

1 INTERIM STUDY PROPOSAL 2015-107

2 State of Arkansas

*As Engrossed: H3/16/15*

3 90th General Assembly

# A Bill

4 Regular Session, 2015

HOUSE BILL 1948

5  
6 By: Representatives Leding, D. Douglas

7 Filed with: House Committee on Agriculture, Forestry, and Economic Development  
8 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

9  
10 AN ACT CONCERNING NEW JOBS TRAINING PROGRAMS; TO  
11 CREATE THE ARKANSAS NEW JOBS TRAINING PROGRAM; AND  
12 FOR OTHER PURPOSES.

## Subtitle

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16 TO CREATE THE ARKANSAS NEW JOBS TRAINING  
17 PROGRAM.

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19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21  
22 *SECTION 1. Arkansas Code Title 15, Chapter 4, is amended to add an*  
23 *additional subchapter to read as follows:*

24 *Subchapter 37 – Arkansas New Jobs Training Program*

25  
26 *15-4-3701. Title.*

27 *This subchapter shall be known and may be cited as the "Arkansas New*  
28 *Jobs Training Program".*

29  
30 *15-4-3702. Definitions.*

31 *As used in this subchapter:*

32 *(1) "Agreement" means an agreement between an employer and a*  
33 *two-year college concerning a project;*

34 *(2)(A) "Employee" means a person who is employed in a new job.*

35 *(B) "Employee" does not include a person who is not*  
36 *subject to the withholding of Arkansas income tax;*

1           (3) "Employer" means an industry that:

2                   (A) Provides new jobs in the area served by the two-year  
3 college; and

4                   (B) Enters into an agreement;

5           (4)(A) "Industry" means a business engaged in interstate or  
6 intrastate commerce for the purpose of:

7                   (i) Manufacturing, processing, or assembling  
8 products;

9                   (ii) Conducting research and development;

10                  (iii) Providing service as an e-commerce fulfillment  
11 center; or

12                  (iv) Providing services in interstate commerce.

13           (B) "Industry" does not include:

14                  (i) Retail, health, or professional services; or

15                  (ii) A business that closes or substantially reduces  
16 its operation in one (1) area of the state and relocates substantially the  
17 same operation in another area of the state;

18           (5)(A) "New job" means a job that:

19                  (i) Is in a new or expanding industry; and

20                  (ii) Did not exist during the six (6) months before  
21 the employer entered into an agreement with a two-year college.

22           (B) "New job" does not include a job of a recalled worker  
23 or a replacement job or other job that formerly existed in the industry in  
24 this state;

25           (6) "New jobs training program" means the project or projects  
26 established by a two-year college under this subchapter for the creation of  
27 new jobs by providing education and training of workers for new jobs for a  
28 new or expanding industry;

29           (7) "Program costs" means the necessary and incidental costs of  
30 providing program services;

31           (8) "Program services" means without limitation the following:

32                  (A) New jobs training;

33                  (B) Adult basic education and job-related instruction;

34                  (C) Vocational and skills-assessment services and testing;

35                  (D) Training facilities, equipment, materials, and  
36 supplies;

1 (E) On-the-job training for new jobs;

2 (F) Administrative expenses for the new jobs training  
3 program;

4 (G) Subcontracted services with an institution of higher  
5 education or other federal, state, or local agency;

6 (H) Contracted or professional services; and

7 (I) Issuance of bonds;

8 (9) "Project" means a training arrangement that is the subject  
9 of an agreement entered into between a two-year college and an employer to  
10 provide program services; and

11 (10) "Two-year college" means a two-year institution of higher  
12 education established under Arkansas law, including without limitation:

13 (A) A two-year institution of higher education established  
14 under the Two-Year Postsecondary Education Reorganization Act of 1991, § 6-  
15 53-101 et seq.; and

16 (B) A member of the Arkansas Technical and Community  
17 College System under the coordination of the Arkansas Higher Education  
18 Coordinating Board.

19  
20 15-4-3703. Agreement.

21 (a)(1) A two-year college may establish a new jobs training program by  
22 entering into an agreement with one (1) or more employers to establish one  
23 (1) or more projects.

24 (2) If an agreement is entered into, the two-year college and  
25 the employer shall notify the Arkansas Economic Development Commission and  
26 the Department of Finance and Administration within five (5) business days.

27 (3) An agreement shall describe and provide for the payment of  
28 program costs, including without limitation deferred costs, that may be paid  
29 from either or both of the following sources:

30 (1) New jobs credit from withholding under § 15-4-3704 to  
31 be received or derived from new jobs resulting from the project; and

32 (2) Tuition, student fees, or special charges fixed by the  
33 governing body of the two-year college to defray program costs in whole or in  
34 part.

