

1 State of Arkansas
2 95th General Assembly
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4

A Bill

HOUSE BILL 1521

5 By: Representative Cavanaugh
6 By: Senator J. Petty
7

For An Act To Be Entitled

9 AN ACT TO REPEAL CERTAIN TAX INCENTIVES; TO REPEAL
10 CERTAIN UNUSED, UNDERUSED, OR UNFUNDED TAX
11 INCENTIVES; TO REPEAL TAX INCENTIVES RELATED TO
12 CENTERS FOR APPLIED TECHNOLOGY; TO REPEAL THE
13 ARKANSAS PUBLIC ROADS IMPROVEMENTS CREDIT ACT; TO
14 REPEAL PROVISIONS OF THE CONSOLIDATED INCENTIVE ACT
15 OF 2003; TO REPEAL TAX INCENTIVES FOR MAJOR
16 MAINTENANCE AND IMPROVEMENT PROJECTS; TO REPEAL THE
17 PUBLIC ROADS INCENTIVE FUND; TO REPEAL INCENTIVES
18 RELATED TO THE DONATION OR SALE OF EQUIPMENT TO AN
19 EDUCATIONAL INSTITUTION; TO REPEAL THE SALES AND USE
20 TAX EXEMPTION FOR THE PARTIAL REPLACEMENT AND REPAIR
21 OF CERTAIN MACHINERY AND EQUIPMENT; AND FOR OTHER
22 PURPOSES.
23

Subtitle

26 TO REPEAL CERTAIN UNUSED, UNDERUSED, OR
27 UNFUNDED TAX INCENTIVES.
28

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
30

31 SECTION 1. Arkansas Code § 15-3-110(c)-(e), concerning the power of
32 the Director of the Arkansas Economic Development Commission to promote basic
33 and applied research at Arkansas colleges and universities, are repealed.

34 ~~(c)(1) Any moneys lawfully available to the division for the purpose~~
35 ~~of supporting basic research at Arkansas colleges and universities shall in~~
36 ~~no event defray more than sixty percent (60%) of the total cost of the~~



1 ~~proposed basic research project being funded.~~

2 ~~(2) The remaining forty percent (40%) of the total cost of the~~
3 ~~proposed basic research project shall be funded by moneys or in kind services~~
4 ~~provided by the college or university proposing the basic research project.~~

5 ~~(d)(1)(A) Any moneys lawfully available to the division for the~~
6 ~~purpose of creating applied research partnerships between private industry~~
7 ~~and Arkansas colleges and universities shall in no event defray more than~~
8 ~~fifty percent (50%) of the total cost of the proposed applied research~~
9 ~~project.~~

10 ~~(B) However, the contribution of the Director of the~~
11 ~~Arkansas Economic Development Commission may defray up to sixty-six and two-~~
12 ~~thirds percent (66 $\frac{2}{3}$ %) of the total cost of a proposed applied research~~
13 ~~project if the Director of the Arkansas Economic Development Commission, with~~
14 ~~the advice of the Board of Directors of the Division of Science and~~
15 ~~Technology of the Arkansas Economic Development Commission, finds that the~~
16 ~~participating private industry is principally located in Arkansas and employs~~
17 ~~fifty (50) or fewer persons.~~

18 ~~(2) The proposed applied research project shall be submitted by~~
19 ~~an Arkansas college or university, and the proposal shall state that a~~
20 ~~percentage of the total cost of the proposed applied research project will be~~
21 ~~provided by private sources in accordance with the matching provisions of~~
22 ~~this subsection.~~

23 ~~(3) The Director of the Arkansas Economic Development Commission~~
24 ~~shall approve for funding only those proposed applied research projects for~~
25 ~~which the Director of the Arkansas Economic Development Commission finds that~~
26 ~~enhanced employment opportunity within Arkansas will be a likely result.~~

27 ~~(e)(1) Any moneys lawfully available to the division for the purpose~~
28 ~~of supporting technology development shall in no event exceed one hundred~~
29 ~~thousand dollars (\$100,000) per project being funded.~~

30 ~~(2) The Director of the Arkansas Economic Development Commission~~
31 ~~shall impose a reasonable, nonrefundable fee for the evaluation of the~~
32 ~~technological and economic potential of emerging technologies contained in~~
33 ~~proposals from nonpublic sources of innovation.~~

34 ~~(3) The Director of the Arkansas Economic Development Commission~~
35 ~~is authorized to incorporate a royalty provision not to exceed five percent~~
36 ~~(5%) of net sales revenue per year for a period of not more than ten (10)~~

1 ~~years as a condition of award.~~

2 ~~(4) The Director of the Arkansas Economic Development Commission~~
 3 ~~shall approve for funding only those proposed technology development projects~~
 4 ~~for which the Director of the Arkansas Economic Development Commission finds~~
 5 ~~that enhanced economic opportunity within Arkansas will be a likely result.~~

6
 7 SECTION 2. Arkansas Code §§ 15-3-130 – 15-3-135 are repealed.

8 ~~15-3-130. Centers for applied technology — Definition.~~

9 ~~For the purposes of this section and §§ 15-3-131 — 15-3-134, “center~~
 10 ~~for applied technology” or “center” means a college or university or~~
 11 ~~university-affiliated unit, or a consortium of such units, which conducts a~~
 12 ~~continuing program of basic research and applied research, development, and~~
 13 ~~technology transfer in one (1) or more technological areas in collaboration~~
 14 ~~with and through the support of private enterprises.~~

15
 16 ~~15-3-131. Centers for applied technology — Authority to designate.~~

17 ~~In order to encourage greater collaboration between private enterprises~~
 18 ~~and Arkansas colleges and universities in the development and application of~~
 19 ~~new technologies, the Arkansas Economic Development Commission may designate~~
 20 ~~technological areas as having significant potential for economic growth in~~
 21 ~~Arkansas or in which the application of new technologies could significantly~~
 22 ~~enhance the productivity and stability of Arkansas enterprises.~~

23
 24 ~~15-3-132. Centers for applied technology — Criteria — Designation.~~

25 ~~(a) The Division of Science and Technology of the Arkansas Economic~~
 26 ~~Development Commission shall:~~

27 ~~(1) Identify technological areas for which centers for applied~~
 28 ~~technology should be designated, including, but not limited to, technological~~
 29 ~~areas that are related to enterprises with significant potential for economic~~
 30 ~~growth and development in Arkansas and areas that are related to the~~
 31 ~~enhancement of productivity in various enterprises in Arkansas;~~

32 ~~(2) Establish, in consultation with the Division of Higher~~
 33 ~~Education, criteria that must be satisfied for designation as a center,~~
 34 ~~including, but not limited to:~~

35 ~~(A) An established record of research, development, and~~
 36 ~~instruction in the area of technology;~~

1 ~~(B) The capacity to conduct research and development~~
2 ~~activities in collaboration with private enterprises;~~

3 ~~(C) The capacity to secure substantial private and other~~
4 ~~government funding for the proposed center;~~

5 ~~(D) The ability and willingness to cooperate with other~~
6 ~~colleges and universities in conducting research and development activities~~
7 ~~and in disseminating research results and to work with institutions of higher~~
8 ~~learning to enhance the quality of technological education in the area or~~
9 ~~areas of technology involved; and~~

10 ~~(E) The ability and willingness to cooperate with the~~
11 ~~Division of Science and Technology of the Arkansas Economic Development~~
12 ~~Commission, the Arkansas Economic Development Council, and other economic~~
13 ~~development agencies in promoting the growth and development in Arkansas of~~
14 ~~enterprises based upon or benefiting from the areas of technology involved;~~
15 ~~and~~

16 ~~(3) Designate, using a competitive selection process, those~~
17 ~~centers for applied technology to be created in cooperation with colleges and~~
18 ~~universities in the state.~~

19 ~~(b) The Division of Science and Technology of the Arkansas Economic~~
20 ~~Development Commission may not designate technological areas or establish~~
21 ~~centers prior to the Division of Science and Technology of the Arkansas~~
22 ~~Economic Development Commission's adopting rules to govern the program~~
23 ~~authorized under this section, §§ 15-3-130, 15-3-131, 15-3-133, and 15-3-134.~~

24
25 ~~15-3-133. Centers for applied technology—Advisory committees.~~

26 ~~(a) In carrying out its functions under this section, §§ 15-3-130—~~
27 ~~15-3-132, and 15-3-134, the Division of Science and Technology of the~~
28 ~~Arkansas Economic Development Commission may create such advisory committees~~
29 ~~as may be useful in evaluating potential technological areas and centers for~~
30 ~~applied technology.~~

31 ~~(b) The memberships of these advisory committees may include both~~
32 ~~directors and staff members of the division and other persons drawn from~~
33 ~~sources other than the division, all of whom shall serve at the pleasure of~~
34 ~~the Director of the Arkansas Economic Development Commission.~~

35 ~~(c) Members of such advisory committees shall serve without~~
36 ~~compensation for their membership on such committees but may receive expense~~

1 ~~reimbursement in accordance with § 25-16-901 et seq.~~

2
3 ~~15-3-134. Centers for applied technology—Disposition of funds.~~
4 ~~Any moneys lawfully available to the Arkansas Economic Development~~
5 ~~Commission for the purpose of creating centers for applied technology may be~~
6 ~~used for the purchase of equipment and fixtures, employment of faculty and~~
7 ~~support staff, provision of graduate fellowships, and other purposes approved~~
8 ~~by the commission but may not be used for capital construction.~~

9
10 ~~15-3-135. Promotion of scientific, medical, and technological jobs and~~
11 ~~infrastructure enhancements—Definition.~~

12 ~~(a) As used in this section, “qualified medical company” means a~~
13 ~~corporation engaged in:~~

14 ~~(1) Research and development in the medical field; and~~
15 ~~(2) Manufacture and distribution of medical products, including~~
16 ~~therapeutic and diagnostic products.~~

17 ~~(b)(1) All agencies, departments, boards, commissions, and other~~
18 ~~instrumentalities of this state and all political subdivisions of this state~~
19 ~~and all agencies, departments, boards, commissions, and other~~
20 ~~instrumentalities thereof, to the greatest extent possible, shall expedite~~
21 ~~the processing of all lawful applications and requests required or permitted~~
22 ~~by law which are submitted or made by qualified medical companies and, in~~
23 ~~considering all such applications and requests, give due consideration to the~~
24 ~~purposes of this section.~~

25 ~~(2) To the extent available time, personnel, and other resources~~
26 ~~permit, all state funded colleges and universities shall provide research~~
27 ~~assistance to the Arkansas Economic Development Commission to assist with~~
28 ~~planning to develop scientific, medical, and technological commercial~~
29 ~~infrastructure enhancements to encourage qualified medical companies to~~
30 ~~locate in this state.~~

31
32 SECTION 3. Arkansas Code Title 15, Chapter 4, Subchapter 23, is
33 repealed.

