

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1286

5 By: Representatives Gazaway, M. Shepherd
6 By: Senators C. Tucker, J. Bryant
7

For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 15 OF
10 THE ARKANSAS CODE CONCERNING NATURAL RESOURCES AND
11 ECONOMIC DEVELOPMENT; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 15
16 OF THE ARKANSAS CODE CONCERNING NATURAL
17 RESOURCES AND ECONOMIC DEVELOPMENT.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 15-4-2005(a)(1), concerning production tax
23 incentives under the Digital Product and Motion Picture Industry Development
24 Act of 2009, is amended to read as follows to clarify a reference:

25 (a)(1) The Director of the Arkansas Economic Development Commission
26 may offer to a production company that has submitted an approved application
27 for a tax incentive under § 15-4-2007 a tax incentive of twenty percent (20%)
28 on all qualified production costs in connection with the production of a
29 state-certified film project.
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31 SECTION 2. Arkansas Code § 15-4-2005(c), concerning production tax
32 incentives under the Digital Product and Motion Picture Industry Development
33 Act of 2009, is amended to read as follows to correct a grammatical error:

34 (c) A state-certified production shall be granted an additional tax
35 incentive of ten percent (10%) for:

36 (1) The payroll of below-the-line employees who are:



1 (A) Full-time residents of Arkansas; or

2 (B) Veterans; or

3 (2) Expenditures paid to a veteran-owned small business for
4 qualified production costs with the state-certified production.

5
6 SECTION 3. Arkansas Code § 15-4-2006(a)(1), concerning postproduction
7 tax incentives under the Digital Product and Motion Picture Industry
8 Development Act of 2009, is amended to read as follows to clarify a
9 reference:

10 (a)(1) The Director of the Arkansas Economic Development Commission
11 shall offer a tax credit or a rebate of twenty percent (20%) to a qualifying
12 production company that has submitted an approved application for a tax
13 incentive under § 15-4-2007 for a tax incentive on all qualified production
14 costs in connection with the postproduction of an approved state-certified
15 film project.

16
17 SECTION 4. Arkansas Code § 15-4-2007(a), concerning applications for
18 tax incentives under the Digital Product and Motion Picture Industry
19 Development Act of 2009, is amended to read as follows to clarify references:

20 (a)(1) To apply for the tax incentives provided under this subchapter,
21 a production company shall submit an application for a tax incentive and
22 provide an estimate of total expenditures to be made in Arkansas in
23 connection with the production.

24 (2) The application for a tax incentive and estimate of
25 expenditures required under subdivision (a)(1) of this section shall be filed
26 with the Arkansas Economic Development Commission and approved by the
27 Director of the Arkansas Economic Development Commission as eligible for the
28 tax incentive provided by this subchapter before the commencement of
29 production in Arkansas.

30
31 SECTION 5. Arkansas Code § 15-4-2007(n), concerning applications for
32 tax incentives under the Digital Product and Motion Picture Industry
33 Development Act of 2009, is amended to read as follows to clarify references:

34 (n)(1) Upon completion of filming or production, or both, in Arkansas,
35 the production company shall file an application for ~~the~~ a tax incentive
36 allowed under this subchapter.

1 (2) The application for a tax incentive shall include a proof of
2 performance expenditure list that provides the total amount of expenditures
3 that were made in the state in connection with the filming or production, or
4 both, of a film and digital product that complies with this subchapter.

5 (3) When filing the application for a tax incentive under
6 subdivision (n)(1) of this section, the production company shall provide a
7 final expenditure report that includes the amount of the production company's
8 production expenses or costs.

9
10 SECTION 6. Arkansas Code § 15-4-2008 is amended to read as follows to
11 clarify references:

12 15-4-2008. Disbursement of rebate.

13 (a) The Revenue Division of the Department of Finance and
14 Administration shall upon receipt of an application for a tax incentive for a
15 rebate, including a proof of performance expenditure report from the Film
16 Office:

17 (1) Calculate the total expenditures of the relevant production
18 company for which there are documented receipts for funds expended in the
19 state;

20 (2) Calculate the incentive benefit to which the applicant is
21 entitled, subject to any conditions of the approved financial incentive
22 agreement; and

23 (3) Provide certification to the Secretary of the Department of
24 Finance and Administration specifying the amount to be remitted to the
25 production company within one hundred twenty (120) days after the final
26 expenditure report has been submitted.

27 (b) The secretary, within ten (10) working days after the receipt of
28 the certification from the division, shall remit the rebate to:

29 (1) The production company; or

30 (2) At the option of the production company, the full amount or
31 a specified amount noted by the production company to the:

32 (A) National Film Preservation Foundation;

33 (B) Motion Picture ~~Retirement~~ & Television Fund; or

34 (C) Digital Product and Motion Picture Office Fund.

