Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1490

By: Representative Wing
By: Senator M. Pitsch

For An Act To Be Entitled

AN ACT TO AMEND THE CONSOLIDATED INCENTIVE ACT OF 2003; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE CONSOLIDATED INCENTIVE ACT OF 2003.

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

SECTION 1. Arkansas Code §§ 15-4-2703 — 15-4-2712 are amended to read as follows:

15-4-2703. Definitions.

As used in this subchapter:

(1) "Applied research" means any activity that ~~seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specific problem, question, or issue~~ <u>applies the findings of basic research or other existing knowledge toward discovering new scientific knowledge that has specific commercial objectives with respect to new products, services, processes, or methods</u>;

(2)(A) "Average hourly wage" means the amount obtained when payroll, as defined in this section, is divided by the number of hours worked to earn the payroll.

(B) For the purpose of subdivision (2)(A) of this section, forty (40) hours per week shall be used as the number of hours worked for a salaried employee;

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

~~advancement of scientific or technological knowledge~~ the pursuit of new scientific knowledge or understanding that does not have specific, immediate commercial objectives, although the pursuit may be in fields of present or potential commercial interest;

(4) ~~"Commission" means the Arkansas Economic Development Commission;~~

~~(5)~~ "Contractual employee" means an employee who:

(A) May be included in the payroll calculations of a ~~business qualifying for benefits~~ qualified business under this subchapter and is under the direct supervision of the qualified business receiving ~~benefits~~ incentives under this subchapter, but is an employee of a business other than the one receiving ~~benefits~~ incentives under this subchapter;

(B) Otherwise meets the requirements of a new full-time permanent employee of the qualified business receiving ~~benefits~~ incentives under this subchapter; and

(C) Receives a benefits package comparable to direct employees of the qualified business receiving ~~benefits~~ incentives under this subchapter;

~~(6)(A)~~(5)(A) "Corporate headquarters" means ~~the~~ a facility or portion of a facility where ~~corporate staff employees are physically employed and where the majority of the company's financial, personnel, legal, planning, information technology, or other headquarters-related functions are handled either on a regional basis or a national basis~~ the majority of an eligible business's financial, human resources, engineering, legal, strategic planning, information technology, corporate communications, marketing, or other headquarters-related functions are effectuated on either a regional basis or a national basis under the direction of principal executive officers, including without limitation chief executive officers, chief operating officers, chief financial officers, or other senior-level officers based at the facility.

(B) A corporate headquarters ~~must~~ shall be either a regional corporate headquarters or a national corporate headquarters.

(C) The Executive Director of the Arkansas Economic Development Commission, with advice from the Director of the Department of Finance and Administration, may determine eligibility for a corporate headquarters facility if a difference exists between a business's disclosed corporate headquarters functions and its North American Industry Classification System primary business activity code;

~~(7)(A)~~(6)(A) "County or state average hourly wage" means the weighted average weekly earnings for Arkansans in all industries, both statewide and countywide, as calculated by the Department of Workforce Services in its most recent "Annual Covered Employment and Earnings" publication, divided by forty (40).

(B) The average hourly wage threshold determined at the ~~signing~~ approval date of the financial incentive agreement ~~shall be~~ is the threshold for the term of the financial incentive agreement;

~~(8)~~(7) "Distribution center" means a facility for the reception, storage, and shipping of:

(A) A business's own products or products that the business wholesales to retail businesses or ships to its own retail outlets if seventy-five percent (75%) of the sales ~~revenues are~~ revenue is from out-of-state customers;

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

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

~~(9)~~(8) "Eligible businesses" means nonretail businesses engaged in commerce for profit that meet the eligibility requirements for the applicable incentive offered by this subchapter and fall into one (1) or more of the following categories:

(A) Manufacturers classified in sectors 31-33 in the North American Industry Classification System, as in effect January 1, ~~2003~~ 2017;

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

(ii) All businesses in this group shall derive at least ~~seventy-five percent (75%)~~ fifty-one percent (51%) of their sales revenue from out of state.

(iii) The average hourly wage paid by businesses in this group to employees whose payroll is subject to incentives under this subchapter shall exceed one hundred twenty-five percent (125%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands;

(C)(i) Businesses primarily engaged in ~~motion picture~~ film and digital product productions and postproductions.

(ii) All businesses in this group shall derive at least ~~seventy-five percent (75%)~~ fifty-one percent (51%) of their sales revenue from out of state.

(iii) The average hourly wage paid by businesses in this group to employees whose payroll is subject to incentives under this subchapter shall exceed one hundred twenty-five percent (125%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands;

(D) Distribution centers or intermodal facilities;

(E) Office sector businesses;

(F) National or regional corporate headquarters, as classified by the North American Industry Classification System Code 551114, as in effect January 1, ~~2005~~ 2017, or as determined by the Executive Director of the Arkansas Economic Development Commission under subdivision (5)(C) of this section;

(G) ~~Firms~~ Businesses primarily engaged in ~~commercial, physical, and biological~~ research and development in the physical, engineering, and life sciences, as classified in the North American Industry Classification System ~~Code 541710~~ Codes 541713, 541714, and 541715, as in effect January 1, ~~2005~~ 2017;

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

(ii)(a) All businesses in this group shall derive at least ~~seventy-five percent (75%)~~ fifty-one percent (51%) of their sales revenue from out of state.

(b)~~(1)~~ The average hourly ~~wages~~ wage paid by businesses in this group to employees whose payroll is subject to incentives under this subchapter shall exceed one hundred fifty percent (150%) of the lesser of the county or state average hourly wage~~, whichever is less~~ for the county in which the business locates or expands~~.~~;

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

(I) The Executive Director of the Arkansas Economic Development Commission may classify a nonretail business as an eligible business if the following conditions exist:

(i) The business receives at least ~~seventy-five percent (75%)~~ fifty-one percent (51%) of its sales revenue from out of state; and

(ii) The ~~business proposes to pay wages in excess of one hundred ten percent (110%) of the county or state average hourly wage, whichever is less~~ average hourly wage paid by the business to employees whose payroll is subject to incentives under this subchapter shall exceed one hundred twenty-five percent (125%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands;

(J)(i) Businesses primarily engaged in other support activities for air transportation, as classified in the North American Industry Classification System Code 488190, as in effect on January 1, 2017.

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

(K)(i) Businesses primarily engaged in support activities for rail transportation, as classified in the North American Industry Classification System Code 488210, as in effect on January 1, 2017.

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

~~(10)~~(9) "Equity investment" means capital invested in common or preferred stock, royalty or intellectual property rights, limited partnership interests, limited liability company interests, and any other securities or rights that evidence ownership in private businesses, including a federal agency's award of a Small Business ~~Innovative~~ Innovation Research grant or a Small Business Technology Transfer grant;

~~(11) "Executive director" means the Executive Director of the Arkansas Economic Development Commission;~~

~~(12)(A)~~(10)(A) "Existing employees" means those employees hired by ~~the~~ a business before the date the financial incentive agreement was

~~signed~~ approved.

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

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

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

(C) If the Executive Director of the Arkansas Economic Development Commission and the Director of the Department of Finance and Administration find that a significant impairment of Arkansas job opportunities for existing employees will otherwise occur, they may jointly authorize the counting of existing employees as new full-time permanent employees;

~~(13)~~(11) "Facility" means a single physical location, which may consist of multiple structures of an eligible business that are conducting similar or complementary activities located on noncontiguous property within the same county, at which the eligible business is conducting its operations;

~~(14)~~(12) "Film and digital product" means video images and other visual media entertainment content in digital format, film, or videotape, if the video images and other visual media entertainment content meet all the underlying criteria of a qualified production under the Digital Product and Motion Picture Industry Development Act of 2009, § 15-4-2001 et seq., including without limitation:

(A) A motion picture;

(B) A documentary;

(C) A long-form program;

(D) A special;

(E) A mini-series;

(F) A series;

(G) A music video;

(H) Television programming;

(I) Interactive television;

(J) An interactive game;

(K) A video game;

(L) A commercial;

(M) Digital media for distribution or exhibition to the general public; and

(N) A trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment;

(13) "Financial incentive agreement" means an agreement entered into by an eligible business and the commission to provide the business an incentive to locate a new business or to expand or retain an existing business in Arkansas;

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

~~(16)~~(14) "Governing authority" means the quorum court of a county or the governing body of a municipality;

~~(17)(A)(i)~~(15)(A)(i) "In-house research" means applied research supported by the business through the ~~purchase of supplies for research activities and~~ payment of wages and usual fringe benefits ~~for~~ specific to research activities of employees of the business ~~who conduct research activities in research facilities~~ or for wages and usual fringe benefits paid through contractual agreements, approved in writing by the Executive Director of the Arkansas Economic Development Commission, with an Arkansas state college, an Arkansas state university, or other Arkansas-based research organization to perform research for a targeted business~~:~~

~~(a) Dedicated to the conduct of research activities;~~

~~(b) Operated by the business; and~~

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

(ii) "In-house research" includes~~:~~

~~(a) Experimental~~ experimental, clinical, or laboratory activity to develop new products, improve existing products, or develop new uses of products, but only to the extent that activity is conducted in Arkansas~~; and~~

~~(b) A contractual agreement with a state~~

~~college, state university, or other research organization to perform research for a targeted business if the Executive Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission makes a written determination before the research is performed that the research is essential to the core function of the targeted business~~.

