

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

SENATE BILL 586

5 By: Senator T. Smith  
6 By: Representatives Saunders, Sample, Shelby  
7

## For An Act To Be Entitled

10 AN ACT TO REMOVE THE ELIGIBILITY REQUIREMENT OF  
11 BEING LOCATED IN A HIGH UNEMPLOYMENT COUNTY IN  
12 ORDER TO QUALIFY AS AN ELIGIBLE COMPANY FOR THE  
13 "ARKANSAS TOURISM DEVELOPMENT ACT" WHEN THE  
14 INVESTMENT IS LESS THAN ONE MILLION DOLLARS  
15 (\$1,000,000); TO ADJUST THE AMOUNT OF TAX CREDIT;  
16 AND FOR OTHER PURPOSES.

## Subtitle

18 TO REMOVE THE ELIGIBILITY REQUIREMENT OF  
19 BEING LOCATED IN A HIGH UNEMPLOYMENT  
20 COUNTY TO QUALIFY AS AN ELIGIBLE COMPANY  
21 FOR THE "ARKANSAS TOURISM DEVELOPMENT  
22 ACT" AND TO ADJUST THE AMOUNT OF TAX  
23 CREDIT.  
24

25  
26  
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
28

29 SECTION 1. Arkansas Code § 15-11-503(5), concerning the definition of  
30 "eligible company", is amended to read as follows:

31 (5) "Eligible company" means any corporation, limited liability  
32 company, partnership, registered limited liability partnership, sole  
33 proprietorship, business trust, or any other entity that invests a minimum of  
34 five hundred thousand dollars (\$500,000) ~~in a high unemployment county or one~~  
35 ~~million dollars (\$1,000,000) in any other county~~ for the purpose of  
36 constructing, operating, or intending to operate a tourism attraction



1 project, whether owned or leased, within the state that meets the standards  
 2 promulgated by the director pursuant to § 15-11-504;

3  
 4 SECTION 2. Arkansas Code § 15-11-504(b) and (c), concerning the  
 5 evaluation standards for a tourism attraction project application, is amended  
 6 to read as follows:

7 (b) With respect to each eligible company making an application to the  
 8 director for inducements and with respect to the tourism attraction project  
 9 described in the application, the director shall make inquiries and request  
 10 materials of the applicant that shall include, but shall not be limited to:

11 (1) Marketing plans for the project that target individuals who  
 12 are not residents of the state;

13 (2) A description and location of the project;

14 (3) Capital and other anticipated expenditures for the project  
 15 that indicate that the total cost of the project shall exceed five hundred  
 16 thousand dollars (\$500,000) ~~in a high unemployment county and one million~~  
 17 ~~dollars (\$1,000,000) in all other counties~~ and the anticipated sources of  
 18 funding for the project;

19 (4) The anticipated employment and wages to be paid at the  
 20 project;

21 (5) Business plans which indicate the average number of days in  
 22 a year in which the project will be in operation and open to the public; and

23 (6) The anticipated revenues and expenses generated by the  
 24 project.

25 (c) The Department of Economic Development shall analyze the data made  
 26 available by the eligible company and collect and analyze additional  
 27 information as is necessary to determine that the tourism attraction project  
 28 will:

29 (1) Develop a marketing plan that targets at least twenty-five  
 30 percent (25%) of its visitors from among persons who are not residents of the  
 31 state;

32 (2) Have costs in excess of five hundred thousand dollars  
 33 (\$500,000) ~~in a high unemployment county and one million dollars (\$1,000,000)~~  
 34 ~~in all other counties;~~

35 (3) Have a significant and positive economic impact on the state  
 36 considering, among other factors, the extent to which the tourism attraction

1 project will compete directly with existing tourism attractions in the state  
 2 and the amount by which increased tax revenues from the tourism attraction  
 3 project will exceed the sales tax credit allowed pursuant to § 15-11-507;

4 (4) Produce sufficient revenues and public demand to be  
 5 operating and open to the public on a regular and persistent basis; and

6 (5) Not adversely affect existing employment in the state.

7  
 8 SECTION 3. Arkansas Code § 15-11-507(b) and (c), concerning tourism  
 9 attraction project sales tax credits, is amended to read as follows:

10 (b)(1)(A)(i)(a) An approved company whose agreement provides that it  
 11 shall expend approved costs of more than five hundred thousand dollars  
 12 (\$500,000) but less than one million dollars (\$1,000,000) shall be entitled  
 13 to a credit if the company certifies to the Director of the Department of  
 14 Finance and Administration that it has expended at least five hundred  
 15 thousand dollars (\$500,000) ~~in a high unemployment county and one million~~  
 16 ~~dollars (\$1,000,000) in all other counties~~ in approved costs and the Director  
 17 of the Department of Economic Development certifies that the approved company  
 18 is in compliance with this subchapter.

19 (b)~~(1)~~ The Director of the Department of  
 20 Finance and Administration shall then issue a sales tax credit memorandum to  
 21 the approved company equal to ~~fifteen percent (15%)~~ ten percent (10%) of the  
 22 approved costs.

