State of Arkansas
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A Bill
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HOUSE BILL 2081

By: Representative Dunn

For An Act To Be Entitled

AN ACT TO REPEAL CERTAIN TAX CREDITS FOR BIOTECHNOLOGY AND ADVANCED FUELS; TO REPEAL THE ARKANSAS EMERGING TECHNOLOGY DEVELOPMENT ACT OF 1999; TO AMEND THE CONSOLIDATED INCENTIVE ACT OF 2003; TO ADDRESS ELIGIBLE BUSINESSES; TO ESTABLISH A TIME FRAME FOR MEETING ELIGIBILITY; TO LIMIT THE ABILITY TO COMBINE INCENTIVES; AND FOR OTHER PURPOSES.

Subtitle

TO REPEAL CERTAIN TAX CREDITS FOR BIOTECHNOLOGY AND ADVANCED FUELS; TO REPEAL THE ARKANSAS EMERGING TECHNOLOGY DEVELOPMENT ACT OF 1999; AND TO AMEND THE CONSOLIDATED INCENTIVE ACT OF 2003.

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

SECTION 1. Arkansas Code Title 2, Chapter 8, Subchapter 1 is repealed.

~~2-8-101. Legislative findings.~~

~~(a) Agriculture and economic development are dependent on biotechnology, which affects every Arkansas farmer from the smallest tomato grower to the largest poultry producer. Furthermore, intellectual property developed at Arkansas' state-supported colleges and universities is being exported to other states for exploitation. Development of biotechnology in Arkansas is required for the state's medical, agricultural, and other~~

~~industries to remain competitive in the twenty-first century.~~

~~(b) Biotechnology develops uses of biochemistry, molecular biology, genetics, and bioengineering to meet the needs of agriculture, aquaculture, forestry, energy, and environmental industries, as well as develops products useful for modern medicine and pharmaceuticals. Biotechnology provides high-paying jobs and develops high value-added products which require an educated workforce with advanced technical skills. Moreover, the growth of the biotechnology industry in agriculture and other areas will enable Arkansas to maintain a competitive advantage in the marketplace.~~

~~(c) The General Assembly finds that the biotechnology industry is at a competitive disadvantage compared to other industries in Arkansas. The biotechnology industry takes a longer period than other companies between research, product development, and marketing. Therefore, it is determined and declared that research, development, and education in biotechnology are within the public interest.~~

~~(d) It is further determined and declared that it is in the best interest of the state to encourage the manufacturing of products derived from biotechnology.~~

~~2-8-102. Definitions.~~

~~As used in this chapter:~~

~~(1) "Advanced biofuels" means ethanol, methanol, or any derivatives thereof, which are produced through biological means other than direct fermentation of a food crop;~~

~~(2) "Advanced biofuels facilities" means the buildings and equipment necessary to produce advanced biofuels;~~

~~(3)(A) "Base year qualified research costs" means the costs of qualified research for the 1996 tax year.~~

~~(B) For any new taxpayer or taxpayer not required to file an Arkansas tax return in 1996, the base year qualified research costs shall be zero dollars ($0);~~

~~(4) "Biomass" means any organic material, including solid waste but excluding oil, natural gas, coal and lignite, or any other product thereof;~~

~~(5) "Biotechnology" means the uses of biochemistry, molecular biology, genetics, and bioengineering to meet the needs of agriculture,~~

~~aquaculture, forestry, energy, and environmental industries, as well as developing products useful for modern medicine, veterinary science, and pharmaceuticals;~~

~~(6) "Biotechnology facilities" means facilities and equipment required to carry out qualified research;~~

~~(7) "Cost" means expenditures on or after the tax year beginning January 1, 1997, and incurred after certification by the Director of the Arkansas Economic Development Commission that the company qualifies for incentives under this chapter:~~

~~(A) In the case of biotechnology facilities and advanced biofuels facilities, all activities and costs associated with site, construction, expansion, improvement, renovation, or purchase of such facilities, including costs incurred in the purchase and installation of equipment, and support infrastructure;~~

~~(B) For the purpose of higher education partnerships, costs and expenses of conducting qualified research through a cooperative research project with one (1) or more state-supported institutions of higher education in Arkansas for the conduct of qualified research;~~

~~(C)(i) For the purpose of training, costs shall be limited to:~~

~~(a) A six-month period of training at the facility; or~~

~~(b) The cost of tuition, books, and fees for a program of secondary, undergraduate, or postgraduate education in an accredited institution of higher learning.~~