(B) "In-house research" does not include tests or inspections of materials or products for quality control, efficiency surveys, management studies, other market research, supplies, the purchase of land, the purchase or rehabilitation of production machinery and equipment, the construction or renovation of buildings, or any other ordinary and necessary expenses of conducting business;

~~(18)~~(16) "Intellectual property" means an invention, discovery, or new idea that the legal entity responsible for commercialization has ~~decided to legally protect~~ legally protected for possible commercial gain, based on the disclosure of the creator;

~~(19)~~(17) "Intermodal facility" means a facility with more than one (1) mode of interconnected movement of freight~~,~~ or commerce~~, or passengers~~;

~~(20)~~(18) "Investment threshold" means the minimum amount of investment in project costs that must be incurred ~~in order~~ to qualify for eligibility;

~~(21)~~(19) "Invests" or "investment" means money expended by or on behalf of ~~an approved eligible~~ a qualified business that seeks to begin or expand operations in Arkansas, and without this infusion of capital, the location or expansion may not take place;

~~(22)~~(20) "Lease" means a right to possession of real property for a specific term in return for consideration, as determined in a lease agreement by both parties;

~~(23)(A)~~(21)(A) "Modernization" means an increase in efficiency or productivity of a business through investment in machinery or equipment, or both.

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

~~(24)~~(22) "National corporate headquarters" means the sole corporate headquarters in the nation that handles headquarters-related functions on a national basis;

~~(25)(A)(i)~~(23)(A)(i) "New full-time permanent employee" means a position or job that was created pursuant to ~~the signed~~ an approved financial incentive agreement and that is filled by one (1) or more employees or contractual employees who:

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

(b)(1) Work at the facility identified in the financial incentive agreement.

(2) New employees who do not work at the facility may be counted if they:

(A) Otherwise meet the definition of "new full-time permanent employee";

(B) Are subject to the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.; and

(C) Meet an average hourly wage threshold equal to or greater than the state average hourly wage for the preceding calendar year; and

(c) Are not existing employees, except as allowed under subdivision ~~(12)~~ (10) of this section.

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

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

~~(26)~~(24) "Nonretail business" means a business that ~~derives less than ten percent (10%) of its total Arkansas revenue from sales to the general public~~ is not classified in North American Industry Classification System sectors 44-45, as in effect on January 1, 2017;

~~(27)(A)~~(25)(A) "Office sector business" means business operations that support primary business needs, including~~, but not limited to,~~ without limitation customer service, credit accounting, telemarketing, claims processing, and other administrative functions.

(B) All businesses in this group ~~must~~ shall be nonretail businesses and derive at least seventy-five percent (75%) of their sales revenue from out of state;

~~(28)~~(26) "Payroll" means the total taxable wages, including overtime and bonuses, paid during the preceding tax year of the eligible business to new full-time permanent employees hired after the date of the ~~signed~~ approved financial incentive agreement;

~~(29)(A)~~(27)(A) "Person" means an individual, trust, estate, fiduciary, firm, joint venture, proprietorship, partnership, limited liability company, or corporation.

(B) "Person" includes:

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

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

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

~~(30)~~(28) "Preconstruction costs" means the cost of eligible items incurred before the start of construction, including:

(A) Project planning costs;

(B) Architectural and engineering fees;

(C) Right-of-way purchases;

(D) Utility extensions;

(E) Site preparations;

(F) Purchase of mineral rights;

(G) Building demolition;

(H) Builders risk insurance;

(I) Capitalized start-up costs;

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

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

~~(31)(A)~~(29)(A) "Project costs" means costs associated with the:

(i) Construction of a new plant or facility including~~, but not limited to,~~ without limitation land, building, ~~production~~ machinery and equipment, or support infrastructure;

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

(iii) Modernization of an established plant or facility through the replacement of ~~production or processing~~ machinery and equipment or support infrastructure that improves efficiency or productivity.

(B) "Project costs" does not include:

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

(ii) Routine operating expenditures;

(iii) Expenditures incurred at multiple facilities; or

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

(a) There is sufficient documentation that the existing business was closed or will close; and

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

(C) Eligible project costs must be incurred within four (4) years from the date a financial incentive agreement was ~~signed~~ approved by the commission;

~~(32)~~(30) "Project plan" means a plan~~:~~

~~(A) Submitted~~ submitted to the commission containing ~~such~~ the information ~~as may be~~ required by the Executive Director of the Arkansas Economic Development Commission to determine eligibility for ~~benefits~~ incentives under this subchapter; ~~and~~

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

~~(33)~~(31) "Qualified business" means an eligible business that:

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

(B) Has signed a financial incentive agreement ~~with~~ that has been approved by the commission ~~or is involved in a research and development program administered by the commission~~;

~~(34)~~(32) "Qualified research expenditures" means the sum of any amounts that are paid or incurred by an Arkansas taxpayer during the taxable year in funding a qualified research program that has been approved for tax credit treatment under rules ~~and regulations~~ promulgated by the commission;

~~(35)~~(33) "Region" or "regional" means a geographic area ~~comprising~~ comprised of two (2) or more states, including this state and at least one (1) state that is contiguous to this state;

~~(36)(A)~~(34)(A) "Regional corporate headquarters" means ~~the location where a headquarters staff performs functions on a regional basis that involve the services of administration, planning, research and development, marketing, personnel, legal, computer, or telecommunications~~ a facility or portion of the facility in which the majority of an eligible business's financial, human resources, engineering, legal, strategic planning, information technology, corporate communications, marketing, or other headquarters-related functions are effectuated on a regional basis under the direction of principal executive officers, including without limitation chief executive officers, chief operating officers, chief financial officers, or other senior-level officers based at the facility.

(B)~~(i) As used in subdivision (36)(A) of this section, "regional" means a geographic area composed of this state and a contiguous state.~~

~~(ii)~~ However, a function on a regional basis does not include a function involving manufacturing, processing, warehousing, distributing, or wholesaling activities or the operation of a call center;

~~(37) "Research and development programs of the Division of Science and Technology of the Arkansas Economic Development Commission" means statutory programs operated by the Division of Science and Technology of the Arkansas Economic Development Commission under § 15-3-101 et seq.;~~

~~(38) "Research area of strategic value" means research in fields having long-term economic or commercial value to the state and that have been identified in the research and development plan approved from time to time by the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission;~~

~~(39)~~(35) "Scientific and technical services business" means a business:

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

(i) Architectural and engineering design;

(ii) Computer programming and computer systems design; and

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

(B) ~~Selling expertise;~~

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

~~(D)~~ Deriving at least ~~seventy-five percent (75%)~~ fifty-one percent (51%) of its sales revenue from out of state; and

~~(E)~~(C) Paying ~~average hourly wages that exceed one hundred fifty percent (150%) of the county or state average hourly wage, whichever is less~~ employees whose payroll is subject to incentives under this subchapter average hourly wages exceeding one hundred fifty percent (150%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands;

~~(40)~~(36) "Start of construction" means any activity that causes a physical change to the building or property, or both, identified as the site of the approved project, but excluding ~~engineering surveys, soil tests, land clearing, and extension of roads and utilities to the project site~~ preconstruction costs;

