

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

1 State of Arkansas

2 83rd General Assembly

3 Regular Session, 2001

# A Bill

HOUSE BILL 2263

5 By: Representatives D. Elliott, Files

6 By: Senators Cash, DeLay

## For An Act To Be Entitled

AN ACT TO PROVIDE AN ALTERNATIVE INCENTIVE TO THE  
ECONOMIC INVESTMENT TAX CREDIT ACT FOR EXISTING  
MANUFACTURING FIRMS IN ARKANSAS TO INVEST IN NEW  
PLANTS AND EQUIPMENT IN ORDER TO MODERNIZE AND STAY  
COMPETITIVE; TO ENCOURAGE MANUFACTURING FIRMS TO  
REMAIN IN BUSINESS IN THE STATE RATHER THAN DIVEST  
ARKANSAS OPERATIONS AND EXPAND ELSEWHERE; TO RETAIN  
AND CREATE JOBS; TO GRANT A CREDIT AGAINST STATE  
INCOME TAX FOR PURCHASES MADE AS PART OF CERTAIN  
QUALIFIED PROJECTS; TO PROVIDE FOR THE ADMINISTRATION  
OF THE MANUFACTURER'S INVESTMENT TAX CREDIT; AND FOR  
OTHER PURPOSES.

## Subtitle

THE MANUFACTURER'S INVESTMENT TAX CREDIT  
ACT OF 2001.

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

### SECTION 1. Title.

This act may be known and cited as the "Manufacturer's Investment Tax  
Credit Act".

### SECTION 2. Definitions.

For purposes of this act:

1       (1) "Director" means the Director of the Arkansas Department of  
2       Economic Development;

3       (2) "Eligible business" means any person engaged in a business  
4       classified as manufacturing in Federal Standard Industrial Classification  
5       codes 20-39, including semiconductor and microelectronic manufacturers, that  
6       has been in continuous operation in Arkansas for at least two (2) years prior  
7       to the initial application to the Director of the Department of Economic  
8       Development for income tax credits under the provision of this act;

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

12       (4) "Person" means a person as defined by Arkansas Code 26-18-104;

13       (5) "Project" means any construction, expansion or modernization in  
14       Arkansas by an eligible business and the investment by the eligible business  
15       shall exceed ten million dollars (\$10,000,000) for projects involving either  
16       single or multiple locations within the State of Arkansas, including the cost  
17       of the land, buildings, and equipment used in the construction, expansion, or  
18       modernization and which construction, expansion, or modernization has been  
19       approved by the Arkansas Department of Economic Development as a  
20       construction, expansion, or modernization project which qualifies for the  
21       credit under the provisions of this act; and

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

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25       SECTION 3. Precluded provisions supplemental.

26       (a) Recipients of benefits under this act are precluded from receiving  
27       benefits under the Arkansas Enterprise Zone Act of 1993 for the same project.

28       (b) Recipients of benefits under this act are precluded from receiving  
29       benefits under the Economic Investment Tax Credit Act for the same project.

30  
31       SECTION 4. Credit granted.

32       There is granted a credit against the state income tax liability of an  
33       eligible business of seven percent (7%) of the amount of the total project  
34       cost of any project, subject to the limit set out in section 5 of this act.

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36       SECTION 5. Qualification and determination of credit.

1       (a)(1) In order to qualify for and receive the credits afforded by  
2 this act, any eligible business undertaking a project shall submit a project  
3 plan to the Director of the Arkansas Department of Economic Development at  
4 least thirty (30) calendar days prior to the start of construction.

5       (2) The plan submitted to the department shall contain such  
6 information as may be required by the director to determine eligibility.

7       (b)(1) Upon determination by the director that the project qualifies  
8 for credit under this act, the director shall certify to the Director of the  
9 Department of Finance and Administration that the project is qualified and  
10 transmit with his or her certification the documents upon which the  
11 certification was based, or copies.

12       (2) Upon receipt by the Director of the Department of Finance  
13 and Administration of a certification from the director that an eligible  
14 business is entitled to credit under this act, the Director of the Department  
15 of Finance and Administration shall provide forms to the eligible business on  
16 which to claim the credit.

17       (c)(1) At the end of the calendar year in which the application was  
18 made to the director and at the end of each calendar year thereafter until  
19 the project is completed, the eligible business shall certify, on the form  
20 provided by the Director of the Department of Finance and Administration, the  
21 amount of expenditures on the project during the preceding calendar year.

22       (2)(A) Upon receipt of the form certifying expenditures, the  
23 Director of the Department of Finance and Administration shall determine the  
24 amount due as a credit for the preceding calendar year and issue a memorandum  
25 of credit to the eligible business in the amount of seven percent (7%) of the  
26 expenditure.

27       (B)(i) The credit shall then be applied against the  
28 eligible business' state income tax liability in the year following the year  
29 of the expenditure. However, if the credit is not used in the calendar year  
30 following the expenditure, it may be carried over to the next succeeding  
31 calendar year for a total period of six (6) years following the year in which  
32 the credit was first available for use, or until the credit is exhausted,  
33 whichever occurs first.

34       (ii) In no event shall the credit used on any  
35 regular return be more than fifty percent (50%) of the eligible business'  
36 total state income tax liability for the reporting period.

1                   (iii) The Director of the Department of Finance and  
2 Administration may require proof of these expenditures.

3                   (iv) The Director of the Department of Finance and  
4 Administration may examine those records necessary and specific to the  
5 project to determine credit eligibility. Any credits disallowed shall be  
6 subject to payment in full.

7           (d) In order to receive credit for project costs, the costs must be  
8 incurred within five (5) years from the date of certification of the project  
9 plan by the director.

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11       SECTION 6. Administration.

12       (a) Persons claiming credit under this act are "taxpayers" within the  
13 meaning of Arkansas Code 26-18-104 and shall be subject to all applicable  
14 provisions of that statute.

15       (b) Administration of the provisions of this act shall be under the  
16 provisions of the Arkansas Tax Procedure Act.

17       (c) The director shall also have authority to promulgate such rules  
18 and regulations as are necessary to carry out the intent and purposes of this  
19 act.

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21       SECTION 7. Arkansas Code 26-52-703 is amended to read as follows:

22       26-52-703. Precluded provisions supplemental

23       (a) Recipients of benefits under this subchapter are precluded from  
24 receiving benefits under the Arkansas Enterprise Zone Act of 1993, § 15-4-  
25 1701, et seq., for the same project.

26       (b) Recipients of benefits under this subchapter are precluded from  
27 receiving benefits under the Arkansas Manufacturer's Investment Tax Credit  
28 Act of 2001 for the same project.