35 (b) Payment of program costs shall not be deferred for a period longer  
36 than ten (10) years from the date the agreement is executed.

1        (c) Costs of on-the-job training for employees shall not exceed fifty  
2 percent (50%) of the annual gross wages, salaries, and benefits for the new  
3 jobs in the project.

4        (d) An agreement shall set the new jobs credit from withholding or the  
5 tuition and fee payments that shall be used to pay program costs.

6        (e)(1) Payments required to be made by an employer under an agreement:

7                (A) Are a lien on the employer's business property until  
8 paid;

9                (B) Have equal precedence with ordinary taxes; and

10               (C) Are not divested by a judicial sale.

11               (2)(A) Property subject to the lien created under this  
12 subsection may be sold for sums due and delinquent at a tax sale with the  
13 same forfeitures, penalties, and consequences as for the nonpayment of  
14 ordinary taxes.

15               (B) A purchaser at tax sale of property subject to a lien  
16 under this subsection obtains the property subject to the remaining payments  
17 owed under the agreement.

18  
19        15-4-3704. New jobs credit from withholding.

20        (a) If an agreement provides that all or part of the program costs are  
21 to be met by receipt of new jobs credit from withholding, the new jobs credit  
22 from withholding shall be determined as follows:

23               (1) New jobs credit from withholding shall be based on the wages  
24 paid to the employees in the new jobs; and

25               (2)(A) An amount equal to one and five-tenths percent (1.5%) of  
26 the gross wages paid by the employer to each employee participating in a  
27 project shall be credited from the payment made by an employer under the  
28 Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.

29               (B) However, if an employee's hourly wage exceeds the  
30 average hourly wage for the county in which the industry is located, an  
31 amount equal to three percent (3%) of the gross wages paid by the employer to  
32 the employee shall be credited from the payment made by an employer under the  
33 Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.

34               (C) If the amount of the withholding by an employer for an  
35 employee covered by the agreement is less than the percentage stated in this

1 subdivision (a)(2) of the gross wages paid to the employee, then the employer  
 2 shall receive a credit against other withholding taxes due by the employer.

3 (b)(1) The employer shall remit to the two-year college the amount of  
 4 the new jobs credit from withholding quarterly in the same manner as  
 5 withholding payments are reported to the Department of Finance and  
 6 Administration to be allocated to and paid into a separate fund of the two-  
 7 year college to pay the principal of and interest on bonds issued by the two-  
 8 year college to finance or refinance, in whole or in part, the project.

9 (2) When the principal and interest on the bonds have been paid,  
 10 the employer new jobs credits from withholding shall cease, and any money  
 11 received after the bonds have been paid shall be remitted to the Treasurer of  
 12 State to be deposited as general revenues of the state.

13 (c) The new jobs credit from withholding and the separate fund into  
 14 which it is paid may be irrevocably pledged by a two-year college for the  
 15 payment of the principal of and interest on the bonds issued by a two-year  
 16 college to finance or refinance, in whole or in part, the project.

17 (d) The employer shall:

18 (1) Certify to the department that the new jobs credit from  
 19 withholding is in accordance with an agreement; and

20 (2) Provide any other information the department requires.

21 (e) A two-year college shall:

22 (1) Certify to the department the amount of new jobs credit from  
 23 withholding an employer has remitted to the two-year college; and

24 (2) Provide any other information the department requires.

25 (f) An employee participating in a project shall receive full credit  
 26 for the amount withheld from the employee's wages under the Arkansas Income  
 27 Tax Withholding Act of 1965, § 26-51-901 et seq.

28  
 29 15-4-3705. Bonds.

30 (a)(1) To provide funds for the present payment of the costs of a new  
 31 jobs training program, a two-year college may borrow money and issue and sell  
 32 bonds payable from a sufficient portion of the future receipts of payments  
 33 authorized by an agreement.

34 (2) Before bonds may be issued under this section, the two-year  
 35 college shall:

1                   (A)(i) Solicit and obtain advice regarding the agreement  
2 and the issuance of bonds from the Arkansas Economic Development Commission  
3 and the Arkansas Development Finance Authority.

4                   (ii) The commission shall provide advice and  
5 guidance concerning the economic and workforce development aspect of the  
6 proposed new jobs training program and bond issuance.

7                   (iii) The authority shall provide advice and  
8 guidance concerning the financial aspect and procedures of the bond issuance;  
9 and

10                  (B)(i) Receive approval of the issuance of the bonds by  
11 the Legislative Council or, if the General Assembly is in session, the Joint  
12 Budget Committee.

13                  (ii) The governing body of a two-year college shall  
14 provide the information required by the Legislative Council or Joint Budget  
15 Committee for review of the bonds for approval.