~~(ii) The costs associated with subdivisions (7)(C)(i)(a) and (b) of this section eligible for the income tax credit shall not include salaries and wages of the employees being trained.~~

~~(iii) Total costs for training shall not exceed ten thousand dollars ($10,000) per employee;~~

~~(D) In the case of transfer of title or finance lease, the amount of the purchase price; or~~

~~(E) In the case of a lease which is not a finance lease but which otherwise qualifies as a purchase under this section, the amount of the lease payments due to be paid during the term of the lease after deducting any portion of the lease payments attributable to interest,~~

~~insurance, and taxes;~~

~~(8) "Credit year" means the tax year in which costs are incurred;~~

~~(9) "Finance lease" means a lease agreement which is treated as a purchase by a lessee for Arkansas income tax purposes;~~

~~(10) "Higher education partnership" means any cooperative research project defined by terms of a written agreement in which companies engaged in the business of biotechnology contract with state-supported institutions of higher learning in Arkansas for the conduct of qualified research;~~

~~(11) "Intellectual property" means patents, trade secrets, copyrights, and trademarks used in biotechnology;~~

~~(12) "Purchase" means a transaction under which title to an item is transferred for consideration or a lease contract for a period of at least three (3) years regardless of whether title to the item is transferred at the end of the period;~~

~~(13)(A)(i) "Qualified research" means scientific research and development in the field of biotechnology, including experimental or laboratory activity to develop new products, improve existing products, or develop new uses of products, but only to the extent that activity is conducted in Arkansas or is required by federal authorities to be conducted elsewhere.~~

~~(ii) Qualified research shall be performed primarily under laboratory, clinical, or field experimental conditions for the purpose of reducing a concept or idea to practice, or to advance a concept or idea or improvement thereon to the point of practical application.~~

~~(B) Qualified research does not include tests or inspection of materials or products for quality control, efficiency surveys, management studies, other market research, or any other ordinary and necessary expenses of conducting business;~~

~~(14) "Solid waste" means any garbage or sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, agricultural, residential, and other community activities, but does not include solid or dissolved materials in domestic sewage, or solid or~~

~~dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq.; and~~

~~(15) "Training" means employer-paid training within Arkansas that is necessary to prepare employees for work in biotechnology.~~

~~2-8-103. Tax credit for biotechnology facilities.~~

~~(a) There shall be allowed a credit against the income tax imposed by § 26-51-101 et seq. in an amount as determined in subsection (b) of this section for any Arkansas taxpayer for the cost of biotechnology facilities.~~

~~(b) The amount of the credit allowed shall be equal to five percent (5%) of the cost of such facility.~~

~~(c) The costs of service contracts, sales tax, and acquisition of undeveloped land shall not be included in determining the amount of the credit.~~

~~(d)(1) No income tax credit shall be claimed by any taxpayer for any facility or equipment which is in use on or before the certification of the company for tax credits or for which a tax credit was previously claimed by any other taxpayer for any other tax year.~~

~~(2) However, the provisions of this subsection shall not apply if any entity is sold and the entity is entitled to an income tax credit under this chapter.~~

~~2-8-104. Tax credit for biotechnology business activities.~~

~~(a) There shall be allowed a credit against the income tax imposed by § 26-51-101 et seq. in an amount as determined in subsection (b) of this section for any Arkansas taxpayer engaged in the business of biotechnology for the cost of:~~

~~(1) Training of employees; or~~

~~(2) Higher education partnerships.~~

~~(b) The amount of the credit allowed shall be equal to thirty percent (30%) of the cost of employee training or of the higher education partnerships.~~

~~2-8-105. Tax credit for biotechnology research.~~

~~(a) There shall be allowed a credit against the income tax imposed by § 26-51-101 et seq. in an amount as determined in subsection (b) of this section for any Arkansas taxpayer engaged in the business of biotechnology for the cost of qualified research in biotechnology, including, but not limited to, the cost of purchasing, licensing, developing, or protecting intellectual property.~~

~~(b) The amount of the credit allowed shall be twenty percent (20%) of the amount that the cost of qualified research exceeds the cost of such research in the base year.~~

~~2-8-106. Amount of credit — Eligibility.~~

~~(a) The income tax credits provided in this chapter shall be used to offset the first fifty thousand dollars ($50,000) of income tax liability arising during the credit year and fifty percent (50%) of any remaining income tax liability for the year. Any unused credit may be carried forward for a maximum of fourteen (14) taxable years after the credit year in which the credit originated.~~