~~(41)~~(37) "Strategic research" means research that has strategic economic or long-term commercial value to the state and that is identified in the research and development plan approved ~~from time to time~~ by the Executive Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission;

~~(42)~~(38) "Support infrastructure" means physical assets necessary for the business to operate, including~~, but not limited to,~~ without limitation water systems, wastewater systems, gas and electric utilities, roads, bridges, parking lots, and ~~communication~~ communications infrastructure;

~~(43)(A)~~(39) "Targeted businesses" means a grouping of growing business sectors, not to exceed six (6), that include the following:

~~(i)~~(A) Advanced materials and manufacturing systems;

~~(ii)~~(B) Agriculture, food, and environmental sciences;

~~(iii)~~(C) Biotechnology, bioengineering, and life sciences;

~~(iv)~~(D) Information technology;

~~(v)~~(E) Transportation logistics; and

~~(vi)~~(F) Bio-based products~~.~~

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

~~(i) Have been operating in the state for less than five (5) years;~~

~~(ii) Pay not less than one hundred fifty percent (150%) of the lesser of the county or state average hourly wage; and~~

~~(iii) Have been selected to receive special benefits~~; and

~~(44)~~(40) "Tiers" means the ranking of the seventy-five (75) counties of Arkansas into four (4) divisions that delineate the economic prosperity of the counties and allow for different levels of ~~benefits~~ incentives under this subchapter.

15-4-2704. Tier system.

(a) The Arkansas Economic Development Commission shall establish a tier system that shall rank all seventy-five (75) counties of this state into four (4) divisions on the basis of economic prosperity.

(b) Tier 4 ~~will~~ shall be the least prosperous division and tier 1 ~~will~~ shall be the most prosperous division.

(c) The assignment of a county to a tier shall be based on a ranking of:

(1) Unemployment rate;

(2) Poverty rate;

(3) Per capita personal income; and

(4) Population ~~growth~~ change.

(d) The commission shall:

(1) Update ranking statistics annually; and

(2) Place counties into tiers based on the updated statistics.

(e)(1) A county that has experienced a sudden and severe period of economic distress caused by ~~the closing of a business entity~~ a closure of one

(1) or more businesses or a mass layoff at one (1) or more businesses, or both, as documented by notice provided under the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101 et seq., as it existed on January 1, 2019, that results in the loss of a minimum of five percent (5%) of the county's employed labor force~~, as determined by the most recent Labor Market Information publication published by the Department of Workforce Services,~~ may be moved ~~up~~ down one (1) tier upon ~~submitting a request to and being approved by the Arkansas Economic Development Council~~ written request by the county judge of the affected county and approval by the Executive Director of the Arkansas Economic Development Commission.

(2) The five-percent threshold stated in subdivision (e)(1) of this section shall be evidenced by calculating the highest percentage difference in employment between the county's:

(A) Current monthly, not seasonally, adjusted total employed labor force; and

(B) Each of the following:

(i) The previous monthly, not seasonally, adjusted total employed labor force;

(ii) The most recent annually, not seasonally, adjusted total employed labor force; or

(iii) The monthly, not seasonally, adjusted total employed labor force for the same month of the previous year.

(3) If the ~~council~~ executive director approves a county's move to a higher tier, ~~any~~ a qualified business ~~having~~ that has signed a financial incentive agreement with the commission dated before the ~~council's~~ executive director's action shall receive the ~~benefits for the duration of the term of the financial incentive agreement~~ incentives that were assigned to the county to which it located at the time the financial incentive agreement was signed, ~~by the commission~~ regardless of any subsequent change to the tier ~~in which the county is assigned~~.

(4) A tier increase approved under this subsection remains in effect until the annual tier rankings are updated under subsection (d) of this section.

15-4-2705. Job-creation tax credit.

(a) There is established a job-creation tax credit to encourage:

(1) The creation of new jobs; and

(2) Business growth and expansion.

(b) An application for the income tax credit under this section shall be submitted to the Arkansas Economic Development Commission.

(c) To ~~qualify for~~ receive this credit, ~~an eligible~~ a qualified business shall ~~have an~~ meet minimum annual payroll thresholds for new full-time permanent employees ~~in excess of the payroll threshold~~ for the county tier in which the project is located, as follows:

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

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

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

(4) For tier 4 counties, the annual payroll threshold is at least fifty thousand dollars ($50,000).

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

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

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

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

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

(D) For tier 4 counties, the credit is four percent (4%) of the payroll for the new full-time permanent employees of the business.

(3) To qualify for a credit under this subsection, the ~~proposed~~ average hourly wage ~~of a company applying for the benefit~~ paid to employees whose payroll is subject to incentives under this subchapter shall ~~equal or~~ be ~~greater than~~ at least equal to the greater of the lowest county average hourly wage as calculated by the commission based on the most recent calendar year data published by the Department of Workforce Services, or twelve dollars and fifty cents ($12.50).

(4) A qualified business shall receive an additional tax credit of one percent (1%) of the payroll of new full-time permanent employees if the average hourly wage paid to employees subject to incentives under this subchapter exceeds one hundred twenty-five percent (125%) of the lesser of the county or state average hourly wage for the county in which the qualified business locates or expands.

(e) The term of the financial incentive agreement shall be for a period of ~~sixty (60) months~~ five (5) years, beginning on the date of the approved financial incentive agreement.

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

(2) Upon verification of the reported payroll amounts, the ~~division~~ Department of Finance and Administration shall authorize the appropriate income tax credit.

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

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

(h)(1) If a qualified business fails to meet the payroll threshold within two (2) years after the ~~signing~~ date of the approved financial incentive agreement or within the time period established by an extension approved by the Director of the Department of Finance and Administration and the Executive Director of the Arkansas Economic Development Commission, ~~that~~ the qualified business ~~will be~~ is liable for repayment of all ~~benefits previously received by the business~~ incentives previously received under § 15-4-2706(d) that were conditioned on an approved financial incentive agreement under this section for which the payroll threshold has not been met.

(2) ~~After a business has failed~~ If a qualified business fails to reach the payroll threshold of this section in a timely manner, the Department of Finance and Administration shall have two (2) years to collect

~~benefits~~ incentives previously received by the qualified business or file a lawsuit to enforce the repayment provisions.

15-4-2706. Investment tax incentives.

(a) There are established investment tax incentives to:

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

(2) Create new jobs.

(b)(1) The award of ~~this incentive shall be~~ incentives under this section are at the discretion of the Executive Director of the Arkansas Economic Development Commission.

(2) If offered, an application for an income tax credit under this section shall be submitted to the Arkansas Economic Development Commission.

(3) Eligibility for ~~this incentive~~ incentives under this section is dependent upon the tier in which the project is located, as follows:

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

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

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

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

(4) ~~Upon approval by the commission, the Executive Director of the Arkansas Economic Development Commission shall transmit an~~ An approved financial incentive agreement shall be transmitted to the ~~approved company~~ qualified business and the ~~Revenue Division of the~~ Department of Finance and Administration.

(5) ~~The~~ A qualified business shall reach the investment threshold within four (4) years from the date of the ~~signing of the~~ approved financial incentive agreement, except for lease payments authorized by subdivision (b)(6)(D) of this section or subdivision (c)(6) of this section.

(6)(A)(i) After receiving an approved financial incentive agreement from the commission, ~~the approved company~~ a qualified business shall certify to the department the eligible project costs annually at the end of each calendar year for the term of the financial incentive agreement ~~to the division~~.

(ii) U~~pon verification of eligible project costs, the division~~ The department shall authorize an income tax credit of ten percent (10%) ~~based on the total investment in land, buildings, equipment, and costs related to licensing and protecting intellectual property~~ of total audited eligible project costs.

(B) The amount of income tax credit ~~taken during any tax year shall not exceed~~ authorized under subdivision (a)(6)(A)(ii) of this section may offset up to fifty percent (50%) of ~~the~~ a qualified business's income tax liability ~~resulting from the project or facility~~ annually.

(C) Unused tax credits may be carried forward for up to nine (9) years after the year in which the credit was first earned or until the tax credits are exhausted, whichever occurs first.

