenue Division of the~~  
 12 ~~Department of Finance and Administration that the taxpayer has met all the~~  
 13 ~~requirements and qualifications set forth in this section.~~

14          ~~(2) The certification to the department shall include the total~~  
 15 ~~amount of wages paid to each youth apprentice employed by the taxpayer or~~  
 16 ~~501(c)(3) corporation in the taxable year for which the taxpayer claims the~~  
 17 ~~credit provided in this section.~~

18          ~~(d)(1) The amount of the credit that may be used by a taxpayer for a~~  
 19 ~~taxable year may not exceed the amount of individual or corporate income tax~~  
 20 ~~otherwise due.~~

21          ~~(2) Any unused credit may be carried over for a maximum of two~~  
 22 ~~(2) consecutive taxable years.~~

23          ~~(e) If the business is an "S" corporation, the pass-through provisions~~  
 24 ~~of § 26 51 409, as in effect for the taxable year the credit is earned, shall~~  
 25 ~~be applicable.~~

26          ~~(f) A taxpayer who trains a youth apprentice in a registered youth~~  
 27 ~~apprenticeship program as provided in subsection (b) of this section shall be~~  
 28 ~~entitled to the tax credit provided in this section for such youth~~  
 29 ~~apprentice, even though the apprentice receives his or her wages for such~~  
 30 ~~training from a 501(c)(3) corporation.~~

31          ~~(g)(1) The Revenue Division of the Department of Finance and~~  
 32 ~~Administration shall promulgate such rules and regulations as may be deemed~~  
 33 ~~necessary to carry out the purposes of this section.~~

34          ~~(2) The Revenue Division shall consult with the Bureau of~~  
 35 ~~Apprenticeship and Training of the United States Department of Labor during~~  
 36 ~~the promulgation of the rules and regulations.~~

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36

~~26-51-510. Federal Social Security (OASDI) tax credit.~~

~~(a) A credit shall be allowed against the individual income tax imposed by the Arkansas Income Tax Act, as amended, § 26-51-101, et seq., to be calculated in accordance with subsection (b) of this section.~~

~~(b)(1) The credit shall be equal to a percentage of the total amount of OASDI tax paid by each taxpayer for the taxable year on taxable income up to forty thousand dollars (\$40,000). The percentage is dependent upon the taxpayer's filing status and gross income as set forth in the table below. With respect to married taxpayers, the combined gross income of both spouses is to be considered in determining the applicable percentage.~~

<del>FILING STATUS</del>	<del>GROSS INCOME</del>	<del>CREDIT</del>
<del>Single</del>	<del>\$0 — 11,400</del>	<del>4% of OASDI tax</del>
<del>Single</del>	<del>Greater than \$11,400</del>	<del>2% of OASDI tax on first \$40,000 of taxable income</del>
<del>Married</del>	<del>\$0 — 16,200</del>	<del>4% of OASDI tax</del>
<del>Married</del>	<del>Greater than \$16,200</del>	<del>2% of OASDI tax on first \$40,000 of taxable income</del>
<del>Head of household</del>	<del>\$0 — 16,200</del>	<del>4% of OASDI tax</del>
<del>Head of household</del>	<del>Greater than \$16,200</del>	<del>2% of OASDI tax on first \$40,000 of taxable income</del>

~~In no event shall the credit exceed the amount of credit that would have been available if the total income of the taxpayer had been subject to OASDI tax pursuant to 26 U.S.C. §§ 3101(a), 3201(a) or 3211(a).~~

~~(2) An equivalent income tax credit is allowed to taxpayers who do not pay OASDI tax but who, in lieu of OASDI tax, pay a similar tax imposed under federal law into a retirement plan which is not included in subsection (c) of this section. The credit shall be equal to a percentage of the total amount of tax in lieu of OASDI tax paid by each taxpayer for the taxable year on taxable income up to \$40,000. The percentage is dependent upon the taxpayer's filing status and gross income as set forth in the table in subsection (b)(1) above. With respect to married taxpayers, the combined gross income of both spouses is to be considered in determining the~~

1 applicable percentage. In no event shall the tax credit allowed under this  
 2 subsection exceed the amount of tax credit that would have been available  
 3 under this subsection if the taxpayer's income subject to the tax in lieu of  
 4 OASDI tax had been subject to OASDI tax. The director shall determine whether  
 5 a tax payment is made in lieu of OASDI tax.

6 (3) With respect to taxpayers who pay both the employer and  
 7 employee portions of OASDI tax on taxable income, the amount of the credit  
 8 shall be limited to one half (1/2) of the OASDI tax paid on such income.