34 ~~Subchapter 23—Arkansas Public Roads Improvements Credit Act~~

35
36 ~~15-4-2301. Title.~~

1 ~~This subchapter may be referred to and cited as the “Arkansas Public~~
2 ~~Roads Improvements Credit Act”.~~

3
4 ~~15-4-2302. Legislative intent.~~

5 ~~The General Assembly finds and declares that:~~

6 ~~(1) The state’s program for capital improvements for public~~
7 ~~roads projects and the financing of those projects is inadequate;~~

8 ~~(2) The economic and other benefits to the state and its people~~
9 ~~resulting from capital improvements for public roads projects are essential~~
10 ~~to the public health, safety, and welfare of the people of Arkansas; and~~

11 ~~(3) Providing tax credits to taxpayers for contributions in aid~~
12 ~~of construction of capital improvements for public roads projects will~~
13 ~~encourage public and private participation in these capital improvement~~
14 ~~projects, will promote the economic welfare of this state and its people, and~~
15 ~~is in the public interest.~~

16
17 ~~15-4-2303. Definitions.~~

18 ~~As used in this subchapter:~~

19 ~~(1) “Capital improvements” means capital improvements for public~~
20 ~~roads;~~

21 ~~(2) “Commission” means the Arkansas Economic Development~~
22 ~~Commission;~~

23 ~~(3) “Contribution” means a contribution in aid of construction~~
24 ~~of a public roads project made by a taxpayer to the Public Roads Incentive~~
25 ~~Fund;~~

26 ~~(4) “Council” means the Arkansas Economic Development Council;~~

27 ~~(5) “County” means any county in the State of Arkansas;~~

28 ~~(6) [Repealed.]~~

29 ~~(7) “Fund” means the Public Roads Incentive Fund;~~

30 ~~(8) “Governing authority” means the quorum court of a county,~~
31 ~~the governing body of a municipality, and the State Highway Commission;~~

32 ~~(9) “Municipality” means any city or incorporated town in the~~
33 ~~State of Arkansas;~~

34 ~~(10) “Project” means all, any combination, or any part of the~~
35 ~~capital improvements for public roads which are authorized by a governing~~
36 ~~authority and approved by the Director of the Arkansas Economic Development~~

1 Commission;

2 ~~(11) "Public roads" means roads maintained by a governing~~
3 ~~authority; and~~

4 ~~(12) "Taxpayer" includes any individual, fiduciary, or~~
5 ~~corporation subject to Arkansas state income tax.~~

6

7 ~~15-4-2304. Approval of projects.~~

8 ~~Governing authorities may apply to the Director of the Arkansas~~
9 ~~Economic Development Commission for funding assistance for capital~~
10 ~~improvement projects for public roads as provided by this subchapter. The~~
11 ~~director is authorized to approve capital improvements for funding assistance~~
12 ~~upon a finding that a project is in the public interest.~~

13

14 ~~15-4-2305. Public Roads Incentive Fund.~~

15 ~~(a) There is established on the books of the Treasurer of State, the~~
16 ~~Auditor of State, and the Chief Fiscal Officer of the State a fund to be~~
17 ~~known as the "Public Roads Incentive Fund" of the Arkansas Economic~~
18 ~~Development Council.~~

19 ~~(b) The fund shall consist of contributions made by taxpayers for~~
20 ~~public roads projects approved by the Director of the Arkansas Economic~~
21 ~~Development Commission and any other funds as are designated or deposited to~~
22 ~~the fund by law.~~

23 ~~(c)(1) A separate account shall be established for each project, and~~
24 ~~contributions for a project shall be applied to provide funding assistance~~
25 ~~for such a project.~~

26 ~~(2) Any contributions which remain in the fund when a project is~~
27 ~~completed or terminated shall be held and applied to other public roads~~
28 ~~projects in such manner as the director shall direct.~~

29

30 ~~15-4-2306. Tax credit.~~

31 ~~(a) A taxpayer shall be entitled to a credit against any Arkansas~~
32 ~~income tax liability which may be imposed on the taxpayer for any tax year~~
33 ~~commencing on or after January 1, 1999, for contributions transmitted to the~~
34 ~~Treasurer of State pursuant to this subchapter.~~

35 ~~(b) The credit shall be determined in the following manner:~~

36 ~~(1) The credit shall be calculated as thirty three percent (33%)~~

1 ~~of the taxpayer's contribution;~~

2 ~~(2) In any one (1) tax year, the credit allowed by this section~~
 3 ~~shall offset up to one hundred percent (100%) of the net Arkansas state~~
 4 ~~income tax liability of the taxpayer; and~~

5 ~~(3) Any credit in excess of the amount allowed by subdivision~~
 6 ~~(b)(2) of this section for any one (1) tax year may be carried forward and~~
 7 ~~applied against any Arkansas state income tax liability for the next~~
 8 ~~succeeding tax year and annually thereafter for a total period of ten (10)~~
 9 ~~years next succeeding the year in which the credit arose, subject to the~~
 10 ~~provisions of subdivision (b)(2) of this section or until the credit is~~
 11 ~~exhausted, whichever occurs first.~~

12
 13 ~~15-4-2307. Powers and duties of the Arkansas Economic Development~~
 14 ~~Commission.~~

15 ~~The Arkansas Economic Development Commission shall administer the~~
 16 ~~provisions of this subchapter and shall have the following powers and duties,~~
 17 ~~in addition to those mentioned in this subchapter and in other laws of this~~
 18 ~~state:~~

19 ~~(1) To monitor the implementation and operation of this~~
 20 ~~subchapter and to conduct a continuing evaluation of the progress made;~~

21 ~~(2) To assist the governing authority in obtaining assistance~~
 22 ~~from any other department of state government;~~

23 ~~(3) To submit an annual written report evaluating the~~
 24 ~~effectiveness of the program and presenting any suggestions for improving the~~
 25 ~~program, to be submitted to the Governor no later than March 1 of each year;~~
 26 ~~and~~

27 ~~(4) To promulgate rules in accordance with the Arkansas~~
 28 ~~Administrative Procedure Act, § 25-15-201 et seq., necessary to carry out the~~
 29 ~~provisions of this subchapter.~~

30
 31 SECTION 4. Arkansas Code § 15-4-2705(h), concerning the job-creation
 32 tax credit, is amended to read as follows:

33 (h)(1) If a qualified business fails to meet the payroll threshold
 34 within two (2) years after the date of the approved financial incentive
 35 agreement or within the time period established by an extension approved by
 36 the Secretary of the Department of Finance and Administration and the

1 Director of the Arkansas Economic Development Commission, the qualified
 2 business is liable for repayment of all incentives previously received under
 3 ~~§ 15-4-2706(d) that were conditioned on an approved financial incentive~~
 4 ~~agreement under~~ this section for which the payroll threshold has not been
 5 met.

6 (2) ~~If a qualified business fails to reach the payroll threshold~~
 7 ~~of this section in a timely manner, the~~ The department shall have two (2)
 8 years to collect incentives previously received by the qualified business or
 9 file a lawsuit to enforce the repayment provisions.

10
 11 SECTION 5. Arkansas Code § 15-4-2706(b)(7)-(13), concerning investment
 12 tax incentives under the Consolidated Incentive Act of 2003, are repealed.

13 ~~(7) Technology-based enterprises, as defined by § 14-164-203,~~
 14 ~~may earn, at the discretion of the director, an income tax credit or sales~~
 15 ~~and use tax credit based on new investment, provided that the technology-~~
 16 ~~based enterprise:~~

17 ~~(A) Creates a new payroll of at least two hundred fifty~~
 18 ~~thousand dollars (\$250,000); and~~

19 ~~(B) Pays an average hourly wage that is at least one~~
 20 ~~hundred fifty percent (150%) of the lesser of the state or county average~~
 21 ~~hourly wage for the county in which the business locates or expands.~~

22 ~~(8)(A) The income tax credit or sales and use tax credit that~~
 23 ~~may be earned by a technology based enterprise is based on the amount of~~
 24 ~~investment as follows:~~

25 ~~(i) The income tax credit or sales and use tax~~
 26 ~~credit is equal to two percent (2%) of the investment for an investment that~~
 27 ~~is between two hundred fifty thousand dollars (\$250,000) and five hundred~~
 28 ~~thousand dollars (\$500,000);~~

29 ~~(ii) The income tax credit or sales and use tax~~
 30 ~~credit is equal to four percent (4%) of the investment for that part of the~~
 31 ~~investment that is over five hundred thousand dollars (\$500,000) and less~~
 32 ~~than one million dollars (\$1,000,000);~~

33 ~~(iii) The income tax credit or sales and use tax~~
 34 ~~credit is equal to six percent (6%) of the investment for that part of the~~
 35 ~~investment that is over one million dollars (\$1,000,000) and less than two~~
 36 ~~million dollars (\$2,000,000); and~~

1 ~~(iv) The income tax credit or sales and use tax~~
2 ~~credit is equal to eight percent (8%) of the investment for that part of the~~
3 ~~investment that is over two million dollars (\$2,000,000).~~

4 ~~(B) The amount of credit earned is determined based upon~~
5 ~~the amount invested, as verified by an audit by the department.~~

6 ~~(9) All investments by a technology based enterprise shall be~~
7 ~~made within four (4) years of the date of the approved financial incentive~~
8 ~~agreement.~~

