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2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H2/20/23

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.
18
19

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

22 *SECTION 1. Arkansas Code § 15-4-2003(1), concerning a definition under*
23 *the Digital Product and Motion Picture Industry Development Act of 2009, is*
24 *amended to read as follows to clarify a reference:*

25 (1) “Application for a ~~rebate or a tax credit~~ tax incentive”
26 means the document required by the Film Office to begin the process for
27 obtaining a tax incentive under this subchapter;
28

29 *SECTION 2. Arkansas Code § 15-4-2005(a)(1), concerning production tax*
30 *incentives under the Digital Product and Motion Picture Industry Development*
31 *Act of 2009, is amended to read as follows to clarify a reference:*

32 (a)(1) The Director of the Arkansas Economic Development Commission
33 may offer to a production company that has submitted an approved application
34 for a tax incentive under § 15-4-2007 a tax incentive of twenty percent (20%)
35 on all qualified production costs in connection with the production of a
36 state-certified film project.



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SECTION 3. Arkansas Code § 15-4-2005(c), concerning production tax incentives under the Digital Product and Motion Picture Industry Development Act of 2009, is amended to read as follows to correct a grammatical error:

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

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

(A) Full-time residents of Arkansas; or

(B) Veterans; or

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

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

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

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

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

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

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SECTION 6. Arkansas Code § 15-4-2007(n), concerning applications for tax incentives under the Digital Product and Motion Picture Industry Development Act of 2009, is amended to read as follows to clarify references:

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

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

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

SECTION 7. Arkansas Code § 15-4-2008 is amended to read as follows to clarify references:

15-4-2008. Disbursement of rebate.

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

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

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

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

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

(1) The production company; or

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

3 (A) National Film Preservation Foundation;

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

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

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

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

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

13
14 SECTION 8. Arkansas Code § 15-4-2009 is amended to read as follows to
15 clarify references and make a stylistic change:

16 15-4-2009. Penalties.

17 (a) A production company that intends to apply for ~~the rebate~~ a tax
18 incentive under this subchapter and does not register as required by § 15-4-
19 2004 may be enjoined from engaging in production activities in the state by
20 any court of competent jurisdiction until the production company has
21 registered.

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

27
28 SECTION 9. Arkansas Code § 15-4-2012 is amended to read as follows to
29 clarify references:

30 15-4-2012. Tax credit.

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

35 (A) Calculate the total expenditures of the relevant
36 production company for which there are documented receipts for funds expended

1 in the state;

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

5 (C) Within one hundred twenty (120) days after receiving
6 the expenditure report from the Film Office, certify to the Secretary of the
7 Department of Finance and Administration the amount of the tax credit that
8 may be claimed by the production company.

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

12 (3) Tax credits under this subchapter:

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

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

17 (C) Are not refundable; and

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

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

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

26

27 SECTION 10. Arkansas Code § 15-4-2014 is amended to read as follows to
28 clarify references:

29 15-4-2014. Supplemental tax credit.

30 (a) If the Director of the Arkansas Economic Development Commission
31 receives an application for a tax incentive for tax credits under this
32 subchapter that would exceed the amount of tax credits remaining to be issued
33 in a fiscal year under § 15-4-2012, the director may request that the
34 Secretary of the Department of Commerce and Secretary of the Department of
35 Finance and Administration approve supplemental tax credits to be issued in
36 excess of the amount in § 15-4-2012.

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

5 (c)(1) The Secretary of the Department of Commerce and the Secretary
 6 of the Department of Finance and Administration may jointly approve
 7 supplemental tax credits under this section if a cost-benefit analysis
 8 demonstrates that the issuance of the supplemental tax credits is in the
 9 prudent interests of the state.

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

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

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

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

18
 19 SECTION 11. Arkansas Code §§ 15-10-801 and 15-10-802 are repealed
 20 because the sections have expired and are obsolete.

21 ~~15-10-801. Arkansas Alternative Energy Commission.~~

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

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

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

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

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

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

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

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

36 ~~(3) Five (5) members appointed by the President Pro Tempore of~~

1 ~~the Senate as follows:~~

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

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

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

7 ~~(d)(1) A majority of the membership of the commission shall constitute~~
8 ~~a quorum.~~

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

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

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

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

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

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

23
24 ~~15-10-802. Duties—Definitions.~~

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

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

28 ~~(A)(i) Bioenergy, including without limitation energy from~~
29 ~~biomass.~~

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

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

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

35 ~~(B) Ethanol;~~

36 ~~(C) Solar power;~~

1 ~~(D) Energy derived from animal waste;~~
 2 ~~(E) Wind power; and~~
 3 ~~(F) Other energy sources identified by the commission;~~
 4 ~~(2) The effects of the use of alternative energy sources on the~~
 5 ~~economic development of the state; and~~
 6 ~~(3) Other issues related to alternative energy production and~~
 7 ~~use and the economic impact of alternative energy that the commission~~
 8 ~~considers appropriate.~~
 9 ~~(b) This section shall expire on September 30, 2017.~~

SECTION 12. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

It is the intent of the General Assembly that:

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

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

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

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

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

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

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

/s/Gazaway