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

(7) Technology-based enterprises, as defined by § 14-164-203(12), may earn, at the discretion of the Executive Director of the Arkansas Economic Development Commission, an income tax credit or sales and use tax credit based on new investment, provided that the technology-based enterprise:

(A) Creates a new payroll of at least two hundred fifty thousand dollars ($250,000); and

(B) Pays ~~wages~~ an average hourly wage that ~~are~~ is at least ~~one hundred seventy-five percent (175%)~~ one hundred fifty percent (150%) of the lesser of the state or county average hourly wage~~, whichever is less~~ for the county in which the business locates or expands.

(8)(A) The income tax credit or sales and use tax credit that may be earned by a technology-based enterprise ~~shall be~~ is based on the ~~level~~ amount of investment as follows:

(i) The income tax credit or sales and use tax credit ~~will be~~ is equal to two percent (2%) of the investment for an investment that is between two hundred fifty thousand dollars ($250,000) and five hundred thousand dollars ($500,000);

(ii) The income tax credit or sales and use tax credit ~~will be~~ is equal to four percent (4%) of the investment for that part of the investment that is over five hundred thousand dollars ($500,000) and less than one million dollars ($1,000,000);

(iii) The income tax credit or sales and use tax credit ~~will be~~ is equal to six percent (6%) of the investment for that part of the investment that is over one million dollars ($1,000,000) and less than two million dollars ($2,000,000); and

(iv) The income tax credit or sales and use tax credit ~~will be~~ is equal to eight percent (8%) of the investment for that part of the investment that is over two million dollars ($2,000,000).

(B) The ~~percentage of the investment used to determine the~~ amount of credit earned ~~shall be established~~ is determined based upon the ~~project cost estimate at the time of signing the financial incentive agreement~~ amount invested, as verified by an audit by the department.

(9) All investments by a technology-based enterprise ~~must~~ shall be made within four (4) years of the date of the ~~signed~~ approved financial incentive agreement.

(10) Prior to ~~execution~~ commission approval of ~~the~~ a financial incentive agreement, the ~~approved company~~ business shall elect to receive the tax credits as either:

(A) A sales and use tax credit; or

(B) An income tax credit.

(11)~~(A)~~ The income tax credit or sales and use tax credit earned by a technology-based enterprise may offset income tax liabilities or sales and use tax liabilities as follows:

~~(i)~~(A) A technology-based enterprise that pays at least ~~one hundred seventy-five percent (175%)~~ one hundred fifty percent

(150%) of the lesser of the state or county average hourly wage~~, whichever is less,~~ for the county in which the business locates or expands may offset up to fifty percent (50%) of its income tax liability or sales and use tax liability annually;

~~(ii)~~(B) A technology-based enterprise that pays at least ~~two hundred percent (200%)~~ one hundred seventy-five percent (175%) of the lesser of the state or county average hourly wage~~, whichever is less,~~ for the county in which the business locates or expands may offset up to seventy-five percent (75%) of its income tax liability or sales and use tax liability annually; and

~~(iii)~~(C) A technology-based enterprise that pays at least ~~two hundred twenty-five percent (225%)~~ two hundred percent (200%) of the lesser of the state or county average hourly wage~~, whichever is less,~~ for the county in which the business locates or expands may offset up to one hundred percent (100%) of its income tax liability or sales and use tax liability annually.

~~(B) The average hourly wage proposed to be paid by the approved company as provided in the signed financial incentive agreement shall be the average hourly wage to determine the percentage of credit that may be used against the approved company's tax liability for the term of the financial incentive agreement.~~

(12) After receiving an approved financial incentive agreement from the commission, ~~the approved company~~ a qualified business shall certify to the department the eligible project costs and average hourly wages annually at the end of each tax year for the term of the financial incentive agreement ~~to the division~~.

(13) Unused income tax credits or sales and use tax credits may be carried forward for ~~a period not to exceed~~ up to nine (9) years after the year in which the credit was first earned or until the tax credits are exhausted, whichever occurs first.

(c)(1)(A) An application for a retention tax credit under this subsection shall be submitted to the commission.

(B)(i) The application shall be submitted to the commission before incurring any project costs.

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

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

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

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

(C) Hold a direct-pay sales and use tax permit from the ~~division~~ department before submitting an application for ~~benefits~~ incentives.

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

(B) The amount of the credit shall be five-tenths ~~of one~~ percent (0.5%) above the state sales and use tax rate in effect at the time a financial incentive agreement is signed with the commission.

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

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

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

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

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

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

(E) The credit against the qualified business's sales and use tax liability shall be a percentage of the eligible project costs equal to five-tenths ~~of one~~ percent (0.5%) above the state sales and use tax rate in effect at the time the financial incentive agreement was ~~signed~~ approved by the commission.

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

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

(7)(A) A ~~qualified~~ business may apply for the retention tax credit under this subsection through June 30, 2017.

(B)(i) An application for the retention tax credit under this subsection shall not be accepted on or after July 1, 2017.

(ii) However, projects that qualify for a retention tax credit based on an application filed through June 30, 2017, shall continue to earn credits as provided in this section.

(iii) Retention tax credits issued on a project that qualifies for retention tax credits based on an application filed through June 30, 2017, shall remain in effect and shall be taken and carried forward as otherwise provided in this section.

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

(B) The resolution shall:

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

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

~~(b) A municipality or county, or both, may authorize the refund of any sales or use tax levied by the municipality or county but may not authorize the refund of any sales or use tax not levied by the municipality or county in which the qualified business is located.~~

(C) ~~Any eligible business that applies for a sales and use tax refund under this subsection shall invest in excess of one hundred thousand dollars ($100,000) in order to qualify for the sales and use tax refund~~ To qualify for a refund under this subsection, a qualified business shall meet the minimum investment thresholds for the tier in which the qualified business expands or locates, as follows:

(i) For tier 1 counties, the minimum investment threshold is at least five hundred thousand dollars ($500,000);

(ii) For tier 2 counties, the minimum investment threshold is at least four hundred thousand dollars ($400,000);

(iii) For tier 3 counties, the minimum investment threshold is at least three hundred thousand dollars ($300,000); and

(iv) For tier 4 counties, the minimum investment threshold is at least two hundred thousand dollars ($200,000).

(2)(A)(i) ~~A~~ The Director of the Department of Finance and Administration shall authorize a sales and use tax refund of state and local sales and use taxes, excepting the sales and use taxes dedicated to the Educational Adequacy Fund ~~created in § 19-5-1227~~ and the Conservation Tax Fund ~~as authorized by § 19-6-484,~~ on the purchases of the material used in the construction of a building or buildings or any addition, modernization, or improvement thereon for housing any new or expanding qualified business and machinery and equipment to be located in or in connection with such a building ~~shall be authorized by the Director of the Department of Finance and Administration~~.

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

(B) A refund shall not be authorized for:

(i) Routine operating expenditures; or

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

(3)(A) Subject to the approval of the commission, a ~~program participant~~ qualified business may make changes ~~in~~ to a project by written amendment to the project plan filed with the commission.

(B) The commission shall not approve an amendment under subdivision (d)(3)(A) of this section that results in a cost increase of more than twenty-five percent (25%) of the initial project plan.

(4) All claims for sales and use tax refunds under this subsection shall be denied unless they are filed with the ~~division~~ department within three (3) years from the date of the qualified purchase or purchases.

(5)(A)(i) ~~In order to~~ To be eligible for the ~~benefits~~ incentives under this subsection, a qualified business shall ~~sign a job creation~~ meet all payroll creation requirements of its approved financial incentive agreement under § 15-4-2705 or § 15-4-2707 ~~and comply with the eligibility requirements of the financial incentive agreement~~.

(ii) However, a business may apply for ~~benefits~~ incentives under this subsection if:

(a) The business has an existing financial incentive agreement approved under this subdivision (d)(5)(A) and the provisions of subdivision (d)(5)(B) of this section have been met within the previous ~~forty-eight (48) months~~ four (4) years; or

(b) The business has signed a ~~job creation~~ financial incentive agreement approved under § 15-4-2705 or § 15-4-2707 within the previous ~~forty-eight (48) months~~ four (4) years.

(B) The financial incentive agreement under § 15-4-2705 or § 15-4-2707 shall be ~~signed~~ approved within ~~twenty-four (24) months~~ two (2) years after ~~signing~~ the financial incentive agreement under this subsection is approved.

