Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: H3/12/25 H3/17/25*

95th General Assembly

A Bill

Regular Session, 2025 HOUSE BILL 1303

By: Representatives Jean, Achor, F. Allen, Andrews, Barker, Beaty Jr., Beck, Bentley, S. Berry, Breaux, K. Brown, M. Brown, Joey Carr, Cavenaugh, Childress, Cozart, Dalby, Eaves, Eubanks, Evans, K. Ferguson, Gonzales, Henley, Holcomb, Hollowell, L. Johnson, Lynch, Maddox, Magie, M. McElroy, McNair, Milligan, J. Moore, K. Moore, Painter, Pearce, Perry, Puryear, J. Richardson, Richmond, Rye, Schulz, M. Shepherd, Springer, Steimel, Tosh, Unger, Vaught, Walker, Wardlaw, Warren, D. Whitaker, Wooldridge, Wooten

By: Senators Stone, J. Boyd, Crowell, B. Davis, Dees, Flippo, Gilmore, K. Hammer, Hester, M. McKee

For An Act To Be Entitled

AN ACT TO CREATE TAX INCENTIVES RELATED TO SUSTAINABLE AVIATION FUEL; TO CREATE THE SUSTAINABLE AVIATION FUEL INCENTIVE ACT; TO CREATE *AN INCOME* TAX *CREDIT RELATED TO SUSTAINABLE AVIATION FUEL; AND FOR*

Subtitle

TO CREATE THE SUSTAINABLE AVIATION FUEL INCENTIVE ACT; AND TO CREATE AN INCOME TAX CREDIT RELATED TO SUSTAINABLE AVIATION FUEL.

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

SECTION 1. Arkansas Code Title 26, Chapter 51, is amended to add an additional subchapter to read as follows:

<u>*Subchapter 29 — Sustainable Aviation Fuel Incentive Act*</u>

<u>*26-51-2901. Title.*</u>

<u>*This subchapter shall be known and may be cited as the "Sustainable Aviation Fuel Incentive Act".*</u>

<u>*26-51-2902. Definitions.*</u>

As used in this subchapter:

(1) "Incentive agreement" means an agreement entered into by a business and the Arkansas Economic Development Commission to provide the business an incentive to locate a new qualified sustainable aviation fuel project in the state;

(2)(A) “New full-time permanent employee” means a position or job that:

(i) Is created pursuant to an executed incentive agreement;

(ii) Is filled by one (1) or more employees or contractual employees who:

(a) Were Arkansas taxpayers during the year in which the tax credits or incentives were earned;

(b)(1) Work at or fill a position dedicated to the qualified sustainable aviation fuel project identified in the incentive agreement.

(2) A new employee of the business that enters into the incentive agreement under this subchapter who does not work at the qualified sustainable aviation fuel project may be counted if the new employee:

(A) Otherwise meets the definition of a new full-time permanent employee;

(B) Is subject to the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.;

(C) Is paid an average annual salary of at least one hundred thousand dollars ($100,000); and

(D) Is verified by reports and methods established as required by the incentive agreement; and

(c)(1) Are not employees hired by a qualified manufacturer of sustainable aviation fuel before the date the incentive agreement was executed unless:

(A) The position or job filled by the existing employee was created in accordance with the incentive agreement; and

(B) The position vacated by the existing employee was either filled by a subsequent employee or no subsequent

employee will be hired because the qualified manufacturer of sustainable aviation fuel no longer conducts the particular business activity requiring that classification.

(2) If the Director of the Arkansas Economic Development Commission and the Secretary of the Department of Finance and Administration find that a significant impairment of Arkansas job opportunities for existing employees will otherwise occur, they may jointly authorize the counting of existing employees as new full-time permanent employees; and

(iii) Has been filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours worked per week.

