

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas

83rd General Assembly

Regular Session, 2001

A Bill

HOUSE BILL 2237

By: Representatives Rackley, Magnus, Cleveland

By: Senator Riggs

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS EMERGING ENERGY
TECHNOLOGY ACT TO ADD TECHNOLOGIES ELIGIBLE FOR TAX
BENEFITS; TO EXTEND THE CARRYFORWARD ON INCOME TAX
CREDITS EARNED; TO CLARIFY THE BENEFIT OF FACILITIES
AND EQUIPMENT; TO ADD DEFINITIONS; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE ARKANSAS EMERGING ENERGY
TECHNOLOGY ACT.

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

SECTION 1. Arkansas Code 15-4-2101 is amended to read as follows:
15-4-2101. Title.

This subchapter shall be known and may be cited as the "Arkansas
Emerging Energy Technology Development Act of 1999".

SECTION 2. Arkansas Code 15-4-2102 is amended to read as follows:
15-4-2102. Legislative Findings.

(a) All sectors of the Arkansas economy, job creation potential, and
the physical environment are driven by the flow of energy and the non-stop
emergence of new technologies. ~~in our economy and society, which in turn is~~
~~heavily influenced by the level and use of energy technology.~~ Energy
~~technology plays an essential role in the efficient consumption and wise~~

utilization of energy resources, has dramatic impacts on all state and national economies, and can help to improve environmental conditions. These facts, along with the technical and economic conditions around the world, have resulted in the demand for improved energy technologies.

(b) Energy technology plays an essential role in the efficient consumption and wise utilization of energy resources, has dramatic impacts on all state and national economies, and can help to improve environmental conditions. These facts, along with the technical and economic conditions around the world, have resulted in the demand for improved energy technologies.

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

(d) Other emerging technologies are being developed, demonstrated, and manufactured in other states in order to support economic development by responding to the emergence of new technologies and the rapidly expanding world-wide export market for such technologies.

(e) Arkansas has been slow to recognize the potential economic and technical benefits of these energy and other emerging technologies. Many of the emerging technologies are at the nanometer scale or nanoscale and are referred to collectively as nanotechnologies.

~~(e)(f)~~ Therefore, the General Assembly finds that it is in Arkansas' long-term interest to establish a foothold in the Arkansas economy for manufacturers of advanced energy and other emerging technologies that are magnets for capital investment and which spin off jobs that are characteristically knowledge-based.

(g) Therefore, the General Assembly further finds that it is in Arkansas' long-term interest to encourage the application of nanotechnology to biotechnology and agriculture, manufacturing and materials, medicine and health, photonics, nanoelectronics and computer technology, environment and energy, aeronautics and space, and national security.

SECTION 3. Arkansas Code 15-4-2103 is amended to read as follows:

15-4-2103. Definitions.

For the purposes of this subchapter:

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

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

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

(4) "Microturbines" means one (1) megawatt or smaller, high-speed generator power plant that includes the turbine, compressor, generator, all of which are on a single shaft, as well as the power electronics to deliver power to the grid;

(5) "Nanotechnology" means the materials and systems whose structures and components exhibit novel and significantly improved physical, chemical, and biological properties, phenomena, and processes due to their nanoscale size;

~~(4)(6)~~ (6) "Photovoltaic devices" means those products designed, manufactured, and produced to convert sunlight directly into electricity; ~~and~~

(7) "Stirling engine" means a high-temperature, high pressure externally heated engine that uses an alternatively heated and cooled working gas.

SECTION 4. Arkansas Code 15-4-2104 is amended to read as follows:

15-4-2104. Credit Allowance.

(a) There shall be allowed a credit against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., in an amount as determined in subsection (b) of this section for any Arkansas taxpayer for the cost of a facility located in Arkansas which designs, develops, or produces photovoltaic devices, electric vehicle equipment, ~~or~~ fuel cells, microturbines, Stirling engines or devices which are reliant upon nanotechnology.

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

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

(d)(1) No income tax credit shall be claimed by any taxpayer for any facility or equipment which ~~is in use~~ was used in the manufacturing of any of the technologies listed in subsection (a) of this section on or before January 1, 2000, or for which a tax credit was previously claimed by any other taxpayer for any other tax year.

(2) Provided, however, that the provisions of this subsection shall not apply if any entity is sold and the entity is entitled to an income tax credit under this subchapter.

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

SECTION 5. Arkansas Code 15-4-2105 is amended to read as follows:

15-4-2105. Limit on credit amount – Refund of credit amount.

(a)(1) The credit allowed by § 15-4-2104 may not exceed the amount of the tax imposed for the taxable year reduced by the sum of all state credits allowable, except payments of tax made by or on behalf of the taxpayer.

(2) Any unused credit may be carried forward for a maximum of ~~six (6)~~ fourteen (14) taxable years after the credit year in which the credit originated.

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

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

~~(2) The~~ the Department of Economic Development and the Department of Finance and Administration find that the taxpayer has ceased to qualify for the tax credits under the provisions of this subchapter.

(c)(1) In the event it is determined that any taxpayer receiving the

benefits under this subchapter has failed to comply with the conditions contained herein, that taxpayer shall be liable for the payment of such additional income taxes as may be due after the income tax credits provided for in this subchapter are disallowed, plus penalties and interest.

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

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

(d) A taxpayer who receives a credit under this subchapter for the purchase of machinery or equipment shall not be entitled to claim any other state income tax credit or deduction based on the purchase of the machinery or equipment, except the deduction for normal depreciation.