9 (c) The credit provided in subsection (b) of this section may not be  
 10 taken if the taxpayer claims the exemptions provided by §§ 26 51 306, 26 51  
 11 307(a), (b), or (c), or § 26 52 601 et seq. This credit may be taken if the  
 12 taxpayer chooses to itemize his or her deductions. This credit is included in  
 13 the reduced income tax rates provided by § 26 51 302 so that taxpayers  
 14 qualifying for the reduced rates will not calculate a separate credit under  
 15 this section.

16 (d) The director may require such proof of payment of OASDI tax as he  
 17 deems necessary.

18 (e) As used in this section, "OASDI tax" means the federal old age,  
 19 survivors and disability insurance tax imposed.

20 (1) Upon an employee's wages or other income pursuant to 26  
 21 U.S.C. § 3101(a);

22 (2) Upon the self-employment income of an individual pursuant to  
 23 26 U.S.C. § 1401(a); or

24 (3) Upon the income of an employee or employee representative  
 25 pursuant to 26 U.S.C. §§ 3201(a) or 3211(a) (Railroad Retirement Tax Act).

26 (f) As used in this section, the term "taxable income" means wages,  
 27 salaries, tips, net earnings or other earned income upon which OASDI tax or a  
 28 tax in lieu of OASDI tax is imposed.

29  
 30 SECTION 3. ~~Arkansas Code § 6-50-703 is repealed.~~

31 ~~6-50-703. Arkansas Existing Workforce Training Program—Creation—~~  
 32 ~~Purpose.~~

33 (a) ~~There is hereby created the Arkansas Existing Workforce Training~~  
 34 ~~Program, to be administered by a governing council composed of equal~~  
 35 ~~representation from the Department of Higher Education, the Department of~~  
 36 ~~Workforce Education, and the Department of Economic Development.~~

1           ~~(b) The primary purpose of the program shall be to provide financial~~  
 2 ~~assistance to Arkansas business and industry for upgrading the knowledge and~~  
 3 ~~skills of the existing workforce and to increase the capacity of state-~~  
 4 ~~supported educational institutions to supply the ongoing training needs of~~  
 5 ~~Arkansas companies.~~

6           ~~(c)(1)(A) When an eligible company uses a state supported educational~~  
 7 ~~institution to provide its classroom training, financial support can either~~  
 8 ~~be in the form of a direct grant or in the form of an income tax credit.~~

9                     ~~(B) Companies that elect to receive a grant cannot claim a~~  
 10 ~~tax credit for the same purpose.~~

11           ~~(2) When an eligible company is conducting internal training~~  
 12 ~~using company trainers or consultants, financial support can only be in the~~  
 13 ~~form of an income tax credit.~~

14           ~~(3) When an eligible consortium uses a state supported~~  
 15 ~~educational institution to provide its classroom training, financial support~~  
 16 ~~can only be in the form of a grant.~~

17  
 18           ~~SECTION 4. Arkansas Code Title 6, Chapter 50, Subchapter 7 is~~  
 19 ~~repealed.~~

20           ~~6-50-701. Title.~~

21           ~~This subchapter may be referred to and cited as the "Arkansas Existing~~  
 22 ~~Workforce Training Act of 1995".~~

23  
 24           ~~6-50-702. Definitions.~~

25           ~~As used in this subchapter, unless the context otherwise requires:~~

26           ~~(1) "Basic skills training" means those math, reading, English,~~  
 27 ~~listening, oral, and written communication, and computer literacy skills that~~  
 28 ~~a person can reasonably be expected to have attained by the end of the~~  
 29 ~~twelfth grade;~~

30           ~~(2) "Classroom training" means instructor led training that is~~  
 31 ~~provided outside of the process of the production of goods or the delivery of~~  
 32 ~~a service;~~

33           ~~(3) "Company" means an entity currently operating in the state~~  
 34 ~~that has filed a corporate income tax return for the year prior to the year~~  
 35 ~~in which the application was submitted and that is classified in one (1) of~~  
 36 ~~the following ways:~~

1                   (A) ~~Manufacturers classified in Standard Industrial~~  
 2 ~~Classification codes 20-39, including semiconductor and microelectronic~~  
 3 ~~manufacturers;~~

4                   (B)(i) ~~Computer firms primarily engaged in providing~~  
 5 ~~computer programming services; the design and development of or in designing~~  
 6 ~~and developing prepackaged software; businesses engaged in digital content~~  
 7 ~~production; computer processing and data preparation services; information~~  
 8 ~~retrieval services; computer and data processing consultants and developers.~~

