

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
4

As Engrossed: S2/21/01 S3/1/01

A Bill

SENATE BILL 528

5 By: Senator P. Malone
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS PROVISIONS OF THE ECONOMIC
10 INVESTMENT TAX CREDIT ACT; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO AMEND VARIOUS PROVISIONS OF THE
13 ECONOMIC INVESTMENT TAX CREDIT ACT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code 26-52-702 is amended to read as follows:
20 26-52-702. Definitions.

21 As used in this subchapter, unless the context otherwise requires:

22 (1) "Corporate headquarters" means the home or center of operations,
23 including research and development, of a national or multinational
24 corporation;

25 (2) "Distribution center" means a facility for the reception, storage,
26 or shipping of a:

27 (A) A business' own products which the business wholesales to
28 retail businesses or ships to its own retail outlets;

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

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

34 (3) "Eligible business" means a business eligible for sales and use tax
35 credits under the provisions of this subchapter that has been in continuous
36 operation in Arkansas for at least two (2) years prior to the initial

1 application to the Director of the Department of Economic Development and has
2 obtained a direct-pay sales and use tax permit from the Revenue Division of
3 the Department of Finance and Administration under the provisions of § 26-52-
4 509 and is classified as one (1) or more of the following types of businesses:

5 (A) Manufacturers classified in federal Standard Industrial
6 Classification codes 20-39, including semiconductor and microelectronic
7 manufacturers;

8 (B)(i) Computer businesses primarily engaged in providing
9 computer programming services, the design and development of prepackaged
10 software, businesses engaged in digital content production and preservation,
11 computer processing and data preparation services, information retrieval
12 services, and computer and data processing consultants and developers.

13 (ii) All businesses in this group must derive at least
14 ~~sixty percent (60%)~~ seventy-five percent (75%) of their revenue from out-of-
15 state sales and have no retail sales to the public;

16 (C)(i) Businesses primarily engaged in motion picture production.

17 (ii) All businesses in this group must derive at least
18 ~~sixty percent (60%)~~ seventy-five percent (75%) of their revenue from out-of-
19 state sales and have no retail sales to the public;

20 (D) Businesses primarily engaged in commercial physical and
21 biological research as classified by Standard Industrial Classification code
22 8731;

23 (E) A distribution center with no retail sales to the general
24 public, unless seventy-five percent (75%) of the sales revenue is from out-of-
25 state customers;

26 (F) An office sector business with no retail sales to the general
27 public; and

28 (G) A corporate or regional headquarters with no retail sales to
29 the general public;

30 (4) "Modernization" means to increase efficiency or to increase
31 productivity of the business through investment in machinery or equipment, or
32 both, and shall not include costs for routine maintenance;

33 (5) "Office sector" means control centers that influence the
34 environment in which data processing, customer service, credit accounting,
35 *telemarketing, claims processing, and other administrative functions that act*
36 *as production centers;*

1 (6) "Person" means a person as defined by § 26-18-104(10);

2 (7) "Project" means any construction, expansion, or modernization in
3 Arkansas by an eligible business as defined by subdivision (3) of this
4 section. The investment must exceed five million dollars (\$5,000,000) or six
5 million dollars (\$6,000,000) for projects involving multiple locations within
6 the State of Arkansas, including the cost of the land, buildings, and
7 equipment used in the construction, expansion, or modernization and which
8 construction, expansion, or modernization has been approved by the Department
9 of Economic Development as a construction, expansion, or modernization project
10 which qualifies for the credit under the provisions of this subchapter;

11 (8) "Regional headquarters" means the center of operations for a
12 specific geographic area; ~~and~~

13 (9) "Routine maintenance" means the replacement of existing machinery
14 parts with like *parts*; and

15 (10) "Defense industry project" means an investment of at least five
16 million dollars (\$5,000,000) and an increase in employment of at least two
17 hundred and fifty (250) full-time permanent employees by a company which
18 manufactures components for the defense industry and whose unit cost exceeds
19 five hundred thousand dollars (\$500,000).

20
21 SECTION 2. Arkansas Code 26-52-705(c), concerning qualifications and
22 determination of credits, is amended to read as follows:

23 (c)(1) At the end of the calendar year in which the application was
24 made to the Director of the Department of Economic Development and at the end
25 of each calendar year thereafter until the project is completed, the eligible
26 business shall certify, on the form provided by the Director of the Department
27 of Finance and Administration, the amount of expenditures on the project
28 during the preceding calendar year.

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

34 (B)(i)(a) The credit shall then be applied against the
35 eligible business' state sales or use tax liability in the year following the
36 year of the expenditure. However, if the credit is not used in the calendar

1 year following the expenditure, it may be carried over to the next succeeding
 2 calendar year for a total period of six (6) years following the year in which
 3 the credit was first available for use or until the credit is exhausted,
 4 whichever occurs first.

5 (b) For eligible defense projects, if the
 6 credit is not used in the calendar year following the expenditure, the credit
 7 may be carried over to the next succeeding calendar year for a total of nine
 8 (9) years following the year in which the credit was first available for use
 9 or until the credit is exhausted, whichever occurs first.

10 (ii)(a) The credit shall be used by the eligible
 11 business as a credit against the regular direct-pay sales or use tax return of
 12 the business.

13 (b) In no event shall the credit used on any
 14 regular return be more than fifty percent (50%) of the eligible business'
 15 total state sales or use tax liability for the reporting period; except, a
 16 company with an eligible defense industry project may claim a credit for one
 17 hundred percent (100%) of the sales and use tax liability for the reporting
 18 period.

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

21 (iv) The Director of the Department of Finance and
 22 Administration may examine those records necessary and specific to the project
 23 to determine credit eligibility. Any credits disallowed will be *subject to*
 24 *payment in full.*

25
 26 SECTION 3. Arkansas Code 26-52-705, concerning qualifications for
 27 economic investment tax credits, is amended by adding an additional subsection
 28 to read as follows:

29 (e)(1) If project costs exceed the initial project cost estimate
 30 included in the financial incentive plan, the business shall amend the
 31 financial incentive plan to include updated cost figures.

32 (2) Amendments that exceed fifty percent (50%) of the original
 33 financial incentive plan estimate shall be submitted as a new project.

34 (3) An amendment shall not change the start date of the original
 35 project.

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SECTION 4. Arkansas Code 15-4-1606(1) is amended to read as follows:

(1)(A) The term of a financial incentive plan shall not exceed one hundred twenty-six (126) months; and

(B)(1) For defense industry projects, as defined in §26-52-702, the one hundred and twenty-six (126) months shall be calculated forward from the date certification of the mandatory number of employees is granted by the Department of Finance and Administration.

(2) For all other financial incentive plans, the ~~The~~ one hundred twenty-six (126) months shall be calculated forward from the date of the financial incentive plan entered into by the business and the Department of Economic Development.

/s/ P. Malone