(e)(1) A ~~new~~ targeted business ~~shall~~ may be eligible for a refund of state and local sales and use taxes for qualified expenditures ~~identified in the project plan~~ at the discretion of the Executive Director of the Arkansas Economic Development Commission if:

(A)(i) The annual payroll of the targeted business for Arkansas taxpayers is greater than one hundred thousand dollars ($100,000) and less than one million dollars ($1,000,000).

(ii) The payroll requirement in subdivision (e)(1)(A)(i) of this section applies only to the initial eligibility determination and does not preclude a qualified business from receiving incentives if, at any time after the financial incentive agreement is approved, actual payroll does not satisfy the requirements in subdivision (e)(1)(A)(i) of this section; and

(B) The targeted business shows proof of an equity investment of at least two hundred fifty thousand dollars ($250,000).

(2)(A) An application for the targeted business state and local sales and use tax refund program for a new or expanding targeted business shall be filed with the commission contingent upon the approval of an endorsement resolution from the governing authority of a municipality or county, or both, in whose jurisdiction the targeted business will be located.

(B) The resolution shall:

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

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

~~(b) A municipality or county, or both, can authorize the refund of any sales tax levied by the municipality or county but cannot authorize the refund of any sales or use tax not levied by the municipality or county in which the targeted business is located.~~

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

(4)(A)(i) ~~A~~ The Director of the Department of Finance and Administration shall authorize a sales and use tax refund of state and local sales and use taxes, excepting the sales and use taxes dedicated to the Educational Adequacy Fund ~~as authorized by § 26-57-1002(d)(1)(A)(ii)(b)~~ and the Conservation Tax Fund ~~as authorized by § 19-6-484,~~ on the purchases of the material used in the construction of a building or buildings or any addition, modernization, or improvement thereon for housing any new or expanding qualified business and machinery and equipment to be located in or in connection with such a building ~~shall be authorized by the Director of the Department of Finance and Administration~~.

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

(B) A refund shall not be authorized for:

(i) Routine operating expenditures; or

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

(5)(A) Subject to the approval of the commission, a ~~program participant~~ qualified business may make changes ~~in~~ to a project by written amendment to the project plan filed with the commission.

(B) The commission shall not approve an amendment under subdivision (e)(5)(A) of this section that results in a cost increase of more than twenty-five percent (25%) of the initial project plan.

(6) All claims for sales and use tax refunds under this subsection shall be denied unless they are filed with the ~~division~~ department within three (3) years after the date of the qualified purchase or purchases.

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

(8) To be eligible for the incentives under this subsection, a targeted business shall meet all payroll creation requirements of an approved financial incentive agreement under § 15-4-2707 or § 15-4-2709 within two (2) years of the date of the approved financial incentive agreement under this subsection or other subsequent date if approved by the Executive Director of the Arkansas Economic Development Commission.

15-4-2707. Economic Development Incentive Fund — Payroll rebate.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Economic Development Incentive Fund" of the Arkansas Economic Development Commission.

(b) The fund shall consist of revenues designated for this fund by the ~~Revenue Division of the~~ Department of Finance and Administration pursuant to approved financial incentive agreements entered into by the commission with ~~eligible~~ qualified businesses.

(c) After the Department of Finance and Administration has received and verified the certification of the payrolls of the ~~eligible~~ qualified businesses ~~that have entered into financial incentive agreements with the commission~~ for the payroll rebate authorized by this section, the ~~department~~ Department of Finance and Administration shall transfer the appropriate amount of money designated by the financial incentive agreements out of general revenues into a special account designated as special revenue for the fund.

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

(2)(A) ~~Benefits are conditioned upon the hiring of new full-time permanent employees with an annual payroll threshold of two million dollars ($2,000,000) and certifying to the department that the requisite payroll threshold has been met~~ To receive an incentive under this section, a qualified business shall meet minimum annual payroll thresholds for new full-time permanent employees for the county tier in which the project is located, as follows:

(i) For tier 1 counties, the annual payroll threshold is at least two million dollars ($2,000,000);

(ii) For tier 2 counties, the annual payroll threshold is at least one million seven hundred fifty thousand dollars ($1,750,000);

(iii) For tier 3 counties, the annual payroll threshold is at least one million five hundred thousand dollars ($1,500,000); and

(iv) For tier 4 counties, the annual payroll threshold is at least one million two hundred fifty thousand dollars ($1,250,000).

(B) ~~The eligible~~ A qualified business ~~receiving benefits~~ approved for an incentive under this subsection ~~must~~ shall certify or recertify payroll annually ~~to~~ by filing the appropriate documents with the ~~department that the requisite payroll threshold has been met~~ Department of Finance and Administration.

(C) The ~~eligible~~ qualified business ~~receiving benefits~~ claiming incentives under this subsection ~~must~~ shall claim the rebate payment on an annual basis by certifying or recertifying payroll figures ~~and~~ meeting the requisite threshold by filing the appropriate claim forms with the ~~department~~ Department of Finance and Administration.

(D) Failure to certify or recertify payroll figures and claim the earned rebate payment annually shall result in:

(i) A ten-percent reduction of the earned rebate if not claimed within twelve (12) months from the end of the tax year in which the rebate was earned; ~~or~~

(ii) A one hundred-percent forfeiture of the earned rebate if not claimed within twenty-four (24) months from the end of the tax year in which the rebate was earned; or

(iii) Termination of the financial incentive agreement if an initial certification has not been filed with the Department of Finance and Administration within four (4) years after the date of the approved financial incentive agreement, unless the date has been extended by the executive director.

(3) Payments are subject to the following conditions:

(A) For tier 1 counties, the ~~benefit~~ incentive is three and nine-tenths percent (3.9%) of the annual payroll of new full-time permanent employees;

(B) For tier 2 counties, the ~~benefit~~ incentive is four and twenty-five-hundredths percent (4.25%) of the annual payroll of new full-time permanent employees;

(C) For tier 3 counties, the ~~benefit~~ incentive is four and five-tenths percent (4.5%) of the annual payroll of new full-time permanent employees;

(D) For tier 4 counties, the ~~benefit~~ incentive is five percent (5%) of the annual payroll of new full-time permanent employees; and

(E) The executive director may authorize ~~benefits~~ an enhanced incentive to a prospective eligible business of up to five percent (5%) of the payroll of new full-time permanent employees if the following conditions exist:

(i) The prospective eligible business is considering a location in another state;

(ii) The prospective eligible business receives at least ~~seventy-five percent (75%)~~ fifty-one percent (51%) of its sales revenues from out of state; and

(iii) The prospective eligible business is proposing to pay wages in excess of one hundred percent (100%) of the county average hourly wage of the county in which it locates.

(4) To qualify for an incentive under this subsection, except for the enhanced incentive in subdivision (d)(3)(E) of this section, the average hourly wage paid to employees whose payroll is subject to incentives shall be at least equal to the greater of the lowest county average hourly wage as calculated by the commission based on the most recent calendar year data published by the Department of Workforce Services, or twelve dollars and fifty cents ($12.50).

(5) A qualified business shall receive an additional incentive of one percent (1%) of the payroll of new full-time permanent employees if the average hourly wage paid to employees subject to incentives exceeds the lesser of one hundred twenty-five percent (125%) of the county or state average hourly wage for the county in which the business locates or expands.

(e)(1) Technology-based enterprises, as defined in § 14-164-203(12), may earn, at the discretion of the executive director, a payroll rebate equal to five percent (5%) of the payroll for new full-time permanent employees for a period not to exceed ten (10) years.

(2) ~~In order to~~ To qualify for the payroll rebate:

(A) The average hourly wage of the payroll for new full-time permanent employees must be at least ~~one hundred seventy-five percent (175%)~~ one hundred fifty percent (150%) of the lesser of the state or county average hourly wage~~, whichever is less,~~ for the county in which the technology-based enterprise locates or expands;

(B) The payroll for new full-time permanent employees must exceed two hundred fifty thousand dollars ($250,000); and

(C) The payroll rebate authorized by this subsection ~~may~~ shall not be used in combination with the income tax credit based on payroll authorized by § 15-4-2709.

15-4-2708. Research and development tax credits.