9 ~~(10) Prior to commission approval of a financial incentive~~
10 ~~agreement, the business shall elect to receive the tax credits as either:~~

11 ~~(A) A sales and use tax credit; or~~

12 ~~(B) An income tax credit.~~

13 ~~(11) The income tax credit or sales and use tax credit earned by~~
14 ~~a technology based enterprise may offset income tax liabilities or sales and~~
15 ~~use tax liabilities as follows:~~

16 ~~(A) A technology based enterprise that pays at least one~~
17 ~~hundred fifty percent (150%) of the lesser of the state or county average~~
18 ~~hourly wage for the county in which the business locates or expands may~~
19 ~~offset up to fifty percent (50%) of its income tax liability or sales and use~~
20 ~~tax liability annually;~~

21 ~~(B) A technology based enterprise that pays at least one~~
22 ~~hundred seventy five percent (175%) of the lesser of the state or county~~
23 ~~average hourly wage for the county in which the business locates or expands~~
24 ~~may offset up to seventy five percent (75%) of its income tax liability or~~
25 ~~sales and use tax liability annually; and~~

26 ~~(C) A technology based enterprise that pays at least two~~
27 ~~hundred percent (200%) of the lesser of the state or county average hourly~~
28 ~~wage for the county in which the business locates or expands may offset up to~~
29 ~~one hundred percent (100%) of its income tax liability or sales and use tax~~
30 ~~liability annually.~~

31 ~~(12) After receiving an approved financial incentive agreement~~
32 ~~from the commission, a qualified business shall certify to the department the~~
33 ~~eligible project costs and average hourly wages annually at the end of each~~
34 ~~tax year for the term of the financial incentive agreement.~~

35 ~~(13) Unused income tax credits or sales and use tax credits may~~
36 ~~be carried forward for up to nine (9) years after the year in which the~~

1 ~~credit was first earned or until the tax credits are exhausted, whichever~~
 2 ~~occurs first.~~

3
 4 SECTION 6. Arkansas Code § 15-4-2706(d) and (e), concerning investment
 5 tax incentives under the Consolidated Incentive Act of 2003, are repealed.

6 ~~(d)(1)(A) An application for a state and local sales and use tax~~
 7 ~~refund for a new or expanding business shall be filed with the commission~~
 8 ~~contingent upon the approval of an endorsement resolution from the governing~~
 9 ~~authority of a municipality or county, or both, in whose jurisdiction the~~
 10 ~~business will be located.~~

11 ~~(B) The resolution shall:~~

12 ~~(i) Endorse the business's participation in this~~
 13 ~~sales and use tax refund program; and~~

14 ~~(ii) Specify that the department is authorized to~~
 15 ~~refund local sales taxes to the qualified business.~~

16 ~~(C) To qualify for a refund under this subsection, a~~
 17 ~~qualified business shall meet the minimum investment thresholds for the tier~~
 18 ~~in which the qualified business expands or locates, as follows:~~

19 ~~(i) For tier 1 counties, the minimum investment~~
 20 ~~threshold is at least five hundred thousand dollars (\$500,000);~~

21 ~~(ii) For tier 2 counties, the minimum investment~~
 22 ~~threshold is at least four hundred thousand dollars (\$400,000);~~

23 ~~(iii) For tier 3 counties, the minimum investment~~
 24 ~~threshold is at least three hundred thousand dollars (\$300,000); and~~

25 ~~(iv) For tier 4 counties, the minimum investment~~
 26 ~~threshold is at least two hundred thousand dollars (\$200,000).~~

27 ~~(2)(A)(i) The secretary shall authorize a sales and use tax~~
 28 ~~refund of state and local sales and use taxes, excepting the sales and use~~
 29 ~~taxes dedicated to the Educational Adequacy Fund and the Conservation Tax~~
 30 ~~Fund on the purchases of the material used in the construction of a building~~
 31 ~~or buildings or any addition, modernization, or improvement thereon for~~
 32 ~~housing any new or expanding qualified business and machinery and equipment~~
 33 ~~to be located in or in connection with such a building.~~

34 ~~(ii) The local sales and use tax may be refunded only~~
 35 ~~from the municipality or county, or both, in which the qualified business is~~
 36 ~~located.~~

1 ~~(B) A refund shall not be authorized for:~~

2 ~~(i) Routine operating expenditures; or~~

3 ~~(ii) The purchase of replacement items previously~~
 4 ~~purchased as part of a project under this subsection unless the items~~
 5 ~~previously purchased are necessary for the implementation or completion of~~
 6 ~~the project.~~

7 ~~(3)(A) Subject to the approval of the commission, a qualified~~
 8 ~~business may make changes to a project by written amendment to the project~~
 9 ~~plan filed with the commission.~~

10 ~~(B) The commission shall not approve an amendment under~~
 11 ~~subdivision (d)(3)(A) of this section that results in a cost increase of more~~
 12 ~~than twenty-five percent (25%) of the initial project plan.~~

13 ~~(4) All claims for sales and use tax refunds under this~~
 14 ~~subsection shall be denied unless they are filed with the department within~~
 15 ~~three (3) years from the date of the qualified purchase or purchases.~~

16 ~~(5)(A)(i) To be eligible for the incentives under this~~
 17 ~~subsection, a qualified business shall meet all payroll creation requirements~~
 18 ~~of its approved financial incentive agreement under § 15-4-2705 or § 15-4-~~
 19 ~~2707.~~

20 ~~(ii) However, a business may apply for incentives~~
 21 ~~under this subsection if:~~

22 ~~(a) The business has an existing financial~~
 23 ~~incentive agreement approved under this subdivision (d)(5)(A) and the~~
 24 ~~provisions of subdivision (d)(5)(B) of this section have been met within the~~
 25 ~~previous four (4) years; or~~

26 ~~(b) The business has signed a financial~~
 27 ~~incentive agreement approved under § 15-4-2705 or § 15-4-2707 within the~~
 28 ~~previous four (4) years.~~

29 ~~(B) The financial incentive agreement under § 15-4-2705 or~~
 30 ~~§ 15-4-2707 shall be approved within two (2) years after the financial~~
 31 ~~incentive agreement under this subsection is approved.~~

32 ~~(e)(1) A targeted business may be eligible for a refund of state and~~
 33 ~~local sales and use taxes for qualified expenditures at the discretion of the~~
 34 ~~director if:~~

35 ~~(A)(i) The annual payroll of the targeted business for~~
 36 ~~Arkansas taxpayers is greater than one hundred thousand dollars (\$100,000)~~

1 ~~and less than one million dollars (\$1,000,000).~~

2 ~~(ii) The payroll requirement in subdivision~~
 3 ~~(e)(1)(A)(i) of this section applies only to the initial eligibility~~
 4 ~~determination and does not preclude a qualified business from receiving~~
 5 ~~incentives if, at any time after the financial incentive agreement is~~
 6 ~~approved, actual payroll does not satisfy the requirements in subdivision~~
 7 ~~(e)(1)(A)(i) of this section; and~~

8 ~~(B) The targeted business shows proof of an equity~~
 9 ~~investment of at least two hundred fifty thousand dollars (\$250,000).~~

10 ~~(2)(A) An application for the targeted business state and local~~
 11 ~~sales and use tax refund program for a new or expanding targeted business~~
 12 ~~shall be filed with the commission contingent upon the approval of an~~
 13 ~~endorsement resolution from the governing authority of a municipality or~~
 14 ~~county, or both, in whose jurisdiction the targeted business will be located.~~

15 ~~(B) The resolution shall:~~

16 ~~(i) Endorse the business's participation in this~~
 17 ~~sales and use tax refund program; and~~

18 ~~(ii) Specify that the department is authorized to~~
 19 ~~refund local sales and use taxes to the targeted business.~~

20 ~~(3) An approved financial incentive agreement and any other~~
 21 ~~pertinent documentation shall be forwarded to the secretary.~~

22 ~~(4)(A)(i) The secretary shall authorize a sales and use tax~~
 23 ~~refund of state and local sales and use taxes, excepting the sales and use~~
 24 ~~taxes dedicated to the Educational Adequacy Fund and the Conservation Tax~~
 25 ~~Fund on the purchases of the material used in the construction of a building~~
 26 ~~or buildings or any addition, modernization, or improvement thereon for~~
 27 ~~housing any new or expanding qualified business and machinery and equipment~~
 28 ~~to be located in or in connection with such a building.~~

29 ~~(ii) The local sales and use tax may be refunded~~
 30 ~~only from the municipality or county, or both, in which the qualified~~
 31 ~~business is located.~~

32 ~~(B) A refund shall not be authorized for:~~

33 ~~(i) Routine operating expenditures; or~~

34 ~~(ii) The purchase of replacement items previously~~
 35 ~~purchased as part of a project under this subsection unless the items~~
 36 ~~previously purchased are necessary for the implementation or completion of~~

1 ~~the project.~~

2 ~~(5)(A) Subject to the approval of the commission, a qualified~~
 3 ~~business may make changes to a project by written amendment to the project~~
 4 ~~plan filed with the commission.~~

5 ~~(B) The commission shall not approve an amendment under~~
 6 ~~subdivision (e)(5)(A) of this section that results in a cost increase of more~~
 7 ~~than twenty five percent (25%) of the initial project plan.~~

8 ~~(6) All claims for sales and use tax refunds under this~~
 9 ~~subsection shall be denied unless they are filed with the department within~~
 10 ~~three (3) years after the date of the qualified purchase or purchases.~~

11 ~~(7) If a targeted business plans to apply for benefits under~~
 12 ~~this subsection and also plans to apply for benefits under § 15-4-2709, the~~
 13 ~~financial incentive agreement under § 15-4-2709 must be signed within twenty-~~
 14 ~~four (24) months of signing the financial incentive agreement under this~~
 15 ~~subsection and comply with the eligibility requirements of the financial~~
 16 ~~incentive agreements.~~

17 ~~(8) To be eligible for the incentives under this subsection, a~~
 18 ~~targeted business shall meet all payroll creation requirements of an approved~~
 19 ~~financial incentive agreement under § 15-4-2707 or § 15-4-2709 within two (2)~~
 20 ~~years of the date of the approved financial incentive agreement under this~~
 21 ~~subsection or other subsequent date if approved by the director.~~

22

23 SECTION 7. Arkansas Code § 15-4-2707(e), concerning the Economic
 24 Development Incentive Fund and the payroll rebate under the Consolidated
 25 Incentive Act of 2003, is repealed.