35 (c)(1) The amount of the rebate is limited to the amount specified in
36 the approved financial incentive agreement.

1 (2) The rebate shall be awarded on a first-come, first-served
 2 basis.

3 (3) Rebates to be awarded from the Digital Product and Motion
 4 Picture Office Fund may be payable from any source of funds allocated for the
 5 rebates.

6
 7 SECTION 7. Arkansas Code § 15-4-2009 is amended to read as follows to
 8 clarify references and make a stylistic change:

9 15-4-2009. Penalties.

10 (a) A production company that intends to apply for ~~the rebate~~ a tax
 11 incentive under this subchapter and does not register as required by § 15-4-
 12 2004 may be enjoined from engaging in production activities in the state by
 13 any court of competent jurisdiction until the production company has
 14 registered.

15 (b) A production company that intends to apply for ~~the rebate~~
 16 ~~incentives~~ a tax incentive under this subchapter and fails to comply with
 17 this subchapter may be denied future participation in ~~this incentive program~~
 18 tax incentives under this subchapter and ~~shall be~~ is subject to penalty in
 19 accordance with applicable state or federal law.

20
 21 SECTION 8. Arkansas Code § 15-4-2012 is amended to read as follows to
 22 clarify references:

23 15-4-2012. Tax credit.

24 (a)(1) After receiving both an application for a tax incentive for a
 25 tax credit under this subchapter and a proof of performance expenditure
 26 report from the Film Office, the Revenue Division of the Department of
 27 Finance and Administration shall:

28 (A) Calculate the total expenditures of the relevant
 29 production company for which there are documented receipts for funds expended
 30 in the state;

31 (B) Calculate the amount of the tax credits to which the
 32 applicant is entitled, subject to any conditions of the approved financial
 33 incentive agreement; and

34 (C) Within one hundred twenty (120) days after receiving
 35 the expenditure report from the Film Office, certify to the Secretary of the
 36 Department of Finance and Administration the amount of the tax credit that

1 may be claimed by the production company.

2 (2) The secretary, within ten (10) business days after the
3 receipt of the certification from the division, shall instruct the division
4 to issue the tax credit in the amount certified.

5 (3) Tax credits under this subchapter:

6 (A) Shall be issued promptly after the division completes
7 its review under subdivision (a)(1) of this section;

8 (B) Are allowed as a credit against the income tax imposed
9 by the Income Tax Act of 1929, § 26-51-101 et seq.;

10 (C) Are not refundable; and

11 (D) May be carried forward in part or in whole for five
12 (5) consecutive taxable years to apply against the taxpayer's income taxes
13 due.

14 (b)(1) The Arkansas Economic Development Commission shall not approve
15 ~~applications for~~ tax credits under this subchapter for more than four million
16 dollars (\$4,000,000) in any one (1) fiscal year.

17 (2) The division shall not issue tax credits in excess of the
18 amount approved by the commission in the financial incentive agreement.
19

20 SECTION 9. Arkansas Code § 15-4-2014 is amended to read as follows to
21 clarify references:

22 15-4-2014. Supplemental tax credit.

23 (a) If the Director of the Arkansas Economic Development Commission
24 receives an application for a tax incentive for tax credits under this
25 subchapter that would exceed the amount of tax credits remaining to be issued
26 in a fiscal year under § 15-4-2012, the director may request that the
27 Secretary of the Department of Commerce and Secretary of the Department of
28 Finance and Administration approve supplemental tax credits to be issued in
29 excess of the amount in § 15-4-2012.

30 (b) Supplemental tax credits under this section shall not exceed the
31 amount in the Arkansas Supplemental Digital Product and Motion Picture
32 Industry Development Trust Fund as certified by the Secretary of the
33 Department of Finance and Administration.

34 (c)(1) The Secretary of the Department of Commerce and the Secretary
35 of the Department of Finance and Administration may jointly approve
36 supplemental tax credits under this section if a cost-benefit analysis

1 demonstrates that the issuance of the supplemental tax credits is in the
 2 prudent interests of the state.

3 (2) The cost-benefit analysis conducted under subdivision (c)(1)
 4 of this section shall be:

5 (A) Performed by the Director of the Arkansas Economic
 6 Development Commission or his or her designee; and

7 (B) Confirmed by the Secretary of the Department of
 8 Finance and Administration or his or her designee.