(a) ~~A taxpayer who contracts with one (1) or more Arkansas colleges or universities in performing basic or applied research may qualify for the tax credit established under § 26-51-1102(b) for qualified research expenditures, subject to the limitations established under § 26-51-1103 and the documentation requirements of § 26-51-1104.~~

~~(b)~~(1)(A) ~~New eligible~~ Eligible businesses that have not previously been approved for incentives under this subsection and that conduct in-house research ~~in a research facility operated by the business and that qualify~~ that has been approved for federal research and development tax credits may qualify, at the discretion of the Executive Director of the Arkansas Economic Development Commission, for an income tax credit ~~equal~~ of up to twenty percent (20%) of the incremental amount spent on in-house research that exceeds the ~~base year for a period of three (3) years and the incremental increase in qualified research expenditures for the succeeding two (2) years, subject to the limitations established under § 26-51-1103~~ baseline established in the preceding year, for a period of five (5) years, subject to extension at the discretion of the Executive Director of the Arkansas Economic Development Commission.

(B) ~~For a new research facility, the base year is zero (0). Therefore, in the first three (3) years following the date of the financial incentive agreement, all eligible expenditures will qualify for the credit~~ The initial baseline for a qualified business new to the incentives offered under this subsection is the amount of research conducted in the state as claimed for federal research and development tax credits during the most recent year.

(C) ~~Qualified research and development expenditures in the third year shall be used as a base to calculate the tax credit in the fourth year~~ Tax credits for the first year shall be calculated based on the incremental eligible expenditures for research and development at the end of the first year minus the research and development expenditures as reported by the qualified business for research and development tax credits under subdivision (a)(1)(B) of this section.

(D) ~~Qualified research and development expenditures in the fourth year shall be used as a base to calculate the tax credit in the fifth year~~ Tax credits for succeeding years shall be calculated as the difference between the current year's research conducted in the state and the previous year's research conducted in the state.

~~(2)(A) Existing eligible businesses that conduct in-house research in a research facility operated by the business and that qualify for federal research and development tax credits may qualify for an income tax credit equal to twenty percent (20%) of the amount spent on in-house research that exceeds the base year for a period of three (3) years and the incremental increase in qualified research expenditures for the succeeding two (2) years, subject to the limitations established under § 26-51-1103.~~

~~(B) For an existing research facility, the base year amount shall be the amount of eligible research and development expenditures incurred in the year prior to the year in which the financial incentive agreement was signed by the Arkansas Economic Development Commission.~~

~~(C) Qualified research and development expenditures in the third year shall be used as a base to calculate the tax credit in the fourth year.~~

~~(D) Qualified research and development expenditures in the fourth year shall be used as a base to calculate the tax credit in the fifth year.~~

~~(3)~~(2) The income tax credit may be used to offset up to one hundred percent (100%) of ~~an eligible~~ a qualified business's annual income tax liability.

~~(4)~~(3) Unused tax credits may be carried forward for ~~a period not to exceed~~ up to nine (9) years after the year in which the credit was first earned or until the tax credits are exhausted, whichever occurs first.

~~(5)~~(4) A qualified business claiming tax credits earned under this subsection ~~may~~ shall not receive the credit granted by § 26-51-1102(b) for the same expenditures.

~~(6)(A)~~(5)(A) The term of the financial incentive agreement for in-house research authorized by this subsection ~~shall be~~ is for a period not to exceed five (5) years.

(B) The financial incentive agreement may be renewed for ~~a period not to exceed five (5) years~~ additional five-year periods upon the submittal to and approval of the Executive Director of the Arkansas Economic Development Commission of a new application and project plan for ~~benefits~~ incentives under this subsection.

(C) The qualified business claiming a tax credit under this subsection shall certify annually to the ~~commission~~ Arkansas Economic Development Commission the amount expended on in-house research.

~~(c)(1)~~(b)(1) Targeted businesses may qualify for an income tax credit equal to thirty-three percent (33%) of the amount spent on in-house research per year for the first five (5) tax years following the targeted business's signing a financial incentive agreement with the commission~~, subject to the limitations established under § 15-4-2709(d)(2)~~.

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

~~(d)(1)~~(c)(1) An Arkansas taxpayer may ~~qualify for~~ be offered, at the discretion of the Executive Director of the Arkansas Economic Development Commission, an income tax credit equal to thirty-three percent (33%) of the amount spent on the research for the first five (5) tax years following the business's signing a financial incentive agreement with the commission, subject to the limitations established under § 26-51-1103 if the taxpayer invests in:

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

(B) Projects under the research and development programs of the Division of Science and Technology of the Arkansas Economic Development Commission when the projects directly involve an Arkansas business and are approved by the Executive Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission under rules promulgated by the ~~division~~ commission for those programs.

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

(3) A qualified business claiming tax credits earned under this

subsection shall ~~be prohibited from receiving~~ not receive the credit granted by § 26-51-1102(b) for the same expenditures.

(4)(A) A qualified business claiming tax credits earned under this subsection may offset up to one hundred percent (100%) of the business's Arkansas income tax liability ~~in any one (1) year~~ annually.

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

~~(e)~~(d) To claim the credit granted under subsections ~~(b)-(d)~~ (a)-(c) of this section, the taxpayer shall file with his or her return, as an attachment to the form prescribed by the Director of the Department of Finance and Administration, copies of documentation to show that the ~~Executive Director of the Arkansas Economic Development Commission~~ commission has approved the research expenditure as a part of a qualified in-house research program or under the research and development programs of the division.

15-4-2709. Targeted business special incentive.

(a) A special incentive based on the payroll of ~~the new~~ targeted businesses in the state ~~is established~~ may be offered, at the discretion of the Executive Director of the Arkansas Economic Development Commission, to:

(1) Encourage the development of jobs that pay significantly more than the ~~county~~ average hourly wage in the county in which the targeted business locates or the state average hourly wage if the state average hourly wage is less than the county average hourly wage; and

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

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

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

(2)(A) Have an annual payroll of the business for Arkansas taxpayers of not less than one hundred thousand dollars ($100,000) or more than one million dollars ($1,000,000).

(B) The payroll requirement under subdivision (b)(2)(A) of this section applies only to the initial eligibility determination and does not preclude qualified businesses from receiving incentives if, at any time after the financial incentive agreement has been approved, actual payroll does not satisfy the requirements in subdivision (b)(2)(A) of this section;

(3) Show proof of an equity investment of two hundred fifty thousand dollars ($250,000) or more; and

(4) Pay average hourly wages in excess of the lesser of one hundred fifty percent (150%) of the county or state average hourly wage~~,~~ ~~whichever is less~~ for the county in which the targeted business locates or expands.

(c)(1) A ~~new~~ targeted business may earn an income tax credit equal to ten percent (10%) of its annual payroll, with the maximum payroll credit not to exceed one hundred thousand dollars ($100,000) in any year during the term of the financial incentive agreement.

(2)(A) The term of the financial incentive agreement shall be established by the Executive Director of the Arkansas Economic Development Commission for a period not to exceed five (5) years.

(B) The term of the financial incentive agreement for ~~new~~ targeted businesses earning a tax credit under this subsection ~~or under § 15-4-2708(c)~~ shall begin on January 1 of the year following the year in which the financial incentive agreement was ~~signed~~ approved.

(C) The executive director may allow a qualified targeted business to sell any income tax credits earned through one (1) or more incentives authorized by this subchapter.

(d)(1) ~~In order to~~ To sell income tax credits earned through incentives authorized by this subchapter, the ~~new~~ targeted business ~~must~~ shall apply to the commission and furnish information necessary to facilitate the sale of income tax credits.

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

(B) ~~The ultimate recipient of the~~ Taxpayers purchasing tax credits under this subsection shall be subject to the same carry-forward provisions as the targeted business that earned the credits.

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

(e) A targeted business claiming or selling tax credits earned under this section or § 15-4-2708 shall ~~be prohibited from receiving~~ not receive the credit granted by § 26-51-1102(b) for the same expenditures.

~~(f)(1) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Innovate Arkansas Fund" for the support of a contract to provide support and assistance to the development and growth of knowledge-based and technology-based companies in the State of Arkansas.~~

~~(2) This fund shall be for the sole support of a contract between the commission and the entity selected to provide direct support and assistance to knowledge-based companies in the State of Arkansas.~~

~~(3) Moneys deposited into the fund by the General Assembly shall be used only through a contractual relationship between the commission and the entity selected to provide needed services to knowledge-based companies.~~

15-4-2710. Powers and duties of the Arkansas Economic Development Commission.