(B) "New full-time permanent employee" includes a contractual employee who works at the qualified sustainable aviation fuel project identified in the incentive agreement only if the contractual employee is offered a benefits package comparable to a direct employee of the qualified manufacturer of sustainable aviation fuel seeking incentives under this subchapter;

(3) "Qualified manufacturer of sustainable aviation fuel" means a taxpayer who:

(A) Is a natural person, a company, or a corporation that is engaged in the manufacture, refinement, or processing of sustainable aviation fuel in this state;

(B) Uses more than eighty percent (80%) of the electricity and natural gas consumed in the manufacture, refinement, or processing of sustainable aviation fuel to provide power for reactors, distillation columns, heaters, pumps, compressors, coolers, and other sustainable aviation fuel production and processing equipment; and

(C) Has an incentive agreement;

(4) "Qualified sustainable aviation fuel project" means a facility located in the state that:

(A) Manufactures sustainable aviation fuel;

(B) Has an installed facility cost of more than two billion dollars ($2,000,000,000), as verified by the commission;

(C) Will employ seventy-five (75) or more new full-time permanent employees; and

(D) Begins construction on or before December 31, 2027;

(5) "Sustainable aviation fuel" means kerosene-type jet fuel derived from wood biomass; and

(6)(A) "Sustainable aviation fuel production and processing equipment" means machinery and equipment that are essential for the receiving, storing, processing, and testing of raw materials used in producing or processing sustainable aviation fuel or the production, storage, testing, and shipping of a finished product of a qualified sustainable aviation fuel project, or both.

(B) "Sustainable aviation fuel production and processing equipment" does not include a motor vehicle.

26-51-2903. Qualified manufacturer of sustainable aviation fuel credit.

(a)(1) There is allowed an income tax credit against the income tax imposed by this chapter in an amount equal to thirty percent (30%) of the cost of sustainable aviation fuel production and processing equipment purchased for use in the state by a qualified manufacturer of sustainable aviation fuel that has:

(A) Obtained a certification from the Director of the Arkansas Economic Development Commission certifying to the Department of Finance and Administration that the qualified manufacturer of sustainable aviation fuel:

(i) Operates a qualified sustainable aviation fuel project or has a qualified sustainable aviation fuel project in production; and

(ii) Has invested more than two billion dollars ($2,000,000,000) after the effective date of this act in a qualified sustainable aviation fuel project for:

(a) Property purchased for use in the construction of one (1) or more buildings or an addition or improvement to a building to be used for producing sustainable aviation fuel;

(b) Machinery and equipment located in or used in connection with the qualified sustainable aviation fuel project, excluding motor vehicles that are subject to registration; or

(c) Project planning costs or construction labor costs, including without limitation:

(1) On-site direct labor and supervision whether employed by a contractor or the owner of the qualified sustainable aviation fuel project;

(2) Architectural fees or engineering fees, or both;

(3) Right-of-way purchases;

(4) Utility extensions;

(5) Site preparation;

(6) Parking lots;

(7) Disposal or containment systems;

(8) Water and sewer treatment systems;

(9) Rail spurs;

(10) Streets and roads;

(11) Purchase of mineral rights;

(12) Land;

(13) Buildings;

(14) Building renovation and demolition;

(15) Production, processing, and testing equipment;

(16) Freight charges;

(17) Material handling equipment;

(18) Drainage systems;

(19) Water tanks and reservoirs;

(20) Storage facilities;

(21) Equipment rental;

(22) Contractors' cost plus fees;

(23) Builders' risk insurance;

(24) Original spare parts;

(25) Job administrative expenses;

(26) Office furnishings and equipment;

(27) Rolling stock;

(28) Capitalized start-up costs as recognized by generally accepted accounting principles; and

(29) Other costs related to the construction of the qualified sustainable aviation fuel project;

(B) Obtained a certification from the Secretary of the

Department of Energy and Environment certifying to the Department of Finance and Administration that:

(i) The qualified manufacturer of sustainable aviation fuel is engaged in the business of manufacturing, producing, refining, or processing sustainable aviation fuel; and

(ii) The machinery and equipment purchased are sustainable aviation fuel production and processing equipment;

(C) Received a positive cost-benefit analysis, including without limitation an analysis of other incentives offered by the State of Arkansas with respect to the qualified sustainable aviation fuel project subject to the income tax credit, as certified by the Director of the Arkansas Economic Development Commission in consultation with the Chief Fiscal Officer of the State; and

(D) An incentive agreement with performance criteria and claw-back provisions as required under subsection (d) of this section.

(2) The income tax credit allowed for a qualified manufacturer of sustainable aviation fuel under this section shall not exceed the lesser of the amount:

(A) Certified by the Department of Energy and Environment under subdivision (a)(1)(B) of this section; or

(B) Provided in the incentive agreement for the qualified sustainable aviation fuel project.

(3) The income tax credit allowed to be claimed under this section shall not exceed the lesser of ten million dollars ($10,000,000) or the amount of income tax due by the taxpayer in a tax year.