9 (d) Supplemental tax credits issued under this section shall be
 10 considered tax credits for the purposes of §§ 15-4-1212 and 15-4-1213.

11
 12 SECTION 10. Arkansas Code §§ 15-10-801 and 15-10-802 are repealed
 13 because the sections have expired and are obsolete.

14 ~~15-10-801. Arkansas Alternative Energy Commission.~~

15 ~~(a) There is created the Arkansas Alternative Energy Commission.~~

16 ~~(b) The commission shall consist of fifteen (15) diverse members
 17 appointed as follows:~~

18 ~~(1) Five (5) members appointed by the Governor as follows:~~

19 ~~(A) Two (2) members to represent utility companies that
 20 are concerned with alternative energy development; and~~

21 ~~(B) Three (3) members who are consumers concerned with
 22 alternative energy development;~~

23 ~~(2) Five (5) members appointed by the Speaker of the House of
 24 Representatives as follows:~~

25 ~~(A) Two (2) members to represent utility companies that
 26 are concerned with alternative energy development; and~~

27 ~~(B) Three (3) members who are consumers concerned with
 28 alternative energy development; and~~

29 ~~(3) Five (5) members appointed by the President Pro Tempore of
 30 the Senate as follows:~~

31 ~~(A) Two (2) members to represent utility companies that
 32 are concerned with alternative energy development; and~~

33 ~~(B) Three (3) members who are consumers concerned with
 34 alternative energy development.~~

35 ~~(c) The Governor shall appoint a chair for the commission.~~

36 ~~(d)(1) A majority of the membership of the commission shall constitute~~

1 ~~a quorum.~~

2 ~~(2) A majority vote of those members present shall be required~~
 3 ~~for any action of the commission.~~

4 ~~(e) The commission shall meet at least one (1) time every three (3)~~
 5 ~~months but may meet more often at the call of the chair.~~

6 ~~(f) A vacancy arising in the membership of the commission for any~~
 7 ~~reason other than expiration of the regular terms for which the members are~~
 8 ~~appointed shall be filled by appointment by the person or persons who~~
 9 ~~appointed the vacating member.~~

10 ~~(g)(1) The Bureau of Legislative Research shall provide staff for the~~
 11 ~~commission.~~

12 ~~(2) The commission shall conduct its meetings in Pulaski County~~
 13 ~~at the State Capitol or at other locations that the commission considers~~
 14 ~~appropriate.~~

15 ~~(h) This section shall expire on September 30, 2017.~~

16
 17 ~~15-10-802. Duties — Definitions.~~

18 ~~(a) The Arkansas Alternative Energy Commission shall study:~~

19 ~~(1) The feasibility of creating or expanding alternative energy~~
 20 ~~sources in Arkansas, including without limitation:~~

21 ~~(A)(i) Bioenergy, including without limitation energy from~~
 22 ~~biomass.~~

23 ~~(ii) As used in this subdivision (a)(1)(A):~~

24 ~~(a) "Biomass" includes agricultural waste,~~
 25 ~~wood waste, poultry litter, and animal waste; and~~

26 ~~(b) "Poultry litter" means poultry manure~~
 27 ~~combined with wood shavings, straw, rice hulls, and other bedding material;~~

28 ~~(B) Ethanol;~~

29 ~~(C) Solar power;~~

30 ~~(D) Energy derived from animal waste;~~

31 ~~(E) Wind power; and~~

32 ~~(F) Other energy sources identified by the commission;~~

33 ~~(2) The effects of the use of alternative energy sources on the~~
 34 ~~economic development of the state; and~~

35 ~~(3) Other issues related to alternative energy production and~~
 36 ~~use and the economic impact of alternative energy that the commission~~

1 ~~considers appropriate.~~

2 ~~(b) This section shall expire on September 30, 2017.~~

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4 SECTION 11. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

5 It is the intent of the General Assembly that:

6 (1) The enactment and adoption of this act shall not expressly
7 or impliedly repeal an act passed during the regular session of the Ninety-
8 Fourth General Assembly;

9 (2) To the extent that a conflict exists between an act of the
10 regular session of the Ninety-Fourth General Assembly and this act:

11 (A) The act of the regular session of the Ninety-Fourth
12 General Assembly shall be treated as a subsequent act passed by the General
13 Assembly for the purposes of:

14 (i) Giving the act of the regular session of the
15 Ninety-Fourth General Assembly its full force and effect; and

16 (ii) Amending or repealing the appropriate parts of
17 the Arkansas Code of 1987; and

18 (B) Section 1-2-107 shall not apply; and

19 (3) This act shall make only technical, not substantive, changes
20 to the Arkansas Code of 1987.

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