9                   (ii) ~~All firms in this group must derive at least~~  
 10 ~~sixty percent (60%) of their revenue from out-of-state sales and not be~~  
 11 ~~engaged in retail sales to the general public; or~~

12                   (C) ~~Firms primarily engaged in commercial physical and~~  
 13 ~~biological research, Standard Industrial Classification 8731.~~

14                   (4) ~~"Consortium" means a group of companies which includes at~~  
 15 ~~least three (3) eligible companies as defined in subdivision (3) of this~~  
 16 ~~section and which for fiscal purposes is either a private, not-for-profit~~  
 17 ~~corporation or an organized group that has a coordinating board or committee~~  
 18 ~~and a mission statement, that has or is in the process of developing bylaws,~~  
 19 ~~and that is establishing a bank account requiring at least two (2) consortium~~  
 20 ~~member's signatures. Consortia may have members which are not eligible~~  
 21 ~~companies so long as at least three (3) of the consortium member companies~~  
 22 ~~are eligible companies;~~

23                   (5) ~~"Eligible recipient" means a full-time permanent employee of~~  
 24 ~~an Arkansas company or consortium who is subject to the Arkansas personal~~  
 25 ~~income tax;~~

26                   (6) ~~"Governing council" means the directors or their designees~~  
 27 ~~of the Department of Economic Development, the Department of Higher~~  
 28 ~~Education, and the Department of Workforce Education;~~

29                   (7) ~~"Internal training" means classroom training provided to~~  
 30 ~~company employees by company trainers who may be either full-time employees~~  
 31 ~~of the company or consultants paid by the company; and~~

32                   (8) ~~"State-supported educational institution" means a secondary or~~  
 33 ~~postsecondary Arkansas educational institution that receives the majority of~~  
 34 ~~its funding from state or local tax revenues, except that for purposes of~~  
 35 ~~this subchapter, Texarkana College may be considered a state-supported~~  
 36 ~~educational institution for the purpose of delivering training services to~~

1 eligible companies located in Miller County, Arkansas, provided that  
2 Texarkana College continues to waive out-of-state tuition for residents of  
3 Arkansas.

4  
5 ~~6-50-703. Arkansas Existing Workforce Training Program—Creation—~~  
6 ~~Purpose.~~

7 ~~(a) There is hereby created the Arkansas Existing Workforce Training~~  
8 ~~Program, to be administered by a governing council composed of equal~~  
9 ~~representation from the Department of Higher Education, the Department of~~  
10 ~~Workforce Education, and the Department of Economic Development.~~

11 ~~(b) The primary purpose of the program shall be to provide financial~~  
12 ~~assistance to Arkansas business and industry for upgrading the knowledge and~~  
13 ~~skills of the existing workforce and to increase the capacity of state-~~  
14 ~~supported educational institutions to supply the ongoing training needs of~~  
15 ~~Arkansas companies.~~

16 ~~(c)(1)(A) When an eligible company uses a state-supported educational~~  
17 ~~institution to provide its classroom training, financial support can either~~  
18 ~~be in the form of a direct grant or in the form of an income tax credit.~~

19 ~~(B) Companies that elect to receive a grant cannot claim a~~  
20 ~~tax credit for the same purpose.~~

21 ~~(2) When an eligible company is conducting internal training~~  
22 ~~using company trainers or consultants, financial support can only be in the~~  
23 ~~form of an income tax credit.~~

24 ~~(3) When an eligible consortium uses a state-supported~~  
25 ~~educational institution to provide its classroom training, financial support~~  
26 ~~can only be in the form of a grant.~~

27  
28 ~~6-50-704. Rules and regulations for program.~~

29 ~~(a) The Department of Economic Development shall promulgate rules and~~  
30 ~~regulations in accord with the Arkansas Administrative Procedure Act, § 25-~~  
31 ~~15-201 et seq., for implementation of this subchapter by the department.~~

32 ~~(b) Rules and regulations shall include, but not be limited to, the~~  
33 ~~following:~~

34 ~~(1) Training shall be conducted for the purpose of meeting~~  
35 ~~specific business goals and performance objectives;~~

36 ~~(2) As part of the application process, a company or consortium~~

1 shall be responsible for determining that participants involved in the  
 2 training program possess the appropriate prerequisite literacy skills;

