

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H2/3/99 H2/17/99

A Bill

HOUSE BILL 1359

5 By: Representatives Magnus, *Cleveland, Milum*
6 By: Senator Gordon
7
8

For An Act To Be Entitled

9
10 "THE ARKANSAS EMERGING ENERGY TECHNOLOGY DEVELOPMENT
11 ACT OF 1999; AND FOR OTHER PURPOSES."
12

Subtitle

13
14 "THE ARKANSAS EMERGING ENERGY TECHNOLOGY
15 DEVELOPMENT ACT OF 1999."
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. This act shall be known and may be cited as the "Arkansas
21 Emerging Energy Technology Development Act of 1999."
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23 SECTION 2. (a) All sectors of the Arkansas economy, job creation
24 potential, and the physical environment are driven by the flow of energy in
25 our economy and society, which in turn is heavily influenced by the level and
26 use of energy technology. Energy technology plays an essential role in the
27 efficient consumption and wise utilization of energy resources, has dramatic
28 impacts on all state and national economies, and can help to improve
29 environmental conditions. These facts along with the technical and economic
30 conditions around the world have resulted in the demand for improved energy
31 technologies.

32 (b) Leading-edge energy technologies are being developed, demonstrated,
33 and manufactured in other states in order to meet their own energy needs, as
34 well as to support economic development by responding to the rapidly expanding
35 world-wide export market for these technologies. Arkansas has been slow to
36 recognize the potential economic and technical benefits of these and other

1 emerging energy technologies.

2 (c) Therefore, the General Assembly finds that it is in Arkansas' long-
3 term interest to establish a foothold in the Arkansas economy for
4 manufacturers of advanced energy technologies that are magnets for capital
5 investment and which spin off jobs that are characteristically knowledge-
6 based.

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8 SECTION 3. For the purposes of this act:

9 (1) "Electric powered vehicle" may include vehicles powered only by
10 electric batteries, vehicles powered by a combination of electric batteries
11 and internal combustion engines, and vehicles powered by fuel cell equipment;

12 (2) "Electric vehicle equipment" means those products designed,
13 manufactured, and produced as original equipment components and intended for
14 express use in an electric powered vehicle which may qualify for registration
15 and licensure as a passenger vehicle by the State of Arkansas;

16 (3) "Fuel cells" means those products designed, manufactured, and
17 produced to convert hydrocarbon fuel to heat and electricity by
18 electrochemical means; and

19 (4) "Photovoltaic devices" means those products designed, manufactured,
20 and produced to convert sunlight directly into electricity.

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22 SECTION 4. (a) There shall be allowed a credit against the income tax
23 imposed by § 26-51-101 through 26-51-1801 in an amount as determined in
24 subsection (b) of this section for any Arkansas taxpayer for the cost of a
25 facility located in Arkansas which designs, develops, or produces photovoltaic
26 devices, electric vehicle equipment, or fuel cells.

27 (b) The amount of the credit allowed shall be equal to fifty percent
28 (50%) of the amount spent during the taxable year to purchase or construct the
29 facility, including land acquisition, infrastructure improvements, renovation,
30 building improvements, machinery, and other manufacturing equipment.

31 (c) The costs of service contracts unrelated to the construction of the
32 facility and sales tax shall not be included in determining the amount of the
33 credit.

34 (d) No income tax credit shall be claimed by any taxpayer for any
35 facility or equipment which is in use on or before January 1, 2000, or for
36 which a tax credit was previously claimed by any other taxpayer for any other

1 tax year. Provided, however, that the provisions of this subsection shall not
2 apply if any entity is sold and the entity is entitled to an income tax credit
3 under this act.

4 (e) This credit shall not be allowed for any portion of facility costs
5 which were provided by federal, State, or local grants.

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7 SECTION 5. (a) The credit allowed by section 4 may not exceed the
8 amount of the tax imposed for the taxable year reduced by the sum of all state
9 credits allowable, except payments of tax made by or on behalf of the
10 taxpayer. Any unused credit may be carried forward for a maximum of six (6)
11 taxable years after the credit year in which the credit originated.

12 (b) The taxpayer shall refund the amount of the income tax credit
13 determined by subsection (c) of this section if, within six (6) years of the
14 taxable year for which the credit is originated:

15 (1) The facility subject to this tax credit ceases to be used or
16 operated in the manner required by this section; and

17 (2) The Arkansas Department of Economic Development and the
18 Department of Finance and Administration find that the taxpayer has ceased to
19 qualify for tax credits under the provisions of this act.

20 (c)(1) In the event it is determined that any taxpayer receiving the
21 benefits under this act has failed to comply with the conditions contained
22 herein, that taxpayer shall be liable for the payment of such additional
23 income taxes as may be due after the income tax credits provided for in this
24 act are disallowed, plus penalty and interest.

25 (2) In accordance with § 26-18-208(2)(B) there shall be added to
26 the original tax due a penalty of one percent (1%) of the additional tax due
27 for not more than one (1) month, with an additional one percent (1%) for each
28 additional month or fraction thereof, from the original due date of the tax
29 year in question until date of payment not to exceed thirty-five percent (35%)
30 in the aggregate.

31 (3) In accordance with § 26-18-508, interest shall be assessed at
32 ten percent (10%) per annum from the date the original tax would have been due
33 until date of payment.

34 (d) A taxpayer who receives a credit under this act for the purchase of
35 machinery or equipment shall not be entitled to claim any other state income
36 tax credit or deduction based on the purchase of the machinery or equipment,

1 except the deduction for normal depreciation.

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3 SECTION 6. (a) Under this act in the case of a proprietorship,
4 partnership, or Subchapter S corporation, the amount of credit determined
5 shall be apportioned to each proprietor, partner, or Subchapter S corporation
6 shareholder in proportion to the amount of income from the entity which the
7 proprietor, partner, or Subchapter S corporation shareholder is required to
8 include as gross income.

9 (b) In the case of an estate or trust:

10 (1) The amount of the credit determined for any taxable year shall
11 be apportioned between the estate or trust and the beneficiaries on the basis
12 of the income of the estate or trust allocable to each; and

13 (2) Any beneficiary to whom any amount has been apportioned under
14 this subsection shall be allowed, subject to limitations contained in this
15 act, to a credit under this act for that amount.

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17 SECTION 7. (a) To claim the benefits of this act, a taxpayer must
18 obtain certification from the Director of the Arkansas Department of Economic
19 Development certifying to the Revenue Division of the Department of Finance
20 and Administration that the taxpayer is engaged in activities identified in
21 section 2.

22 (b) The Arkansas Department of Economic Development, or its successor,
23 shall promulgate regulations as necessary to administer this act. These rules
24 or regulations may include, but are not limited to, the establishment of
25 technical specifications and requirements for information and documentation
26 for taxpayers seeking a credit under this act.

27 (c) In order to determine eligibility for the credit or to ensure that
28 the facility or equipment is being utilized in the required manner, each
29 agency shall have the right to inspect the facility and records of a taxpayer
30 requesting or receiving a credit under this act.

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32 SECTION 8. The provisions of this act shall be effective for tax years
33 beginning on and after January 1, 2000.

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35 SECTION 9. All provisions of this act of a general and permanent nature
36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

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3 SECTION 10. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

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9 SECTION 11. All laws and parts of laws in conflict with this act are
10 hereby repealed.

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/s/ Magnus, et al

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