16                  (b) Bonds may be issued with respect to a single project or multiple  
17 projects and may contain terms or conditions as the governing body of the  
18 two-year college may provide by resolution authorizing the issuance of the  
19 bonds.

20                  (c) Bonds issued under this subchapter shall:

21                  (1) Be authorized by a resolution of the governing body of the  
22 two-year college, which may contain the provisions and covenants that the  
23 governing body of the two-year college determines to be necessary; and

24                  (2) Have the form and characteristics and bear the designations  
25 provided in the resolution and permitted under this subchapter.

26                  (d)(1) The governing body of a two-year college may provide by  
27 resolution for the issuance of refunding bonds to refund outstanding bonds  
28 issued under this subchapter and any accrued interest on the outstanding  
29 bonds.

30                  (2) The governing body of a two-year college may:

31                  (1) Sell the refunding bonds and use the proceeds to  
32 retire the outstanding bonds issued under this subchapter;

33                  (2) Exchange the refunding bonds for the outstanding  
34 bonds; and

35                  (3) Refund the bonds in the manner provided by any other  
36 applicable statute.

1       (e)(1) The bonds may be sold in the manner, either at public or  
2 private sale, and upon terms determined by the governing body of the two-year  
3 college to be reasonable and expedient for effectuating the purposes of this  
4 subchapter.

5       (2) The bonds may be sold at the price the governing body of the  
6 two-year college determines acceptable, including sale at a discount or a  
7 premium.

8       (3)(A) If the bonds are to be sold at public sale, the governing  
9 body of the two-year college shall give notice of the offering of the bonds  
10 in a manner reasonably designed to notify participants in the public finance  
11 sector that the offering is being made.

12       (B) The governing body of the two-year college shall set  
13 the terms and conditions of bidding, including the basis on which the winning  
14 bid will be selected.

15       (4) The governing body of the two-year college may structure the  
16 sale of bonds using financing techniques recommended by its underwriters or  
17 other professional advisors in order to take advantage of market conditions  
18 and obtain the most favorable interest rates consistent with the purposes of  
19 this subchapter.

20       (f) The interest on the bonds issued under this subchapter shall be  
21 exempt from state, county, and municipal income, inheritance, and estate  
22 taxes.

23  
24       15-4-3706. Review and report – Rules.

25       (a)(1) In consultation with the Department of Higher Education, the  
26 Department of Finance and Revenue, and the Department of Workforce Services,  
27 the Arkansas Economic Development Commission shall coordinate and review each  
28 new jobs training program annually.

29       (2) The commission shall promulgate rules for:

30       (A) The administration and implementation of this  
31 subchapter;

32       (B) A two-year college to use in developing a new jobs  
33 training program; and

34       (C) The review of each new jobs training program under  
35 this section.

1           (b) The Department of Finance and Administration may promulgate rules  
2 concerning the administration of the new jobs credit from withholding.

3           (c)(1)(A) In consultation with the two-year colleges participating in  
4 a new jobs training program, the commission shall identify the information  
5 necessary to effectively coordinate and review each new jobs training  
6 program.

7                       (B) The two-year colleges participating in a new jobs  
8 training program shall provide the information required by the commission  
9 under this section.

10           (d) Based on the review conducted under this section, the commission,  
11 in consultation with the two-year colleges participating in a new jobs  
12 training program, shall issue a report on the effectiveness of the program to  
13 the Legislative Council or, if the General Assembly is in session, to the  
14 Joint Budget Committee by July 1 of each year.

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16           15-4-3707. Right of first refusal – Appeal.

17           (a)(1) An employer that would like to participate in a new jobs  
18 training program shall first propose an agreement with the two-year college  
19 that serves the area in which the employer intends to locate the new jobs.

20                       (2) If the employer is unable to negotiate an agreement with the  
21 two-year college as described in subdivision (a)(1) of this section, the  
22 employer may pursue an agreement with any other two-year college in the  
23 state.

24                       (3) A two-year college that is approached by an employer  
25 intending to locate new jobs outside of the area served by the two-year  
26 college shall contact the two-year college that serves the area in which the  
27 new jobs will be located to confirm that the employer has complied with  
28 subdivision (a)(1) of this section.

29                       (4) A two-year college that does not intend to enter into an  
30 agreement with an employer shall notify the employer within a reasonable  
31 amount of time.

32           (b)(1) If a two-year college or an employer believes this section has  
33 been violated, the two-year college or the employer may request a hearing  
34 before the Arkansas Economic Development Commission on the issue.

35                       (2) A hearing held under this subsection is subject to Arkansas  
36 Administrative Procedure Act, § 25-15-201 et seq.



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*/s/Leding*

Referred by the Arkansas House of Representatives

Prepared by: VJF