3           ~~(3)(A) The amount of financial support a company or consortium~~  
 4 ~~receives shall be determined by the department, approved by the governing~~  
 5 ~~council, and set forth in writing prior to any funds' being committed and~~  
 6 ~~distributed or prior to any tax credit's being approved.~~

7           ~~(B) For companies or consortia that use state supported~~  
 8 ~~educational institutions to deliver classroom training to their employees,~~  
 9 ~~the amount of support shall be the lesser of:~~

10                     ~~(i) One half (1/2) of the amount paid by the company~~  
 11 ~~to the state supported educational institution for the training; or~~

12                     ~~(ii)(a) The instructional hour rate established by~~  
 13 ~~the governing council, not to exceed fifty dollars (\$50.00) per instructional~~  
 14 ~~hour, times the number of instructional hours delivered.~~

15           ~~(b) For companies that use company employees or company paid~~  
 16 ~~consultants to deliver classroom training to their employees, the amount of~~  
 17 ~~the tax credit shall not be more than fifteen dollars (\$15.00) per~~  
 18 ~~instructional hour.~~

19           ~~(c) The minimum class size needed to receive full benefits is five (5)~~  
 20 ~~trainees. For classes smaller than five (5), the amount of support will be~~  
 21 ~~reduced proportionally;~~

22           ~~(4) Training delivered by means other than traditional classroom~~  
 23 ~~training may be considered by the governing council. For approved training~~  
 24 ~~delivered by means other than traditional classroom training, a flat rate of~~  
 25 ~~reimbursement will be established by the governing council;~~

26           ~~(5) Applications for tax credits afforded by this subchapter~~  
 27 ~~shall be available on and after January 1, 2000;~~

28           ~~(6) The maximum amount of total tax credits allowed by the~~  
 29 ~~department pursuant to this subchapter shall not exceed four hundred fifty~~  
 30 ~~thousand dollars (\$450,000) per year;~~

31           ~~(7) Neither grant funds nor tax credits shall be used for any~~  
 32 ~~training, including remedial basic skills training, that is authorized under~~  
 33 ~~any other state or federal program; and~~

34           ~~(8) Neither grant funds nor tax credits shall be used to support~~  
 35 ~~any training that is mandated by any state or federal law or regulation~~  
 36 ~~without a unanimous vote of the governing council.~~



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~~6-50-705. Uses for grant funds or tax credits.~~

~~(a) The Arkansas Existing Workforce Training Program shall provide matching funds or approve income tax credits to eligible companies or consortia at a rate to be determined by the governing council.~~

~~(b) Matching funds may be provided to state supported educational institutions to upgrade the skills of regular or adjunct faculty if approved by the governing council. Matching funds to upgrade faculty skills will only be granted when there is a documented demand for training in the area served by the educational institution and when there is no faculty member who can provide the needed training.~~

SECTION 5. Arkansas Code Title 26, Chapter 52, Subchapter 7 is repealed.

~~26-52-701. Title.~~

~~This subchapter may be referred to and cited as the "Economic Investment Tax Credit Act".~~

~~26-52-702. Definitions.~~

~~As used in this subchapter, unless the context otherwise requires:~~

~~(1) "Corporate headquarters" means the home or center of operations, including research and development, of a national or multinational corporation;~~

~~(2) "Defense industry project" means an investment of at least five million dollars (\$5,000,000) and an increase in employment of at least two hundred fifty (250) full-time permanent employees by a company which manufactures components for the defense industry and whose unit cost exceeds five hundred thousand dollars (\$500,000);~~

~~(3) "Distribution center" means a facility for the reception, storage, or shipping of:~~

~~(A) A business' own products which the business wholesales to retail businesses or ships to its own retail outlets;~~

~~(B) Products owned by other companies with which the business has contracts for storage and shipping if seventy five percent (75%) of the sales revenue is from out of state customers; or~~

~~(C) Products for sale to the general public if seventy-~~

1 ~~five percent (75%) of the sales revenue is from out-of-state customers;~~

2 ~~(4) "Eligible business" means a business eligible for sales and~~  
 3 ~~use tax credits under the provisions of this subchapter that has been in~~  
 4 ~~continuous operation in Arkansas for at least two (2) years prior to the~~  
 5 ~~initial application to the Director of the Department of Economic~~  
 6 ~~Development, has obtained a direct pay sales and use tax permit from the~~  
 7 ~~Revenue Division of the Department of Finance and Administration under the~~  
 8 ~~provisions of § 26-52-509, and is classified as one (1) or more of the~~  
 9 ~~following types of businesses:~~