The Arkansas Economic Development Commission shall administer this subchapter and in addition to powers and duties mentioned in other laws may:

(1) Promulgate rules ~~and regulations~~ in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to carry out the provisions of this subchapter;

(2) Provide the Department of Finance and Administration with a copy of each financial incentive agreement entered into by the commission with each ~~qualifying~~ qualified business;

(3) Assist the governing authority in obtaining assistance from any other agency of state government, including assistance to new businesses and industries;

(4) Assist any employer or prospective employer with a qualifying project in obtaining the benefits of any incentive or inducement program authorized by state law;

(5) Act as a liaison between other state agencies and businesses and industries to ensure that both the spirit and intent of this subchapter are met;

(6) Make disbursements from the Economic Development Incentive Fund to qualified businesses as authorized in § 15-4-2707; and

(7) Negotiate proposals on behalf of the state with prospective businesses that are considering locating new facilities or expanding existing facilities that would seek the ~~benefits~~ incentives of ~~§ 15-4-2706(b), § 15-4-2706(c), § 15-4-2707, § 15-4-2708(c), or § 15-4-2709~~ the discretionary programs under this subchapter.

15-4-2711. Administration.

(a) A person claiming credit under ~~the provisions of~~ § 15-4-2706(c) is a "taxpayer" within the meaning of § 26-18-104(16) and ~~shall be~~ is subject to all applicable provisions of that section.

(b) Administration of ~~the provisions of~~ § 15-4-2706(c) shall be under the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(c)(1) All claims for sales and use tax refunds under § 15-4-2706(d) and (e) shall be filed annually with the ~~Revenue Division of the~~ Department of Finance and Administration within three (3) years from the date of the qualified purchase or purchases.

(2) Claims filed after three (3) years from the date of the qualified purchase or purchases shall be ~~disallowed~~ denied.

(d)(1) The time limitation for § 15-4-2706(d) and (e) for filing claims shall be tolled if:

(A) A ~~program participant~~ qualified business fails to pay sales tax on an item that was taxable; and

(B) The applicable tax is subsequently assessed as a result of an audit by the ~~division~~ department.

(2) All claims for sales and use tax refunds relating to an audited purchase ~~shall be~~ are entitled to a refund of interest paid on the amount of tax assessed on the audited purchase if a refund is approved for the purchase.

(e) A qualified business ~~must~~ shall reach the investment thresholds under § 15-4-2706 within four (4) years from the date of the ~~signed~~ approved financial incentive agreement.

(f)(1) All claims for payroll rebate payments under § 15-4-2707 shall be certified to the ~~Department of Finance and Administration~~ department and shall be recertified annually thereafter during the term of the financial incentive agreement.

(2) Failure to annually certify or recertify payroll figures and

claim the rebate payment shall result in:

(A) A ten percent (10%) reduction of the earned rebate if not claimed within ~~twelve (12) months~~ one (1) year from the end of the tax year in which the rebate was earned; ~~or~~

(B) A one hundred percent (100%) forfeiture of the earned rebate if not claimed within ~~twenty-four (24) months~~ two (2) years from the end of the tax year in which the rebate was earned; or

(C) Termination of the financial incentive agreement if an initial certification has not been filed with the department within four (4) years after the date of the approved financial incentive agreement, unless the date has been extended by the Executive Director of the Arkansas Economic Development Commission.

(g)(1) If the annual payroll of the business applying for ~~benefits~~ incentives under this subchapter is not met within ~~twenty-four (24) months~~ two (2) years after signing the financial incentive agreement, the business may request in writing an extension of time to reach the required payroll threshold.

(2)(A) If the Executive Director of the Arkansas Economic Development Commission and the Director of the Department of Finance and Administration find that the ~~approved~~ qualified business has presented compelling reasons for an extension of time, the Executive Director of the Arkansas Economic Development Commission may grant an extension of time not to exceed ~~forty-eight (48) months~~ four (4) years from the effective date of the financial incentive agreement.

(B) However, the extension on projects applying for ~~benefits~~ incentives under § 15-4-2705 is limited to a ~~twenty-four-month~~ two-year extension.

(3)(A) If a qualified business fails to reach the annual payroll threshold ~~before the expiration of the twenty-four (24) months or the time period established by a subsequent extension of time~~ required under the approved financial incentive agreement, the qualified business ~~will be~~ is liable for the repayment of all ~~benefits~~ incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met.

(B) ~~After a business has failed~~ If a qualified business fails to reach the annual payroll threshold ~~in a timely manner~~ required under an approved financial incentive agreement, the Department of Finance and Administration ~~shall have~~ has two (2) years to collect ~~benefits~~ incentives previously received by the qualified business or file a lawsuit to enforce the repayment provisions.

(h)(1) If a qualified business fails to reach the investment threshold before the expiration of the four-year time limit, the qualified business ~~will be~~ is liable for the repayment of all ~~benefits~~ incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the investment threshold was not met.

(2) ~~After a business has failed~~ If a qualified business fails to reach the investment threshold of this subchapter ~~in a timely manner~~ under an approved financial incentive agreement, the ~~Department of Finance and Administration shall have~~ department has two (2) years to collect ~~benefits~~ incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the investment threshold has not been met or file a lawsuit to enforce the repayment provisions.

(i)(1) If the annual payroll of a qualified business receiving ~~benefits~~ incentives under this subchapter falls below the payroll threshold for qualification in a year subsequent to the ~~one~~ year in which it initially qualified for the incentive, the ~~benefits~~ incentives outlined in the financial incentive agreement ~~will~~ shall be terminated unless ~~the business files~~ a written application for an extension of ~~benefits with~~ incentives explaining why the payroll has fallen below the level required for qualification has been filed with and approved by the ~~Arkansas Economic Development Commission explaining why the payroll has fallen below the level required for qualification~~ commission.

(2) The Executive Director of the Arkansas Economic Development Commission and the Director of the Department of Finance and Administration may approve the request for extension of time, not to exceed ~~twenty-four (24) months~~ two (2) years, for the qualified business to bring the payroll back up to the requisite threshold amount and may approve the continuation of ~~benefits~~ incentives during the period the extension is granted.

(3)(A) If a qualified business fails to reach the payroll threshold before the expiration of the ~~twenty-four (24) months~~ two (2) years or the time period established by a subsequent extension of time, the qualified business ~~shall be~~ is liable for the repayment of all ~~benefits~~ incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met.

(B) ~~After a business has failed~~ If a qualified business fails to reach the payroll threshold ~~in a timely manner~~ required under an approved financial incentive agreement, the Department of Finance and Administration ~~shall have~~ has two (2) years to collect ~~benefits~~ incentives previously received by the qualified business or file a lawsuit to enforce the repayment provisions.

(j)(1) If a qualified business fails to reach the average hourly wage ~~requirement~~ threshold for ~~benefits~~ incentives under this subchapter ~~within twenty-four (24) months of the effective date of the~~ as specified in an approved financial incentive agreement, the qualified business ~~will be~~ is liable for the repayment of all ~~benefits~~ incentives previously received by the qualified business for which the average hourly wage threshold has not been met.

(2) ~~After a business has failed~~ If a qualified business fails to meet the hourly wage ~~requirements~~ threshold, the Department of Finance and Administration ~~shall have~~ has two (2) years to collect ~~benefits~~ incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the average hourly wage threshold has not been met or file a lawsuit to enforce the repayment provisions.

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

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

~~(l)(1)~~ Eligible businesses whose qualification depends on receiving either fifty-one percent (51%) or seventy-five percent (75%) of their sales revenue from out-of-state customers shall meet this requirement within three (3) years from the approval date of their financial incentive agreement.

(2)(A) If the requirement under subdivision (k)(1) of this section is not met within three (3) years of the ~~signed~~ approved financial incentive agreement, the qualified business may request in writing an extension of time to reach the required sales threshold.

(B) If the Executive Director of the Arkansas Economic Development Commission finds that the qualified business has presented compelling reasons for an extension of time, the Executive Director of the Arkansas Economic Development Commission may grant an extension of time not to exceed ~~twenty-four (24) months~~ an additional two (2) years.

