

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 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 2737

5 By: Representative M. Martin
6
7

For An Act To Be Entitled

9 AN ACT TO PROMOTE TECHNOLOGIES TO REDUCE THE
10 PHOSPHOROUS LEVELS IN POULTRY LITTER; TO PROVIDE
11 AN INCOME TAX CREDIT FOR RESEARCH AND
12 DEVELOPMENT; AND FOR OTHER PURPOSES.
13

Subtitle

15 TO PROMOTE TECHNOLOGIES TO REDUCE THE
16 PHOSPHOROUS LEVELS IN POULTRY LITTER AND
17 TO PROVIDE AN INCOME TAX CREDIT FOR
18 RESEARCH AND DEVELOPMENT.
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20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. (a) The General Assembly finds that:

24 (1) The poultry industry is a leading and important industry in
25 Arkansas and is vital to the state's healthy economy;

26 (2) A natural by-product of the poultry industry is poultry
27 litter that is applied to the land according to rules and regulations
28 promulgated by the Arkansas Department of Environmental Quality;

29 (3) Poultry litter contains a high level of phosphorous that if
30 not managed properly, contaminates waters within the state;

31 (4) It is in the best interest of the population of the State of
32 Arkansas to promote research and development of products, applied research,
33 and technologies for litter management systems that reduce the phosphorous
34 levels in poultry litter, reuse the poultry litter in an environmentally
35 sound manner, and recycle the poultry litter; and

36 (5) Allowing an income tax credit to a person or an enterprise



1 for research and development of a product, applied research, or technology
 2 that reduces the level of phosphorous, or for the use of a proven product or
 3 technology that reduces the level of phosphorous is an effective incentive to
 4 mitigate the environmental impact of phosphorous while stimulating technology
 5 growth in the state.

6 (b) As used in this section:

7 (1) "Applied research" means any activity that seeks to utilize,
 8 synthesize, or apply existing knowledge, information, or resources to the
 9 resolution of a specified problem, question, or issue;

10 (2) "Enterprise" means a business with its principal place of
 11 business in Arkansas and that is or proposes to be engaged in this state in
 12 manufacturing, research, and development, or the provision of services
 13 involving a technology;

14 (3) "Initial capitalization" means financing that is provided
 15 for the development, refinement, and commercialization of a product or
 16 process and other working capital needs;

17 (4) "Land application" means the application of litter, in whole
 18 or in part, to land;

19 (5) "Litter" means by-products associated with the confinement
 20 of poultry, including excrement, feed wastes, bedding materials, composted
 21 carcasses, and any combination of by-products associated with the confinement
 22 of poultry;

23 (6) "Litter management system" means any method used to dispose
 24 or utilize poultry litter;

25 (7) "Person" means any individual, partnership, company,
 26 association, fiduciary, corporation, or any organized group of persons
 27 whether incorporated or not;

28 (8) "Poultry" means a chicken, a turkey, a duck, a goose, and
 29 any other domesticated bird; and

30 (9) "Waters within the state" means all streams, lakes, marshes,
 31 ponds, watercourses, waterways, wells, springs, irrigation systems, drainage
 32 systems, and all other bodies or accumulations of water, surface and
 33 underground, natural or artificial, public or private, that are contained
 34 within, flow through, or border upon this state or any portion of the state.

35 (c) There is allowed an income tax credit against the tax imposed by
 36 the Income Tax Act of 1929, § 26-51-101 et seq., in an amount as determined

1 in subsection (e) of this section for any person or enterprise engaged in the
2 business of:

3 (1) Research, develop, and produce products, applied research,
4 or technology to reduce the amount of phosphorous in poultry litter for
5 commercial purposes; and

6 (2) The use of a product, applied research, litter management
7 system, or technology that reduces the amount of phosphorous in poultry
8 litter.

9 (d) To qualify for an income tax credit under this section, a person
10 or an enterprise shall submit proof necessary to obtain certification from
11 the Director of the Arkansas Department of Environmental Quality that:

12 (1) The person or enterprise invested a minimum of twenty-five
13 thousand dollars (\$25,000) for initial capitalization or other funding in a
14 profit or nonprofit business to research, develop, and produce products,
15 applied research, litter management system, or technology to reduce the
16 amount of phosphorous in poultry litter; or

17 (2) The person or enterprise invested a minimum ten thousand
18 dollars (\$10,000) to use a product, applied research, litter management
19 system, or technology that reduces the amount of phosphorous in poultry
20 litter by at least twenty percent (20%), as measured by a comparison of
21 samples of poultry litter tested by the Arkansas Department of Environmental
22 Quality before and after the use of the product, applied research, litter
23 management system, or technology.

24 (e)(1) The amount of the income tax credit under this section is equal
25 to thirty percent (30%) of the cost of an investment for a purpose described
26 in subsection (d) of this section for the tax year that the investment is
27 made.

28 (2) The cost of service contracts, maintenance, repairs, and
29 sales tax is not eligible for an income tax credit under this section.

30 (3) The amount of an income tax credit under this section that
31 may be used by a person or an enterprise for a tax year may not exceed the
32 amount of state, individual, or corporate income tax otherwise due.

33 (f) A person or an enterprise may carry over an unused income tax
34 credit under this section for a maximum of three (3) consecutive years
35 following the tax year in which the income tax credit originated.

36 (g) The sale or transfer of a product, applied research, litter

1 management system, or technology does not recreate the eligibility for an
2 income tax credit under this section.

3 (1) To claim an income tax credit under this section, a person
4 or an enterprise shall file written notice of intention to apply for
5 certification for purposes of subsection (d) of this section with the
6 Arkansas Department of Environmental Quality.

7 (2) The Arkansas Department of Environmental Quality shall
8 establish criteria for testing and validation of certification.

9 (3) Information necessary to complete the application for
10 certification shall be provided to the Arkansas Department of Environmental
11 Quality on or before December 31 of the tax year in which the income tax
12 credit under this section is claimed.

13 (4) The certification by the Arkansas Department of
14 Environmental Quality shall accompany a claim by a person or enterprise to
15 the Department of Finance and Administration of an income tax credit under
16 this section.

17 (i)(1) The Arkansas Department of Environmental Quality and the
18 Department of Finance and Administration shall promulgate rules necessary to
19 administer this section.

20 (2) These rules or regulations may include without limitation
21 the establishment of technical specifications and requirements for
22 information and documentation for a person or an enterprise seeking an income
23 tax credit under this section and shall encourage, but not require, the use
24 of an Arkansas contractor and technology generated in Arkansas which qualify
25 for an income tax credit provided by this section.

26 (3) In order to determine eligibility for an income tax credit
27 under this section, the Arkansas Department of Environmental Quality and the
28 Department of Finance and Administration shall have the right to inspect
29 facilities and records of a person or an enterprise requesting or receiving
30 an income tax credit under this section.

31 (j) A person or an enterprise that receives an income tax credit under
32 this section shall not be entitled to claim any other state or local tax
33 income tax credit or deduction based on the investment in product, applied
34 research, litter management system, or technology.

35 (k) An income tax credit under this section is available beginning in
36 income tax year 2008 through income tax year 2010.