10 ~~(A) Manufacturers classified in federal Standard~~  
 11 ~~Industrial Classification codes 20-39, including semiconductor and~~  
 12 ~~microelectronic manufacturers;~~

13 ~~(B)(i) Computer businesses primarily engaged in providing~~  
 14 ~~computer programming services, the design and development of prepackaged~~  
 15 ~~software, businesses engaged in digital content production and preservation,~~  
 16 ~~computer processing and data preparation services, information retrieval~~  
 17 ~~services, and computer and data processing consultants and developers.~~

18 ~~(ii) All businesses in this group must derive at~~  
 19 ~~least seventy five percent (75%) of their revenue from out-of-state sales and~~  
 20 ~~have no retail sales to the public;~~

21 ~~(C)(i) Businesses primarily engaged in motion picture~~  
 22 ~~production.~~

23 ~~(ii) All businesses in this group must derive at~~  
 24 ~~least seventy five percent (75%) of their revenue from out-of-state sales and~~  
 25 ~~have no retail sales to the public;~~

26 ~~(D) Businesses primarily engaged in commercial physical~~  
 27 ~~and biological research as classified by Standard Industrial Classification~~  
 28 ~~code 8731;~~

29 ~~(E) A distribution center with no retail sales to the~~  
 30 ~~general public, unless seventy five percent (75%) of the sales revenue is~~  
 31 ~~from out-of-state customers;~~

32 ~~(F) An office sector business with no retail sales to the~~  
 33 ~~general public;~~

34 ~~(G) A corporate or regional headquarters with no retail~~  
 35 ~~sales to the general public; and~~

36 ~~(H) A coal mining operation that employs twenty five (25)~~

1 ~~or more net full-time permanent positions;~~

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

5 ~~(6) "Office sector" means control centers that influence the~~  
6 ~~environment in which data processing, customer service, credit accounting,~~  
7 ~~telemarketing, claims processing, and other administrative functions that act~~  
8 ~~as production centers;~~

9 ~~(7) "Person" means a person as defined by § 26-18-104(10);~~

10 ~~(8) "Project" means any construction, expansion, or~~  
11 ~~modernization in Arkansas by an eligible business as defined by subdivision~~  
12 ~~(4) of this section. The investment must exceed five million dollars~~  
13 ~~(\$5,000,000) or six million dollars (\$6,000,000) for projects involving~~  
14 ~~multiple locations within the State of Arkansas, including the cost of the~~  
15 ~~land, buildings, and equipment used in the construction, expansion, or~~  
16 ~~modernization and which construction, expansion, or modernization has been~~  
17 ~~approved by the Department of Economic Development as a construction,~~  
18 ~~expansion, or modernization project which qualifies for the credit under the~~  
19 ~~provisions of this subchapter;~~

20 ~~(9) "Regional headquarters" means the center of operations for a~~  
21 ~~specific geographic area; and~~

22 ~~(10) "Routine maintenance" means the replacement of existing~~  
23 ~~machinery parts with like parts.~~

24  
25 ~~26-52-703. Precluded provisions supplemental.~~

26 ~~(a) Recipients of benefits under this subchapter are precluded from~~  
27 ~~receiving benefits under the Arkansas Enterprise Zone Act of 1993, § 15-4-~~  
28 ~~1701 et seq., for the same project.~~

29 ~~(b) Recipients of benefits under this subchapter are precluded from~~  
30 ~~receiving benefits under the Manufacturer's Investment Tax Credit Act, § 26-~~  
31 ~~51-2001 et seq., for the same project.~~

32  
33 ~~26-52-704. Credit granted.~~

34 ~~There is granted a credit against the state sales and use tax liability~~  
35 ~~of an eligible business, as defined by § 26-52-702, of seven percent (7%) of~~  
36 ~~the amount of the total project cost of any project, subject to the limit set~~

1 out in § 26-52-705.