26 ~~(e)(1) Technology based enterprises, as defined in § 14-164-203, may~~
 27 ~~earn, at the discretion of the director, a payroll rebate equal to five~~
 28 ~~percent (5%) of the payroll for new full time permanent employees for a~~
 29 ~~period not to exceed ten (10) years.~~

30 ~~(2) To qualify for the payroll rebate:~~

31 ~~(A) The average hourly wage of the payroll for new full-~~
 32 ~~time permanent employees must be at least one hundred fifty percent (150%) of~~
 33 ~~the lesser of the state or county average hourly wage for the county in which~~
 34 ~~the technology based enterprise locates or expands;~~

35 ~~(B) The payroll for new full time permanent employees must~~
 36 ~~exceed two hundred fifty thousand dollars (\$250,000); and~~

1 ~~(C) The payroll rebate authorized by this subsection shall~~
2 ~~not be used in combination with the income tax credit based on payroll~~
3 ~~authorized by § 15-4-2709.~~

4
5 SECTION 8. Arkansas Code § 15-4-2708(a)(4), concerning research and
6 development tax credits under the Consolidated Incentive Act of 2003, is
7 repealed.

8 ~~(4) A qualified business claiming tax credits earned under this~~
9 ~~subsection shall not receive the credit granted by § 26-51-1102(b) for the~~
10 ~~same expenditures.~~

11
12 SECTION 9. Arkansas Code § 15-4-2708(b)-(d), concerning research and
13 development tax credits under the Consolidated Incentive Act of 2003, are
14 amended to read as follows:

15 (b)(1) Targeted businesses may qualify for an income tax credit equal
16 to thirty-three percent (33%) of the amount spent on in-house research per
17 year for the first five (5) tax years following the targeted business's
18 signing a financial incentive agreement with the commission.

19 (2) The credits earned by targeted businesses may be sold as
20 authorized ~~in § 15-4-2709~~ under this subsection.

21 (3) Any unused income tax credits under this subsection may be
22 carried forward for up to nine (9) years after the year in which the income
23 tax credit was first earned.

24 (4)(A) To sell income tax credits earned through incentives
25 authorized under this subchapter, a targeted business shall apply to the
26 commission and furnish the information necessary to facilitate the sale of
27 the income tax credits.

28 (B)(i) A taxpayer that purchases income tax credits under
29 this subsection may carry any unused income tax credits forward as provided
30 in subdivision (b)(3) of this section.

31 (ii) The purchase of income tax credits under this
32 subsection does not establish a new carry-forward period for the purchaser.

33 (5) A targeted business that claims or sells income tax credits
34 under this subsection shall not receive the income tax credit allowed under §
35 26-51-1102(b) for the same expenditures.

36 ~~(c)(1) An Arkansas taxpayer may be offered, at the discretion of the~~

1 ~~director, an income tax credit equal to thirty three percent (33%) of the~~
2 ~~amount spent on the research for the first five (5) tax years following the~~
3 ~~business's signing a financial incentive agreement with the commission,~~
4 ~~subject to the limitations established under § 26-51-1103 if the taxpayer~~
5 ~~invests in:~~

6 ~~(A) In house research in a strategic research area; or~~

7 ~~(B) Projects under the research and development programs~~
8 ~~of the Division of Science and Technology of the Arkansas Economic~~
9 ~~Development Commission when the projects directly involve an Arkansas~~
10 ~~business and are approved by the director with the advice of the Board of~~
11 ~~Directors of the Division of Science and Technology of the Arkansas Economic~~
12 ~~Development Commission under rules promulgated by the commission for those~~
13 ~~programs.~~

14 ~~(2) However, the maximum tax credit for a qualified business~~
15 ~~engaged in a research area of strategic value or involved in research and~~
16 ~~development programs sponsored by the division shall not exceed fifty~~
17 ~~thousand dollars (\$50,000) per year.~~

18 ~~(3) A qualified business claiming tax credits earned under this~~
19 ~~subsection shall not receive the credit granted by § 26-51-1102(b) for the~~
20 ~~same expenditures.~~

21 ~~(4)(A) A qualified business claiming tax credits earned under~~
22 ~~this subsection may offset up to one hundred percent (100%) of the business's~~
23 ~~Arkansas income tax liability annually.~~

24 ~~(B) Any unused income tax credits may be carried forward~~
25 ~~for up to nine (9) years after the year in which the credit was first earned~~
26 ~~or until exhausted, whichever occurs first.~~

27 ~~(d) To claim the credit granted under subsections (a)-(c) (a) and (b)~~
28 ~~of this section, the taxpayer shall file with his or her return, as an~~
29 ~~attachment to the form prescribed by the Secretary of the Department of~~
30 ~~Finance and Administration, copies of documentation to show that the~~
31 ~~commission has approved the research expenditure as a part of a qualified in-~~
32 ~~house research program or under the research and development programs of the~~
33 ~~division Division of Science and Technology of the Arkansas Economic~~
34 ~~Development Commission.~~

35
36 SECTION 10. Arkansas Code § 15-4-2709 is repealed.

1 ~~15-4-2709. Targeted business special incentive.~~

2 ~~(a) A special incentive based on the payroll of targeted businesses in~~
3 ~~the state may be offered, at the discretion of the Director of the Arkansas~~
4 ~~Economic Development Commission, to:~~

5 ~~(1) Encourage the development of jobs that pay significantly~~
6 ~~more than the average hourly wage in the county in which the targeted~~
7 ~~business locates or the state average hourly wage if the state average hourly~~
8 ~~wage is less than the county average hourly wage; and~~

9 ~~(2) Provide an incentive to assist with the start-up of~~
10 ~~businesses targeted for growth.~~

11 ~~(b) To qualify for the special incentive provided by subsection (c) of~~
12 ~~this section, a business shall:~~

13 ~~(1) Be identified by the Arkansas Economic Development~~
14 ~~Commission as being one of those business sectors targeted for growth under §~~
15 ~~15-4-2703;~~

16 ~~(2)(A) Have an annual payroll of the business for Arkansas~~
17 ~~taxpayers of not less than one hundred thousand dollars (\$100,000) or more~~
18 ~~than one million dollars (\$1,000,000).~~

19 ~~(B) The payroll requirement under subdivision (b)(2)(A) of~~
20 ~~this section applies only to the initial eligibility determination and does~~
21 ~~not preclude qualified businesses from receiving incentives if, at any time~~
22 ~~after the financial incentive agreement has been approved, actual payroll~~
23 ~~does not satisfy the requirements in subdivision (b)(2)(A) of this section;~~

24 ~~(3) Show proof of an equity investment of two hundred fifty~~
25 ~~thousand dollars (\$250,000) or more; and~~

26 ~~(4) Pay average hourly wages in excess of the lesser of one~~
27 ~~hundred fifty percent (150%) of the county or state average hourly wage for~~
28 ~~the county in which the targeted business locates or expands.~~

29 ~~(c)(1) A targeted business may earn an income tax credit equal to ten~~
30 ~~percent (10%) of its annual payroll, with the maximum payroll credit not to~~
31 ~~exceed one hundred thousand dollars (\$100,000) in any year during the term of~~
32 ~~the financial incentive agreement.~~

33 ~~(2)(A) The term of the financial incentive agreement shall be~~
34 ~~established by the director for a period not to exceed five (5) years.~~

35 ~~(B) The term of the financial incentive agreement for~~
36 ~~targeted businesses earning a tax credit under this subsection shall begin on~~

1 ~~January 1 of the year following the year in which the financial incentive~~
2 ~~agreement was approved.~~

3 ~~(C) The director may allow a qualified targeted business~~
4 ~~to sell any income tax credits earned through one (1) or more incentives~~
5 ~~authorized by this subchapter.~~

6 ~~(d)(1) To sell income tax credits earned through incentives authorized~~
7 ~~by this subchapter, the targeted business shall apply to the commission and~~
8 ~~furnish information necessary to facilitate the sale of income tax credits.~~

9 ~~(2)(A) Any unused tax credits may be carried forward for up to~~
10 ~~nine (9) years after the year in which the credit was first earned or until~~
11 ~~exhausted, whichever occurs first.~~

12 ~~(B) Taxpayers purchasing tax credits under this subsection~~
13 ~~shall be subject to the same carry-forward provisions as the targeted~~
14 ~~business that earned the credits.~~

15 ~~(C) The purchase of the tax credits does not establish a~~
16 ~~new carry-forward period for the ultimate recipient.~~

17 ~~(e) A targeted business claiming or selling tax credits earned under~~
18 ~~this section or § 15-4-2708 shall not receive the credit granted by § 26-51-~~
19 ~~1102(b) for the same expenditures.~~

20
21 SECTION 11. Arkansas Code § 15-4-2711(c) and (d), concerning the
22 administration of the incentives provided under the Consolidated Incentive
23 Act of 2003, are repealed.

24 ~~(e)(1) All claims for sales and use tax refunds under § 15-4-2706(d)~~
25 ~~and (e) shall be filed annually with the Department of Finance and~~
26 ~~Administration within three (3) years from the date of the qualified purchase~~
27 ~~or purchases.~~

28 ~~(2) Claims filed after three (3) years from the date of the~~
29 ~~qualified purchase or purchases shall be denied.~~

30 ~~(d)(1) The time limitation for § 15-4-2706(d) and (e) for filing~~
31 ~~claims shall be tolled if:~~

32 ~~(A) A qualified business fails to pay sales tax on an item~~
33 ~~that was taxable; and~~

34 ~~(B) The applicable tax is subsequently assessed as a~~
35 ~~result of an audit by the department.~~

36 ~~(2) All claims for sales and use tax refunds relating to an~~

1 ~~audited purchase are entitled to a refund of interest paid on the amount of~~
 2 ~~tax assessed on the audited purchase if a refund is approved for the~~
 3 ~~purchase.~~

4
 5 SECTION 12. Arkansas Code § 15-4-2712 is amended to read as follows:
 6 15-4-2712. Restrictions.