(b) Any unused income tax credit under this section that cannot be claimed in a tax year may be carried forward indefinitely.

(c)(1)(A) A qualified manufacturer of sustainable aviation fuel that cannot claim income tax credits allowed under this section shall sell or transfer for value the income tax credits allowed under this section to the State of Arkansas for eighty percent (80%) of the face value in lieu of the right of the qualified manufacturer of sustainable aviation fuel to claim the income tax credits as allowed under this section.

(B) No more than ten million dollars ($10,000,000) of the income tax credits in the possession and control of a qualified manufacturer of sustainable aviation fuel under this section may be sold or transferred in

a tax year.

(2) Any unused income tax credits that cannot be sold or transferred in a tax year under subdivision (c)(1) of this section may be carried forward indefinitely.

(3)(A) By July 15 of each year, a qualified manufacturer of sustainable aviation fuel with possession and control of income tax credits under this section that the qualified manufacturer of sustainable aviation fuel cannot claim shall provide notice to the Department of Finance and Administration of the amount of the income tax credits, subject to the limitations stated in subdivision (c)(1) of this section, to be sold or transferred for value.

(B) The State of Arkansas shall pay the purchase price equal to eighty percent (80%) of the face value of all of the income tax credits included in the notice required under subdivision (c)(3)(A) of this section on or before June 30 of the year following the year in which the notice was provided.

(C) Income tax credits under this section that are sold or transferred for value to the State of Arkansas are extinguished upon payment of the purchase price as if claimed against the income tax imposed by this chapter.

(D)(i) If the State of Arkansas fails to timely pay the purchase price required under subdivision (c)(3)(B) of this section for the income tax credits included in the notice required under subdivision (c)(3)(A) of this section, before the end of the taxable year following the taxable year in which a failure to pay occurs, the qualified manufacturer of sustainable aviation fuel may sell or transfer for value the income tax credits to one (1) or more persons.

(ii)(a) Except as provided in subdivision (c)(3)(D)(ii)(b) of this section, a person to whom income tax credits are sold or transferred under subdivision (c)(3)(D)(i) of this section may claim the income tax credits in accordance with applicable law.

(b) An income tax credit sold or transferred for value to a person or persons under this subdivision (c)(3)(D) shall not expire before the later of the end of:

(1) The three (3) consecutive tax years following the tax year in which the income tax credit was earned; or

(2) The third taxable year following the year in which the income tax credits were sold or transferred for value under this section.

(iii) The sale or transfer of income tax credits under this subdivision (c)(3)(D) shall be:

(a) Reported to the Department of Finance and Administration in writing by the qualified manufacturer of sustainable aviation fuel; and

(b) Confirmed in writing by the Tax Credits and Special Refunds Section of the Department of Finance and Administration.

(d) The issuance, sale, and transfer of an income tax credit allowed under this section is subject to an incentive agreement with performance criteria and claw-back provisions between a taxpayer and the Arkansas Economic Development Commission that:

(1)(A) Is subject to the approval of the Chief Fiscal Officer of the State to ensure that the cost-benefit analysis required under subdivision (a)(1)(C) of this section is met and maintained for a test period that is the longer of the life of the income tax credits or twelve (12) years, subject to the limitation stated in subdivision (d)(1)(B) of this section.

(B) The test period described in subdivision (d)(1)(A) of this section shall not be longer than fifteen (15) years; and

(2) Includes without limitation the:

(A) Capital investment for the qualified sustainable aviation fuel project;

(B) New full-time permanent employee positions created by the qualified sustainable aviation fuel project;

(C) Annual salary requirements for the new full-time permanent employee positions created by the qualified sustainable aviation fuel project;

(D) Timeline for fulfilling the investment and job creation targets stated in the performance criteria and claw-back agreement for the qualified sustainable aviation fuel project; and

(E) Conditions for the claw-back provisions, which are triggered if, during the test period stated in subdivision (d)(1) of this section, the taxpayer:

(i) Does not meet the required targets of the

qualified sustainable aviation fuel project related to capital investment, job creation, timeline, or annual salary amounts; or

(ii) Fails to maintain a positive cost-benefit analysis.

26-51-2904. Rules.

The Secretary of the Department of Finance and Administration, the Secretary of the Department of Commerce, and the Secretary of the Department of Energy and Environment may promulgate rules to implement and administer this subchapter.

SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective for tax years beginning on or after January 1, 2025.

/s/Jean