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3 ~~26-52-705. Qualification and determination of credit.~~

4 ~~(a)(1) In order to qualify for and receive the credits afforded by~~  
5 ~~this subchapter, any eligible business as defined by § 26-52-702 undertaking~~  
6 ~~a project shall submit a project plan to the Director of the Department of~~  
7 ~~Economic Development thirty (30) days prior to the start of construction.~~

8 ~~(2) The plan submitted to the Department of Economic Development~~  
9 ~~shall contain such information as may be required by the Director of the~~  
10 ~~Department of Economic Development to determine eligibility.~~

11 ~~(b)(1) Upon determination by the Director of the Department of~~  
12 ~~Economic Development that the project qualifies for credit under this~~  
13 ~~subchapter, the Director of the Department of Economic Development shall~~  
14 ~~certify to the Director of the Department of Finance and Administration that~~  
15 ~~the project is qualified and transmit with his or her certification the~~  
16 ~~documents upon which the certification was based or copies thereof.~~

17 ~~(2) Upon receipt by the Director of the Department of Finance~~  
18 ~~and Administration of a certification from the Director of the Department of~~  
19 ~~Economic Development that an eligible business as defined by § 26-52-702 is~~  
20 ~~entitled to credit under this subchapter, the Director of the Department of~~  
21 ~~Finance and Administration shall provide forms to the eligible business on~~  
22 ~~which to claim the credit.~~

23 ~~(c)(1) At the end of the calendar year in which the application was~~  
24 ~~made to the Director of the Department of Economic Development and at the end~~  
25 ~~of each calendar year thereafter until the project is completed, the eligible~~  
26 ~~business shall certify, on the form provided by the Director of the~~  
27 ~~Department of Finance and Administration, the amount of expenditures on the~~  
28 ~~project during the preceding calendar year.~~

29 ~~(2)(A) Upon receipt of the form certifying expenditures, the~~  
30 ~~Director of the Department of Finance and Administration shall determine the~~  
31 ~~amount due as a credit for the preceding calendar year and issue a memorandum~~  
32 ~~of credit to the eligible business in the amount of seven percent (7%) of the~~  
33 ~~expenditure.~~

34 ~~(B)(i)(a) The credit shall then be applied against the~~  
35 ~~eligible business' state sales or use tax liability in the year following the~~  
36 ~~year of the expenditure. However, if the credit is not used in the calendar~~

1 ~~year following the expenditure, it may be carried over to the next succeeding~~  
 2 ~~calendar year for a total period of six (6) years following the year in which~~  
 3 ~~the credit was first available for use or until the credit is exhausted,~~  
 4 ~~whichever occurs first.~~

5 ~~(b) For eligible defense projects, if the~~  
 6 ~~credit is not used in the calendar year following the expenditure, the credit~~  
 7 ~~may be carried over to the next succeeding calendar year for a total of nine~~  
 8 ~~(9) years following the year in which the credit was first available for use~~  
 9 ~~or until the credit is exhausted, whichever occurs first.~~

10 ~~(ii)(a) The credit shall be used by the eligible~~  
 11 ~~business as a credit against the regular direct pay sales or use tax return~~  
 12 ~~of the business.~~

13 ~~(b) In no event shall the credit used on any~~  
 14 ~~regular return be more than fifty percent (50%) of the eligible business'~~  
 15 ~~total state sales or use tax liability for the reporting period, except that~~  
 16 ~~a company with an eligible defense industry project may claim a credit for~~  
 17 ~~one hundred percent (100%) of the sales and use tax liability for the~~  
 18 ~~reporting period.~~

19 ~~(iii) The Director of the Department of Finance and~~  
 20 ~~Administration may require proof of these expenditures.~~

21 ~~(iv) The Director of the Department of Finance and~~  
 22 ~~Administration may examine those records necessary and specific to the~~  
 23 ~~project to determine credit eligibility. Any credits disallowed will be~~  
 24 ~~subject to payment in full.~~

25 ~~(d) For all projects approved after July 1, 1997, in order to receive~~  
 26 ~~credit for project costs, such costs must be incurred within five (5) years~~  
 27 ~~from the date of certification of the project plan by the Director of the~~  
 28 ~~Department of Economic Development.~~

29 ~~(e)(1) If project costs exceed the initial project cost estimate~~  
 30 ~~included in the financial incentive plan, the business shall amend the~~  
 31 ~~financial incentive plan to include updated cost figures.~~

32 ~~(2) Amendments that exceed fifty percent (50%) of the original~~  
 33 ~~financial incentive plan estimate shall be submitted as a new project.~~

34 ~~(3) An amendment shall not change the start date of the original~~  
 35 ~~project.~~

36

~~26-52-706. Administration.~~

~~(a) Persons claiming credit under the provisions of this subchapter are "taxpayers" within the meaning of § 26-18-104(14) and shall be subject to all applicable provisions of that statute.~~

~~(b) Administration of the provisions of this subchapter shall be under the provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq.~~

~~(c) The Director of the Department of Economic Development shall also have authority to promulgate such rules and regulations as are necessary to carry out the intent and purposes of this subchapter.~~

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