7 (a) Except as provided in subsection (b) of this section, the
 8 incentives established by this subchapter may be combined.

9 (b)(1) ~~The investment tax credit authorized in § 15-4-2706(c) shall~~
 10 ~~not be combined with the sales and use tax refund authorized in § 15-4-~~
 11 ~~2706(d) for the same project.~~

12 (2) ~~The following incentives for targeted businesses may be~~
 13 ~~combined with each other for the same project as long as multiple incentives~~
 14 ~~are not claimed for the same expenditures but shall not be combined with any~~
 15 ~~other incentives authorized in this subchapter during the period in which the~~
 16 ~~qualified business receives incentives under this subchapter:~~

17 (A) ~~The investment tax credit authorized under § 15-4-~~
 18 ~~2706(b)(7) may be combined with:~~

19 (i) ~~The research and development income tax credits~~
 20 ~~authorized under § 15-4-2708(b); and~~

21 (ii) ~~Either the:~~
 22 (a) ~~Payroll rebate program authorized under §~~
 23 ~~15-4-2707(e); or~~

24 (b) ~~Payroll tax credit program authorized~~
 25 ~~under § 15-4-2709;~~

26 (B) ~~The sales and use tax refund authorized under § 15-4-~~
 27 ~~2706(e) may be combined with:~~

28 (i) ~~The research and development income tax credits~~
 29 ~~authorized under § 15-4-2708(b); and~~

30 (ii) ~~Either the:~~
 31 (a) ~~Payroll rebate program authorized under §~~
 32 ~~15-4-2707(e); or~~

33 (b) ~~Payroll tax credit program authorized~~
 34 ~~under § 15-4-2709;~~

35 (C) ~~The payroll rebate program authorized under § 15-4-~~
 36 ~~2707(e) may be combined with:~~

1 ~~(i) The research and development income tax credits~~
2 ~~authorized under § 15-4-2708(b); and~~

3 ~~(ii) Either the:~~

4 ~~(a) Investment tax credit program authorized~~
5 ~~under § 15-4-2706(b)(7); or~~

6 ~~(b) Sales and use tax refund program~~
7 ~~authorized under § 15-4-2706(e);~~

8 ~~(D) The payroll income tax credit authorized under § 15-4-~~
9 ~~2709 may be combined with:~~

10 ~~(i) The research and development income tax credits~~
11 ~~authorized under § 15-4-2708(b); and~~

12 ~~(ii) Either the:~~

13 ~~(a) Investment tax credit authorized under §~~
14 ~~15-4-2706(b)(7); or~~

15 ~~(b) Sales and use tax refund program~~
16 ~~authorized under § 15-4-2706(e); and~~

17 ~~(E) The research and development income tax credits~~
18 ~~authorized under § 15-4-2708(b) may be combined with:~~

19 ~~(i) Either the:~~

20 ~~(a) Payroll rebate program authorized under §~~
21 ~~15-4-2707(e); or~~

22 ~~(b) Payroll tax credit program authorized~~
23 ~~under § 15-4-2709; and~~

24 ~~(ii) Either the:~~

25 ~~(a) Investment tax credit program authorized~~
26 ~~under § 15-4-2706(b)(7); or~~

27 ~~(b) Sales and use tax refund program~~
28 ~~authorized under § 15-4-2706(e).~~

29 ~~(3) The investment tax credit authorized in § 15-4-2706(b) shall~~
30 ~~not be combined with the sales and use tax credit authorized in § 15-4-~~
31 ~~2706(e) for the same project.~~

32 ~~(4) The job-creation tax credit authorized in § 15-4-2705 shall~~
33 ~~not be combined with the payroll rebate program authorized in § 15-4-2707.~~

34 ~~(5) The investment tax credit authorized in § 15-4-2706(b) shall~~
35 ~~not be combined with the sales and use tax refund authorized in § 15-4-~~
36 ~~2706(d) for the same project.~~

1 ~~(6)~~(2) The investment tax credit authorized under § 15-4-2706(b)
2 shall not be combined with the sales and use tax credit authorized under §
3 15-4-2706(c) for the same project.

4 (c) The following are discretionary incentives and are not available
5 unless offered by the Arkansas Economic Development Commission:

6 (1) The payroll rebate program authorized in § 15-4-2707;

7 (2) ~~The job creation tax credit authorized in § 15-4-2709;~~

8 ~~(3) The investment tax credit authorized in § 15-4-2706(b); and~~

9 ~~(4) The sales and use tax refund authorized in § 15-4-2706(e);~~

10 and

11 ~~(5)~~(3) The research and development tax credits authorized in §
12 ~~15-4-2708(a)-(e)~~ 15-4-2708(a) and (b).

13
14 SECTION 13. Arkansas Code Title 15, Chapter 4, Subchapter 35, is
15 repealed.

16 ~~Subchapter 35 — Incentives for Major Maintenance and Improvement Projects~~

17
18 ~~15-4-3501. Increased tax refund for major maintenance and improvement~~
19 ~~projects.~~

20 ~~(a) A taxpayer that is eligible for a refund of excise taxes under §~~
21 ~~26-52-447 or § 26-53-149 is eligible for a refund of one hundred percent~~
22 ~~(100%) of the sales and use taxes levied in §§ 26-52-301, 26-52-302, 26-53-~~
23 ~~106, and 26-53-107 on the tangible personal property and services subject to~~
24 ~~§§ 26-52-447 and 26-53-149 for projects that meet the following requirements:~~

25 ~~(1) The taxpayer has entered into a financial incentive~~
26 ~~agreement with the Arkansas Economic Development Commission for the project;~~
27 and

28 ~~(2) The taxpayer expends at least three million dollars~~
29 ~~(\$3,000,000) on an approved project that includes the purchase of tangible~~
30 ~~personal property and services that are either exempt or subject to a partial~~
31 ~~refund of tax under § 26-52-402, § 26-52-447, § 26-53-114, or § 26-53-149.~~

32 ~~(b) A taxpayer shall file with the commission an application for the~~
33 ~~increased refund for major maintenance and improvement projects provided in~~
34 ~~this section.~~

35 ~~(c) The increased refund of sales and use taxes for major maintenance~~
36 ~~and improvement projects provided in this section is a discretionary~~

1 ~~incentive and is not available unless offered by the Director of the Arkansas~~
2 ~~Economic Development Commission.~~

3 ~~(d) The director shall forward the taxpayer's application, financial~~
4 ~~incentive agreement, any other pertinent documentation, and a written copy of~~
5 ~~the determination under this subsection to the Secretary of the Department of~~
6 ~~Finance and Administration if the director:~~

7 ~~(1) Determines that the taxpayer is eligible for the increased~~
8 ~~refund for major maintenance and improvement projects provided for in this~~
9 ~~section;~~

10 ~~(2) Determines that the taxpayer has provided reasonable proof~~
11 ~~that there will be a positive return on the taxpayer's investment in the~~
12 ~~major maintenance and improvement project that is sufficient to offset the~~
13 ~~taxes refunded under this section;~~

14 ~~(3) Determines that the taxpayer has provided a defined scope,~~
15 ~~beginning date, and ending date for the major maintenance and improvement~~
16 ~~project;~~

17 ~~(4) Determines that the refund is reasonably necessary for the~~
18 ~~taxpayer to remain competitive and preserve Arkansas jobs; and~~

19 ~~(5) Agrees to provide the incentive under this section.~~

20 ~~(e) A taxpayer that has been approved for the increased refund for~~
21 ~~major maintenance and improvement projects provided for in this section may~~
22 ~~make changes in a major maintenance and improvement project by written~~
23 ~~amendment to the project plan filed with the commission as part of the~~
24 ~~financial incentive agreement required under this section.~~

25 ~~(f) Except as otherwise provided in this section, a refund under this~~
26 ~~section is subject to the Arkansas Tax Procedure Act, § 26-18-101 et seq.,~~
27 ~~and the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., in the~~
28 ~~same manner as other refunds permitted under § 26-18-507.~~

29 ~~(g) An expenditure shall not qualify for both the increased refund for~~
30 ~~major maintenance and improvement projects under this section and the~~
31 ~~retention tax credit provided for in § 15-4-2706(c).~~

32 ~~(h) The director and the secretary may promulgate rules necessary to~~
33 ~~implement this section.~~

34 ~~(i)(1) A taxpayer may apply for an increased refund for major~~
35 ~~maintenance and improvement projects under this section through June 30,~~
36 ~~2022.~~

1 ~~(2) An application for an increased refund for major maintenance~~
 2 ~~and improvement projects under this section shall not be accepted on or after~~
 3 ~~July 1, 2022.~~

4
 5 SECTION 14. Arkansas Code § 19-5-1097 is repealed.

6 ~~19-5-1097. Public Roads Incentive Fund.~~

7 ~~(a) There is established on the books of the Treasurer of State, the~~
 8 ~~Auditor of State, and the Chief Fiscal Officer of the State a fund to be~~
 9 ~~known as the "Public Roads Incentive Fund" of the Arkansas Economic~~
 10 ~~Development Council.~~

11 ~~(b) The fund shall consist of contributions made by taxpayers for~~
 12 ~~public roads projects approved by the Director of the Arkansas Economic~~
 13 ~~Development Commission and any other funds as are designated or deposited~~
 14 ~~into the fund by law.~~

15 ~~(c)(1) A separate account shall be established for each project, and~~
 16 ~~contributions for a project shall be applied to provide funding assistance~~
 17 ~~for that project.~~

18 ~~(2) Any contributions which remain in the fund when a project is~~
 19 ~~completed or terminated shall be held and applied to other public roads~~
 20 ~~projects in such manner as the director shall direct.~~

21
 22 SECTION 15. Arkansas Code Title 26, Chapter 51, Subchapter 11, is
 23 repealed.