~~(m)(1)~~(l)(1) If a qualified business fails to ~~timely~~ meet the out-of-state revenue requirements of this subchapter under the specified deadlines in the approved financial incentives agreement, the qualified business ~~will be~~ is liable for the repayment of all ~~benefits~~ incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the sales threshold has not been met.

(2) ~~After a business has failed~~ If a qualified business fails to meet the out-of-state revenue requirements, the Department of Finance and Administration ~~shall have~~ has two (2) years to collect ~~benefits~~ incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the sales threshold has not been met or file a lawsuit to enforce the repayment provisions.

~~(n)(1)~~(m)(1) If a qualified business fails to notify the Department of Finance and Administration that the annual payroll of the qualified business has fallen below the payroll threshold for qualification for and retention of any incentive authorized by this subchapter, the qualified business ~~will be~~ is liable for the repayment of all ~~benefits~~ incentives that were paid to the qualified business and that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met after it no longer qualified for the ~~benefits~~ incentives.

(2) ~~After a business has failed~~ If a qualified business fails to notify the Department of Finance and Administration that the qualified business has fallen below the payroll threshold, the Department of Finance and Administration ~~shall have~~ has two (2) years to collect ~~benefits~~ incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met or file a lawsuit to enforce the repayment provisions.

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

~~(o)(1)~~(n)(1) For a qualified business taking advantage of one (1) or more of the investment incentives offered in § 15-4-2706, if the project costs exceed the initial project cost estimate included in the approved financial incentive agreement, the qualified business shall submit an amended project plan to include updated cost figures as soon as the cost overrun is recognized.

(2)(A) An amendment that exceeds twenty-five percent (25%) of the original financial incentive agreement estimate ~~will~~ shall not be ~~considered~~ approved and shall be submitted as a new project.

(B) An amendment shall not change the start date of the original project.

~~(p)~~(o)(1) The Department of Finance and Administration may obtain whatever information is necessary from a ~~participating~~ qualified business and from the Department of Workforce Services to verify that a qualified business ~~that has entered into financial incentive agreements with the Arkansas Economic Development Commission~~ is complying with the terms of the financial incentive agreements and reporting accurate information concerning investments, payrolls, wages, and out-of-state revenues to the Department of Finance and Administration.

(2) The Department of Finance and Administration shall provide the information obtained under subdivision (o)(1) of this section to the Executive Director of the Arkansas Economic Development Commission upon request by the Executive Director of the Arkansas Economic Development Commission.

~~(q)~~(p) The Department of Finance and Administration may file a lawsuit in the Pulaski County Circuit Court or the circuit court in any county where a ~~program participant~~ qualified business is located to enforce the repayment provisions of this subchapter.

~~(r)(1)~~(q)(1) If a qualified business fails to satisfy or maintain any other requirement or threshold of this subchapter, the qualified business ~~will be~~ is liable for the repayment of all ~~benefits~~ incentives that were paid to the qualified business after it no longer qualified.

(2) ~~After a business has failed~~ If a qualified business fails to comply with the requirements or thresholds of this subchapter, the Department

of Finance and Administration ~~shall have~~ has two (2) years to collect ~~benefits~~ incentives previously received by the qualified business for noncompliant financial incentive agreements or file a lawsuit to enforce the repayment provisions.

~~(s)~~(r) If a repayment is required as a result of not complying with the requirements or thresholds of this subchapter, interest shall be due at the rate of ten percent (10%) per annum.

15-4-2712. Restrictions.

(a) Except as provided in subsection (b) of this section, the incentives established by this subchapter may be combined.

(b)(1) The investment tax credit authorized in § 15-4-2706(c) ~~may~~ shall not be combined with the sales and use tax refund authorized in § 15-4-2706(d) for the same project.

(2) ~~The job creation tax credits authorized in § 15-4-2709, the sales and use tax refund authorized in § 15-4-2706(e), and the research and development tax credit authorized in § 15-4-2708(c)~~ The following incentives for targeted businesses may be combined with each other for the same project as long as multiple incentives are not claimed for the same expenditures but ~~may~~ shall not be combined with any other incentives authorized in this subchapter during the period in which the qualified business ~~qualifies for benefits under § 15-4-2709~~ receives incentives under this subchapter:

(A) The investment tax credit authorized under § 15-4-2706(b)(7) may be combined with:

(i) The research and development income tax credits authorized under § 15-4-2708(b); and

(ii) Either the:

(a) Payroll rebate program authorized under § 15-4-2707(e); or

(b) Payroll tax credit program authorized under § 15-4-2709;

(B) The sales and use tax refund authorized under § 15-4-2706(e) may be combined with:

(i) The research and development income tax credits authorized under § 15-4-2708(b); and

(ii) Either the:

(a) Payroll rebate program authorized under § 15-4-2707(e); or

(b) Payroll tax credit program authorized under § 15-4-2709;

(C) The payroll rebate program authorized under § 15-4-2707(e) may be combined with:

(i) The research and development income tax credits authorized under § 15-4-2708(b); and

(ii) Either the:

(a) Investment tax credit program authorized under § 15-4-2706(b)(7); or

(b) Sales and use tax refund program authorized under § 15-4-2706(e);

(D) The payroll income tax credit authorized under § 15-4-2709 may be combined with:

(i) The research and development income tax credits authorized under § 15-4-2708(b); and

(ii) Either the:

(a) Investment tax credit authorized under § 15-4-2706(b)(7); or

(b) Sales and use tax refund program authorized under § 15-4-2706(e); and

(E) The research and development income tax credits authorized under § 15-4-2708(b) may be combined with:

(i) Either the:

(a) Payroll rebate program authorized under § 15-4-2707(e); or

(b) Payroll tax credit program authorized under § 15-4-2709; and

(ii) Either the:

(a) Investment tax credit program authorized under § 15-4-2706(b)(7); or

(b) Sales and use tax refund program authorized under § 15-4-2706(e).

(3) The ~~job creation~~ investment tax credit authorized in ~~§ 15-4-2705 may~~ § 15-4-2706(b) shall not be combined with the ~~investment~~ sales and

use tax credit authorized in ~~§ 15-4-2706(b)~~ § 15-4-2706(e) for the same project.

(4) The job creation tax credit authorized in § 15-4-2705 ~~may~~ shall not be combined with the payroll rebate program authorized in § 15-4-2707.

(5) The investment tax credit authorized in § 15-4-2706(b) ~~may~~ shall not be combined with the sales and use tax refund authorized in § 15-4-2706(d) for the same project.

(6) The investment tax credit authorized under § 15-4-2706(b) shall not be combined with the sales and use tax credit authorized under § 15-4-2706(c) for the same project.

(c) The following are discretionary incentives and are not available unless offered by the Arkansas Economic Development Commission:

(1) The payroll rebate program authorized in § 15-4-2707;

(2) The job creation tax credit authorized in § 15-4-2709;

(3) The investment tax credit authorized in § 15-4-2706(b);

(4) The sales and use tax refund authorized in § 15-4-2706(e); and

(5) The research and development tax ~~credit~~ credits authorized in ~~§ 15-4-2708(c)~~ § 15-4-2708(a)-(c).

SECTION 2. Arkansas Code § 15-4-2714 is repealed.

~~15-4-2714. Coordination with other economic development programs.~~

~~(a) Eligible businesses that sign a financial incentive agreement with the Arkansas Economic Development Commission before March 3, 2003, shall be provided only the benefits for which they are qualified under any of the following:~~

~~(1) Arkansas Economic Development Incentive Act of 1993, § 15-4-1601 et seq.;~~

~~(2) Arkansas Enterprise Zone Act of 1993, § 15-4-1701 et seq.;~~

~~(3) Arkansas Economic Development Act of 1995, § 15-4-1901 et seq.; and~~

~~(4) Economic Investment Tax Credit Act, § 26-52-701 et seq. [repealed].~~

~~(b) Eligible businesses signing a financial incentive agreement with the commission after March 3, 2003, shall receive only the benefits for which~~

~~they are qualified under this subchapter.~~

~~(c)(1) Under no circumstances shall an eligible business be entitled to receive incentives or benefits for a project under this subchapter and the programs listed in subsection (a) of this section.~~

~~(2) It is the specific intent of this subchapter that the incentives provided by this subchapter and the incentives provided by prior laws are mutually exclusive.~~