23 ~~(2) However, in high unemployment~~  
 24 ~~counties the Director of the Department of Finance and Administration shall~~  
 25 ~~issue a credit memorandum to the approved company equal to twenty five~~  
 26 ~~percent (25%) of the approved costs.~~

27 ~~(c) The sales tax credit memorandum shall not~~  
 28 ~~include an offset of the tourism tax levied under § 26-52-1001 et seq.~~

29 ~~(ii)(c)~~ Subsequent requests for credit for  
 30 additional certified approved costs in excess of five hundred thousand  
 31 dollars (\$500,000) but less than one million dollars (\$1,000,000) shall  
 32 result in a sales tax credit equal to ten percent (10%) of the approved costs  
 33 ~~shall be filed with the Department of Finance and Administration during the~~  
 34 ~~term of the agreement.~~

35 (ii) If the company subsequently expends additional  
 36 certified approved costs so that the total amount of expended approved costs

1 exceeds one million dollars (\$1,000,000), then the sales tax credit  
 2 memorandum shall equal twenty-five percent (25%) of the approved costs in  
 3 excess of one million dollars (\$1,000,000).

4 (B)(i) An approved company whose agreement provides that  
 5 it shall expend approved costs in excess of one million dollars (\$1,000,000)  
 6 shall be entitled to a credit if the company certifies to the Director of the  
 7 Department of Finance and Administration that it has expended at least one  
 8 million dollars (\$1,000,000) in approved costs and the Director of the  
 9 Department of Economic Development certifies that the approved company is in  
 10 compliance with this subchapter.

11 (ii) The Director of the Department of Finance and  
 12 Administration shall then issue a sales tax credit memorandum to the approved  
 13 company equal to twenty-five percent (25%) of the approved costs.

14 (iii) The credit on all subsequent additional  
 15 certified approved costs shall be equal to twenty-five percent (25%) of the  
 16 costs.

17 ~~(B)(i)~~(C)(i) The Director of the Department of Finance and  
 18 Administration may require proof of expenditures.

19 (ii) Additional credit memoranda may be issued as  
 20 the approved company certifies additional expenditures of approved costs.

21 (2)(A) No sales tax credit memorandum shall be issued for any  
 22 approved costs expended after the expiration of two (2) years from the date  
 23 the agreement was signed by the Director of the Department of Economic  
 24 Development and the approved company.

25 (B) However, the Director of the Department of Economic  
 26 Development, with the advice and consent of the Director of the Department of  
 27 Finance and Administration, may authorize sales tax credits for approved  
 28 costs expended up to four (4) years from the date the agreement was signed if  
 29 the Director of the Department of Economic Development determines that the  
 30 failure to complete the tourism attraction project within two (2) years  
 31 resulted from:

32 (i) Unanticipated and unavoidable delay in the  
 33 construction of the tourism attraction project;

34 (ii) The tourism attraction project, as originally  
 35 planned, will require more than two (2) years to complete; or

36 (iii) A change in business ownership or business

1 structure resulting from a merger or acquisition.

2 (c) The credit memorandum issued pursuant to subsection (b) of this  
3 section may be used to offset a portion of the reported state sales, or gross  
4 receipts, tax liability of the approved company for all sales tax reporting  
5 periods following the issuance of the credit memorandum, subject to the  
6 following limitations:

7 (1) Only increased state sales tax liability as defined in this  
8 subchapter may be offset by the issued credit;

9 (2)(A)(i) An approved company whose agreement provides that it  
10 shall expend approved costs in excess of ~~five hundred thousand dollars~~  
11 ~~(\$500,000) in a high unemployment county and~~ one million dollars (\$1,000,000)  
12 ~~in all other counties~~ shall be entitled to use one hundred percent (100%) of  
13 the issued credit to offset increased state sales tax liability during the  
14 first year if its tax liability is equal to or greater than the amount issued  
15 in the state sales tax credit memorandum.

16 ~~(B)(ii)~~ Unused credits may be carried forward for a  
17 period of nine (9) years~~;~~.

18 (B)(i) An approved company whose agreement provides that  
19 it shall expend approved costs of more than five hundred thousand dollars  
20 (\$500,000) but less than one million dollars (\$1,000,000) shall be entitled  
21 to use one hundred percent (100%) of the issued credit to offset increased  
22 sales tax liability during the first year if its tax liability is equal to or  
23 greater than the amount issued in the state sales tax credit memorandum.

24 (ii) Unused credits may be carried forward for a  
25 period of nine (9) years; and

26 (3) All issued credit memoranda shall expire at the end of the  
27 month following the expiration of the agreement as provided in § 15-11-506~~;~~  
28 ~~and.~~

29 ~~(4) Except as provided in § 15-11-511, credit memoranda shall~~  
30 ~~not be used to offset any tax other than state sales tax.~~

31  
32 SECTION 4. Effective date. Sections 1 through 3 of this act apply  
33 retroactively to July 1, 2006.

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