24 ~~Subchapter 11—Donations or Sales of Equipment to Educational Institutions~~

25
 26 ~~26-51-1101. Definitions.~~

27 ~~As used in this subchapter:~~

28 ~~(1) "Accredited institution of higher education" means a four-~~
 29 ~~year public college or university that offers bachelor's degrees and is~~
 30 ~~recognized by the Division of Higher Education for credit;~~

31 ~~(2) "Cost" means:~~

32 ~~(A) In the case of a donation or sale below cost by a~~
 33 ~~wholesale or retail business, the amount actually paid by the wholesaler or~~
 34 ~~retailer to the supplier for the machinery and equipment;~~

35 ~~(B) In the case of a donation or sale below cost by a~~
 36 ~~manufacturer of machinery and equipment, the enhanced value of the materials~~

1 ~~used to produce the machinery and equipment, which shall be deemed to be the~~
2 ~~lowest price at which the manufacturer sells the machinery and equipment; or~~

3 ~~(C) In the case of a cash donation by a taxpayer to a~~
4 ~~qualified educational institution for the purchase of new machinery and~~
5 ~~equipment, the amount actually paid by the qualified educational institution~~
6 ~~to the wholesale, retail, or manufacturing business, as documented by~~
7 ~~itemized receipts;~~

8 ~~(3) "Machinery and equipment" means tangible personal property~~
9 ~~used in connection with a qualified education program or a qualified research~~
10 ~~program that has been approved for a tax credit under rules prescribed by the~~
11 ~~Department of Finance and Administration;~~

12 ~~(4) "New" means the machinery and equipment are state-of-the-art~~
13 ~~machinery and equipment that have:~~

14 ~~(A) Never been used except for normal testing by the~~
15 ~~manufacturer to ensure that the machinery or equipment is of a proper quality~~
16 ~~and in good working order; or~~

17 ~~(B) Been used by the retailer or wholesaler solely for the~~
18 ~~purpose of demonstrating the product to customers for sale;~~

19 ~~(5) "Qualified education program" means a program conducted by a~~
20 ~~qualified educational institution under rules prescribed by the Division of~~
21 ~~Higher Education for programs in colleges, universities, or junior colleges,~~
22 ~~by the Division of Career and Technical Education for programs in vocational~~
23 ~~technical training schools and by the Division of Elementary and Secondary~~
24 ~~Education for programs in secondary schools, all of which programs are for~~
25 ~~the purpose of promoting the use of new machinery and equipment for~~
26 ~~classroom, laboratory, and other educational instruction;~~

27 ~~(6) "Qualified educational institution" means:~~

28 ~~(A) A public university, college, junior college, or~~
29 ~~vocational technical training school located in and supported by the State of~~
30 ~~Arkansas;~~

31 ~~(B) A private university, college, junior college, or~~
32 ~~vocational technical training school located in Arkansas and qualified for~~
33 ~~tax exempt status under the Income Tax Act of 1929, § 26-51-101 et seq.; and~~

34 ~~(C) A public secondary school;~~

35 ~~(7) "Qualified research expenditures" means the sum of any~~
36 ~~amounts that are paid or incurred by a taxpayer during the taxable year in~~

1 ~~funding a qualified research program that has been approved for tax credit~~
 2 ~~treatment under rules promulgated by the Department of Finance and~~
 3 ~~Administration;~~

4 ~~(8) "Qualified research program" means a program of applied or~~
 5 ~~basic research undertaken by a qualified educational institution under rules~~
 6 ~~jointly promulgated by the Director of the Arkansas Economic Development~~
 7 ~~Commission and the Division of Higher Education under § 15-3-110;~~

8 ~~(9) "Research park authority" means a public entity created~~
 9 ~~under the Research Park Authority Act, § 14-144-101 et seq., to provide~~
 10 ~~facilities and support for businesses engaged in research and development in~~
 11 ~~pursuit of economic development opportunities; and~~

12 ~~(10) "State-of-the-art machinery and equipment" means machinery~~
 13 ~~and equipment that are of the same type, design, and capability as like~~
 14 ~~machinery and equipment that are currently sold or manufactured by the donee~~
 15 ~~for sale to customers.~~

16
 17 ~~26-51-1102. Credit granted.~~

18 ~~(a)(1) There is granted a credit against a taxpayer's Arkansas~~
 19 ~~corporate income tax or Arkansas individual income tax for the following~~
 20 ~~types of donations or sales, or both, of new machinery and equipment to a~~
 21 ~~qualified educational institution in connection with a qualified education~~
 22 ~~program or a qualified research program:~~

23 ~~(A) Donations of new machinery and equipment;~~

24 ~~(B) Sales below cost of machinery and equipment; and~~

25 ~~(C) Cash donations for the purchase of new machinery and~~
 26 ~~equipment by a qualified educational institution.~~

27 ~~(2) The amount of the credit granted by this section shall be:~~

28 ~~(A) In the case of a donation, thirty three percent (33%)~~
 29 ~~of the cost of the machinery and equipment donated;~~

30 ~~(B) In the case of a sale below cost, thirty three percent~~
 31 ~~(33%) of the amount by which the cost is reduced; and~~

32 ~~(C) In the case of a cash donation, thirty three percent~~
 33 ~~(33%) of the amount of the cash donation used by the qualified educational~~
 34 ~~institution to purchase new machinery and equipment from a wholesale, retail,~~
 35 ~~or manufacturing business.~~

36 ~~(b) There is granted a credit against a taxpayer's Arkansas corporate~~

1 ~~income tax or Arkansas individual income tax equal to thirty three percent~~
2 ~~(33%) of the qualified research expenditures of a taxpayer in qualified~~
3 ~~research programs.~~

4 ~~(c)(1) There is granted a credit against a taxpayer's Arkansas~~
5 ~~corporate income tax or Arkansas individual income tax equal to thirty three~~
6 ~~percent (33%) of a donation made to an accredited institution of higher~~
7 ~~education to support a research park authority.~~

8 ~~(2) In order to claim this credit authorized by subdivision~~
9 ~~(c)(1) of this section, a donation made in support of a research park~~
10 ~~authority shall:~~

11 ~~(A) Be consistent with the research and development plan~~
12 ~~approved by the Director of the Arkansas Economic Development Commission with~~
13 ~~the advice of the Board of Directors of the Division of Science and~~
14 ~~Technology of the Arkansas Economic Development Commission, as evidenced by a~~
15 ~~letter of support from the director; and~~

16 ~~(B) Support either directly or indirectly research subject~~
17 ~~to being funded by one (1) or more federal agencies, as enumerated in § 15-3-~~
18 ~~205(1).~~

19
20 ~~26-51-1103. Limit on total credit.~~

21 ~~(a) Total credits for qualified research expenditures, donations, and~~
22 ~~sales under this subchapter shall be allowed up to one hundred percent (100%)~~
23 ~~of the net tax liability of the taxpayer after all other credits and~~
24 ~~reductions in tax have been calculated.~~

25 ~~(b) The credit shall be claimed in the tax year of the qualified~~
26 ~~research expenditure, donation, or sale. However, all or part of any unused~~
27 ~~credit may be carried over to and claimed in succeeding tax years until the~~
28 ~~credits are exhausted or until the end of the nine (9) tax years succeeding~~
29 ~~the tax year of the qualified research expenditure, donation, or sale,~~
30 ~~whichever occurs earlier. In no event shall a taxpayer claim a credit under~~
31 ~~this subchapter for any tax year in excess of one hundred percent (100%) of~~
32 ~~the net tax due after all other credits and reductions in tax have been~~
33 ~~calculated.~~

34 ~~(c) Any person claiming any credit granted by this subchapter for any~~
35 ~~expense or contribution shall not take any deduction under the Arkansas~~
36 ~~income tax law for the same expense or contribution.~~

1
2 ~~26 51 1104. Documentation required.~~

3 ~~(a) To claim the credit granted by § 26 51 1102, the taxpayer shall~~
4 ~~provide the following for each piece of machinery and equipment donated, sold~~
5 ~~below cost, or purchased by a qualified educational institution with a cash~~
6 ~~donation:~~

7 ~~(1) An affidavit from the receiving qualified educational~~
8 ~~institution that:~~

9 ~~(A) The qualified educational institution has received the~~
10 ~~machinery and equipment;~~

11 ~~(B) The machinery and equipment is new machinery and~~
12 ~~equipment within the meaning of this subchapter;~~

13 ~~(C) The qualified educational institution received the~~
14 ~~machinery and equipment as a donation or, if the qualified educational~~
15 ~~institution purchased the machinery and equipment, a statement of the amount~~
16 ~~paid for the machinery and equipment; and~~

17 ~~(D) The machinery and equipment has been donated,~~
18 ~~purchased by the qualified educational institution with a cash donation~~
19 ~~provided by a taxpayer, or sold to the qualified educational institution for~~
20 ~~use in a qualified education program or a qualified research program; and~~

21 ~~(2)(A) In the case of a donation or sale by a retail or~~
22 ~~wholesale business, a copy of the invoice from the business' supplier showing~~
23 ~~the actual cost of the machinery and equipment.~~

24 ~~(B) In the case of a donation or sale below cost by a~~
25 ~~manufacturer, a copy of the manufacturer's wholesale price list showing the~~
26 ~~lowest price of the machinery and equipment for which credit is claimed.~~

27 ~~(C) In the case of a purchase by a qualified educational~~
28 ~~institution with a cash donation, itemized receipts documenting the amount of~~
29 ~~the cash donation and the purchase costs of the new machinery and equipment.~~

30 ~~(b) To claim the credit granted by § 26 51 1102, the taxpayer shall~~
31 ~~show that the Director of the Arkansas Economic Development Commission and~~
32 ~~the Commissioner of the Division of Higher Education have approved the~~
33 ~~qualified research expenditure as a part of a qualified research program.~~

34 ~~(c) Copies of each of the above documents shall be filed by the~~
35 ~~taxpayer with the Arkansas Economic Development Commission and with his or~~
36 ~~her return as an attachment to the form prescribed by the Secretary of the~~

1 ~~Department of Finance and Administration.~~

2
3 ~~26-51-1105. Rules.~~

4 ~~The Secretary of the Department of Finance and Administration, the~~
5 ~~Commissioner of the Division of Higher Education, the Director of the~~
6 ~~Division of Career and Technical Education, the Secretary of the Department~~
7 ~~of Education, and the Director of the Arkansas Economic Development~~
8 ~~Commission shall jointly promulgate rules to carry out the purposes of this~~
9 ~~subchapter.~~

10
11 ~~26-51-1106. Application for credit approval.~~

12 ~~(a) To apply for a credit under this subchapter, a taxpayer shall~~
13 ~~submit an original application and one (1) copy to the Director of the~~
14 ~~Arkansas Economic Development Commission on the forms prescribed by the~~
15 ~~director.~~

16 ~~(b) The director shall review each application submitted under this~~
17 ~~subchapter and shall either:~~

18 ~~(1) Approve the application; or~~

19 ~~(2) Reject the application and notify the applicant of the~~
20 ~~deficiencies in the application.~~

21 ~~(c) An applicant that receives approval from the director under this~~
22 ~~section shall sign a financial incentive agreement outlining the terms and~~
23 ~~conditions of the credit granted under this subchapter.~~

24 ~~(d) An applicant may resubmit a rejected application after addressing~~
25 ~~any deficiencies identified by the director.~~

26 ~~(e) For an application submitted on or after July 24, 2019, an~~
27 ~~expenditure incurred before the approval date of the financial incentive~~
28 ~~agreement required under subsection (b) of this section shall be denied a~~
29 ~~credit under this subchapter.~~

30
31 SECTION 16. Arkansas Code § 26-52-402(c)(2)(C)(ii), concerning the
32 items not included in the definition of machinery and equipment “used
33 directly” in the manufacturing process for purposes of the sales tax
34 exemption for certain machinery and equipment, is amended to read as follows:

35 ~~(ii) Except as provided in §§ 26-52-447 and 26-53-~~
36 ~~149, machinery Machinery, equipment, and tools used in maintaining and~~

1 repairing any type of machinery and equipment;

2
3 SECTION 17. Arkansas Code § 26-52-447 is repealed.

4 ~~26-52-447. Partial replacement and repair of certain machinery and~~
5 ~~equipment—Definitions.~~

6 ~~(a) The taxes levied under §§ 26-52-301 and 26-52-302 on the gross~~
7 ~~receipts or gross proceeds from the sale of the following are subject to a~~
8 ~~refund or exemption as provided in this section:~~

9 ~~(1) Machinery and equipment purchased to modify, replace,~~
10 ~~repair, or maintain, either in whole or in part, existing machinery or~~
11 ~~equipment used directly in producing, manufacturing, fabricating, assembling,~~
12 ~~processing, finishing, or packaging articles of commerce at a manufacturing~~
13 ~~or processing plant or facility in this state;~~

14 ~~(2) Service relating to the initial installation, alteration,~~
15 ~~addition, cleaning, refinishing, replacement, or repair of machinery or~~
16 ~~equipment described in subdivision (a)(1) of this section;~~

17 ~~(3) Machinery and equipment purchased to modify, replace, or~~
18 ~~repair, either in whole or in part, existing molds and dies used directly in~~
19 ~~producing, manufacturing, fabricating, assembling, processing, finishing, or~~
20 ~~packaging articles of commerce at a manufacturing or processing plant or~~
21 ~~facility in this state; and~~

22 ~~(4)(A) Except as provided in subdivision (a)(4)(B) of this~~
23 ~~section, machinery and equipment purchased for use or possible use by a~~
24 ~~taxpayer for a purpose described in subdivisions (a)(1)–(3) of this section~~
25 ~~and placed in inventory for later use by the taxpayer for a purpose described~~
26 ~~in subdivisions (a)(1)–(3) of this section.~~

27 ~~(B)(i) As used in this subdivision (a)(4)(B), “withdrawal~~
28 ~~from inventory” means the withdrawal or use of machinery or equipment held~~
29 ~~under subdivision (a)(4)(A) of this section by a taxpayer for a purpose that~~
30 ~~does not qualify for an exemption under this section or any other applicable~~
31 ~~exemption at the time of the withdrawal from inventory.~~

32 ~~(ii) A withdrawal from inventory is not eligible for~~
33 ~~the exemption provided under this section.~~

34 ~~(iii) For purposes of calculating the gross receipts~~
35 ~~tax under subdivision (a)(4)(B)(iv) of this section, the gross receipts or~~
36 ~~gross proceeds for a withdrawal from inventory is the purchase price of the~~

1 ~~machinery or equipment withdrawn.~~

2 ~~(iv) Tax is due on a withdrawal from inventory at~~
 3 ~~the time the withdrawal from inventory occurs.~~

4 ~~(b)(1) Beginning July 1, 2014, the taxes levied under §§ 26 52 301 and~~
 5 ~~26 52 302 that are subject to a refund under this section are the taxes in~~
 6 ~~excess of four and seven eighths percent (4.875%).~~

7 ~~(2) The taxes levied under §§ 26 52 301 and 26 52 302 that are~~
 8 ~~subject to a refund under this section are the taxes in excess of the~~
 9 ~~following rates:~~

10 ~~(A) Beginning July 1, 2018, three and seven eighths~~
 11 ~~percent (3.875%);~~

12 ~~(B) Beginning July 1, 2019, two and seven eighths percent~~
 13 ~~(2.875%);~~

14 ~~(C) Beginning July 1, 2020, one and seven eighths percent~~
 15 ~~(1.875%); and~~

16 ~~(D) Beginning July 1, 2021, seven eighths percent~~
 17 ~~(0.875%).~~

18 ~~(3) Beginning July 1, 2022, sales qualifying for the tax refund~~
 19 ~~under this section are exempt from the taxes levied under this chapter.~~

20 ~~(c) The excise tax of one eighth of one percent (0.125%) levied in~~
 21 ~~Arkansas Constitution, Amendment 75, the temporary excise tax of one half~~
 22 ~~percent (0.5%) levied in Arkansas Constitution, Amendment 91, and the excise~~
 23 ~~tax of one half percent (0.5%) levied in Arkansas Constitution, Amendment~~
 24 ~~101, are not subject to refund under this section.~~

25 ~~(d) As used in this section:~~

26 ~~(1) "Manufacturing" or "processing" means the same as defined~~
 27 ~~under § 26 52 402(b) and includes activities described in subsection (a) of~~
 28 ~~this section, both independently and collectively; and~~

29 ~~(2) "Used directly" means the same as defined under § 26 52-~~
 30 ~~402(c).~~

31 ~~(e) All existing excise tax exemptions, including without limitation~~
 32 ~~exemptions under §§ 26 52 402 and 26 53 114, remain in full force and effect~~
 33 ~~and are not limited by this section.~~

34 ~~(f) A taxpayer may claim the benefit of the tax refund under this~~
 35 ~~section only by using one (1) of the following methods:~~

36 ~~(1)(A) Both:~~

1 ~~(i) Obtaining a direct pay or a limited direct pay~~
2 ~~sales and use tax permit from the Department of Finance and Administration;~~
3 ~~and~~

4 ~~(ii) Self refunding:~~

5 ~~(a) At the time the taxpayer files his or her~~
6 ~~original sales and use tax report; or~~

7 ~~(b) By later filing an amended sales or use~~
8 ~~tax report with the department.~~

9 ~~(B) The statutes of limitation stated in § 26-18-306 apply~~
10 ~~to claims made under this subdivision (f)(1).~~

11 ~~(C) Interest shall not accrue or be paid on a refund~~
12 ~~claimed under this subdivision (f)(1); or~~

13 ~~(2)(A) Beginning July 1, 2018, for a taxpayer that does not hold~~
14 ~~a direct pay or limited direct pay permit, holds an active Arkansas sales and~~
15 ~~use tax permit, and files sales and use tax reports with the department,~~
16 ~~filing a claim for a credit or rebate with the department.~~

17 ~~(B)(i) The credit or rebate authorized under this~~
18 ~~subdivision (f)(2) shall be obtained only by offsetting the amount of the~~
19 ~~claimed credit or rebate against the state tax to be remitted with the~~
20 ~~taxpayer's sales and use tax reports.~~

21 ~~(ii) If the total amount of the credit or rebate~~
22 ~~authorized under this subdivision (f)(2) is greater than the amount of the~~
23 ~~state tax to be remitted with the taxpayer's sales and use tax reports, the~~
24 ~~taxpayer is entitled to a refund of the difference between the amount of the~~
25 ~~tax owed and the amount of the credit or rebate authorized under this~~
26 ~~subdivision (f)(2).~~

27 ~~(C) A taxpayer claiming a credit or rebate under this~~
28 ~~subdivision (f)(2) shall electronically file all sales and use tax reports.~~

29 ~~(D) A claim for credit or rebate under this subdivision~~
30 ~~(f)(2) shall not be paid for a claim filed more than one (1) year following~~
31 ~~the date of the qualifying sale or more than one (1) year following the date~~
32 ~~of payment, whichever is later.~~

33 ~~(E) Interest shall not accrue or be paid on an amount~~
34 ~~subject to a claim for a credit or rebate under this subdivision (f)(2).~~

35 ~~(g) A claim for a credit or rebate shall not be paid under subdivision~~
36 ~~(f)(2) of this section for a sale made before July 1, 2018.~~

1 ~~(h) A taxpayer shall not claim the benefit of the refund under this~~
 2 ~~section by filing a verified claim for refund with the department.~~

3 ~~(i) The following provisions of the Arkansas Tax Procedure Act, § 26-~~
 4 ~~18-101 et seq., apply to claims for a refund under this section:~~

5 ~~(1) The time limitations that apply to claims for a refund of an~~
 6 ~~overpayment of state tax; and~~

7 ~~(2) The procedures that apply to the disallowance or proposed~~
 8 ~~disallowance of claims for a refund.~~

9
 10 SECTION 18. Arkansas Code § 26-52-509(a), concerning the direct
 11 payment of sales tax by a consumer or user, is amended to read as follows:

12 (a)(1) The Secretary of the Department of Finance and Administration
 13 by agreement with any consumer or user may:

14 ~~(A) Permit~~ permit a consumer or user under the agreement
 15 to accrue and remit gross receipts taxes directly to the Department of
 16 Finance and Administration, instead of the taxes being collected and paid by
 17 the seller under § 26-52-508; ~~and~~

18 ~~(B)(i) Issue limited direct pay authority to permit a user~~
 19 ~~or consumer to accrue and remit gross receipts and compensating use taxes on~~
 20 ~~purchases that include eligible purchases.~~

21 ~~(ii)(a) A limited direct pay agreement permits a~~
 22 ~~consumer or user to accrue and remit gross receipts and compensating use~~
 23 ~~taxes on purchases that include eligible purchases.~~

24 ~~(b) As used in this section, "eligible~~
 25 ~~purchases" means property or services subject to a refund of tax under §§ 26-~~
 26 ~~52-447 and 26-53-149.~~

27 ~~(iii)(a) A limited direct pay agreement is available~~
 28 ~~only to a person eligible for a refund of tax under §§ 26-52-447 and 26-53-~~
 29 ~~149.~~

30 ~~(b) A person holding a limited direct pay~~
 31 ~~permit shall use the permit only to make purchases that include eligible~~
 32 ~~purchases.~~

33 (2)(A) ~~A seller that receives a claim for exemption from a~~
 34 ~~customer based on a limited direct pay permit shall not collect and remit~~
 35 ~~gross receipts or compensating use taxes on purchases that include eligible~~
 36 ~~purchases made by a person holding a limited direct pay permit.~~

1 ~~(B) However, if a seller collects and remits gross~~
2 ~~receipts or compensating use taxes on eligible purchases from a person~~
3 ~~holding a limited direct pay permit, a refund may be obtained under § 26-18-~~
4 ~~507.~~

5 ~~(3) A person who has entered into a limited direct pay agreement~~
6 ~~under this section and makes purchases of property or services under the~~
7 ~~authority of that agreement without paying the gross receipts or compensating~~
8 ~~use taxes due on those purchases is responsible for remitting the proper~~
9 ~~amount of tax due to the secretary as required by law.~~

10 ~~(4)(A) A seller shall collect and remit gross receipts and~~
11 ~~compensating use taxes on purchases made by a person holding a limited direct~~
12 ~~pay permit that are not eligible purchases.~~

13 ~~(B) If a seller relies on the limited direct pay permit~~
14 ~~and fails to properly collect tax on sales other than eligible purchases, the~~
15 ~~limited direct pay permit holder shall remit the proper amount of tax to the~~
16 ~~state as required under subdivision (a)(3) of this section.~~

17 ~~(5) This section does not eliminate the requirement that a~~
18 ~~consumer or user self-assess and remit compensating use tax under §§ 26-53-~~
19 ~~123 - 26-53-125.~~

20
21 SECTION 19. Arkansas Code § 26-53-149 is repealed.

22 ~~26-53-149. Partial replacement and repair of certain machinery and~~
23 ~~equipment—Definitions.~~

24 ~~(a) The taxes levied under §§ 26-53-106 and 26-53-107 on the privilege~~
25 ~~of storing, using, distributing, or consuming the following within this state~~
26 ~~are subject to a refund or exemption as provided in this section:~~

27 ~~(1) Machinery and equipment purchased to modify, replace,~~
28 ~~repair, or maintain, either in whole or in part, existing machinery or~~
29 ~~equipment used directly in producing, manufacturing, fabricating, assembling,~~
30 ~~processing, finishing, or packaging articles of commerce at a manufacturing~~
31 ~~or processing plant or facility in this state;~~

32 ~~(2) Service relating to the initial installation, alteration,~~
33 ~~addition, cleaning, refinishing, replacement, or repair of machinery or~~
34 ~~equipment described in subdivision (a)(1) of this section;~~

35 ~~(3) Machinery and equipment purchased to modify, replace, or~~
36 ~~repair, either in whole or in part, existing molds and dies used directly in~~

~~1 producing, manufacturing, fabricating, assembling, processing, finishing, or
2 packaging articles of commerce at a manufacturing or processing plant or
3 facility in this state; and~~

~~4 (4)(A) Except as provided in subdivision (a)(4)(B) of this
5 section, machinery and equipment purchased for use or possible use by a
6 taxpayer for a purpose described in subdivisions (a)(1) (3) of this section
7 and placed in inventory for later use by the taxpayer for a purpose described
8 in subdivisions (a)(1) (3) of this section.~~

~~9 (B)(i) As used in this subdivision (a)(4)(B), "withdrawal
10 from inventory" means the withdrawal or use of machinery or equipment held
11 under subdivision (a)(4)(A) of this section by a taxpayer for a purpose that
12 does not qualify for an exemption under this section or any other applicable
13 exemption at the time of the withdrawal from inventory.~~

~~14 (ii) A withdrawal from inventory is not eligible for
15 the exemption provided under this section.~~

~~16 (iii) For purposes of calculating the compensating
17 use tax under subdivision (a)(4)(B)(iv) of this section, the gross receipts
18 or gross proceeds for a withdrawal from inventory is the purchase price of
19 the machinery or equipment withdrawn.~~

~~20 (iv) Tax is due on a withdrawal from inventory at
21 the time the withdrawal from inventory occurs.~~

~~22 (b)(1) Beginning July 1, 2014, the taxes levied under §§ 26-53-106 and
23 26-53-107 that are subject to a refund under this section are the taxes in
24 excess of four and seven eighths percent (4.875%).~~

~~25 (2) The taxes levied under §§ 26-53-106 and 26-53-107 that are
26 subject to a refund under this section are the taxes in excess of the
27 following rates:~~

~~28 (A) Beginning July 1, 2018, three and seven eighths
29 percent (3.875%);~~

~~30 (B) Beginning July 1, 2019, two and seven eighths percent
31 (2.875%);~~

~~32 (C) Beginning July 1, 2020, one and seven eighths percent
33 (1.875%); and~~

~~34 (D) Beginning July 1, 2021, seven eighths percent
35 (0.875%).~~

~~36 (3) Beginning July 1, 2022, purchases qualifying for the tax~~

1 ~~refund under this section are exempt from the taxes levied under this~~
2 ~~chapter.~~

3 ~~(c) The excise tax of one eighth of one percent (0.125%) levied in~~
4 ~~Arkansas Constitution, Amendment 75, the temporary excise tax of one half~~
5 ~~percent (0.5%) levied in Arkansas Constitution, Amendment 91, and the excise~~
6 ~~tax of one half percent (0.5%) levied in Arkansas Constitution, Amendment~~
7 ~~101, are not subject to refund under this section.~~

8 ~~(d) As used in this section:~~

9 ~~(1) "Manufacturing" or "processing" means the same as defined~~
10 ~~under § 26-53-114(b) and includes activities described in subsection (a) of~~
11 ~~this section, both independently and collectively; and~~

12 ~~(2) "Used directly" means the same as defined under § 26-53-~~
13 ~~114(e).~~

14 ~~(e) All existing excise tax exemptions, including without limitation~~
15 ~~exemptions under §§ 26-52-402 and 26-53-114, remain in full force and effect~~
16 ~~and are not limited by this section.~~

17 ~~(f) A taxpayer may claim the benefit of the tax refund under this~~
18 ~~section only by using one (1) of the following methods:~~

19 ~~(1)(A) Both:~~

20 ~~(i) Obtaining a direct pay or a limited direct pay~~
21 ~~sales and use tax permit from the Department of Finance and Administration;~~
22 ~~and~~

23 ~~(ii) Self-refunding:~~

24 ~~(a) At the time the taxpayer files his or her~~
25 ~~original sales and use tax report; or~~

26 ~~(b) By later filing an amended sales or use~~
27 ~~tax report with the department.~~

28 ~~(B) The statutes of limitation stated in § 26-18-306 apply~~
29 ~~to claims made under this subdivision (f)(1).~~

30 ~~(C) Interest shall not accrue or be paid on a refund~~
31 ~~claimed under this subdivision (f)(1); or~~

32 ~~(2)(A) Beginning July 1, 2018, for a taxpayer that does not hold~~
33 ~~a direct pay or limited direct pay permit, holds an active Arkansas sales and~~
34 ~~use tax permit, and files sales and use tax reports with the department,~~
35 ~~filing a claim for the credit or rebate with the department.~~

36 ~~(B)(i) The credit or rebate authorized under this~~

~~subdivision (f)(2) shall be obtained only by offsetting the amount of the claimed credit or rebate against the state tax to be remitted with the taxpayer's sales and use tax reports.~~

~~(ii) If the total amount of the credit or rebate authorized under this subdivision (f)(2) is greater than the amount of the state tax to be remitted with the taxpayer's sales and use tax reports, the taxpayer is entitled to a refund of the difference between the amount of the tax owed and the amount of the credit or rebate authorized under this subdivision (f)(2).~~

~~(C) A taxpayer claiming a credit or rebate under this subdivision (f)(2) shall electronically file all sales and use tax reports.~~

~~(D) A claim for credit or rebate under this subdivision (f)(2) shall not be paid for a claim filed more than one (1) year following the date of the qualifying purchase or more than one (1) year following the date of payment, whichever is later.~~

~~(E) Interest shall not accrue or be paid on an amount subject to a claim for a credit or rebate under this subdivision (f)(2).~~

~~(g) A claim for a credit or rebate shall not be paid under subdivision (f)(2) of this section for a purchase made before July 1, 2018.~~

~~(h) A taxpayer shall not claim the benefit of the refund under this section by filing a verified claim for refund with the department.~~

~~(i) The following provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq., apply to claims for a refund under this section:~~

~~(1) The time limitations that apply to claims for a refund of an overpayment of state tax; and~~

~~(2) The procedures that apply to the disallowance or proposed disallowance of claims for a refund.~~

SECTION 20. EFFECTIVE DATE. Sections 1-19 of this act are effective on and after October 1, 2025.