~~(b) The taxpayer shall refund the amount of the income tax credit determined by subsection (c) of this section if within fourteen (14) years of the taxable year for which the credit is originated the Arkansas Economic Development Commission and the Department of Finance and Administration find that the taxpayer has ceased to qualify for tax credits under the provisions of this chapter.~~

~~(c)(1) In the event it is determined that any taxpayer receiving the benefits under this chapter has failed to comply with the conditions contained in this chapter, that taxpayer shall be liable for the payment of such additional income taxes as may be due after the income tax credits provided for in this chapter are disallowed, plus penalty and interest.~~

~~(2) In accordance with § 26-18-208(2)(B), there shall be added to the original tax due a penalty of one percent (1%) of the additional tax due for not more than one (1) month, with an additional one percent (1%) for each additional month or fraction thereof, from the original due date of the tax year in question until date of payment not to exceed thirty-five percent (35%) in the aggregate.~~

~~(3) In accordance with § 26-18-508, interest shall be assessed at ten percent (10%) per annum from the date the original tax would have been~~

~~due until date of payment.~~

~~(d) A taxpayer who receives a credit under this chapter for the purchase of machinery or equipment shall not be entitled to claim any other state or local tax credit or deduction based on the purchase of the machinery or equipment, except the deduction for normal depreciation.~~

~~2-8-107. Apportionment of credit.~~

~~(a) Under this chapter in the case of a proprietorship, partnership, or S corporation, the amount of credit determined shall be apportioned to each proprietor, partner, or S corporation shareholder in proportion to the amount of income from the entity which the proprietor, partner, or S corporation shareholder is required to include as gross income.~~

~~(b) In the case of an estate or trust:~~

~~(1) The amount of the credit determined for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each; and~~

~~(2) Any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to limitations contained in this chapter, to a credit under this chapter for that amount.~~

~~2-8-108. Certification — Regulations — Inspection.~~

~~(a) To claim the benefits of this chapter, a taxpayer must obtain certification from the Director of the Arkansas Economic Development Commission certifying to the Revenue Division of the Department of Finance and Administration that the taxpayer is engaged in qualified research in biotechnology or the manufacturing of advanced biofuels.~~

~~(b) The Arkansas Economic Development Commission, or its successor, shall promulgate regulations as necessary to administer this chapter. These rules or regulations may include, but are not limited to, the establishment of technical specifications and requirements for information and documentation for taxpayers seeking a credit under this chapter.~~

~~(c) In order to determine eligibility for the credit or to ensure that the facility or equipment is being utilized in the required manner, each agency shall have the right to inspect facilities and records of a taxpayer requesting or receiving a credit under this chapter.~~

~~2-8-109. Tax credit for advanced biofuels facility.~~

~~(a) There shall be allowed a credit against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., in an amount as determined in subsection (b) of this section for any Arkansas taxpayer engaged in the business of producing advanced biofuels for the cost of:~~

~~(1) Buildings;~~

~~(2) Equipment;~~

~~(3) Higher education partnerships; and~~

~~(4) Purchasing, licensing, or protecting intellectual property necessary to manufacture advanced biofuels.~~

~~(b) The amount of the credit allowed shall be equal to thirty percent (30%) of the cost of buildings, equipment, higher education partnerships and licenses for intellectual property necessary to manufacture advanced biofuels.~~

~~SECTION 2. Arkansas Code Title 15, Chapter 4, Subchapter 21 is repealed.~~

~~15-4-2101. Title.~~

~~This subchapter shall be known and may be cited as the "Arkansas Emerging Technology Development Act of 1999".~~

~~15-4-2102. Legislative findings.~~

~~(a) All sectors of the Arkansas economy, job creation potential, and the physical environment are driven by the flow of energy and the non-stop emergence of new technologies.~~

~~(b) Energy technology plays an essential role in the efficient consumption and wise utilization of energy resources, has dramatic impacts on all state and national economies, and can help to improve environmental conditions. These facts, along with the technical and economic conditions around the world, have resulted in the demand for improved energy technologies.~~

~~(c) Leading-edge energy technologies are being developed, demonstrated, and manufactured in other states in order to meet their own energy needs, as well as to support economic development by responding to the rapidly expanding world-wide export market for these technologies.~~

~~(d) Other emerging technologies are being developed, demonstrated, and~~

~~manufactured in other states in order to support economic development by responding to the emergence of new technologies and the rapidly expanding world-wide export market for such technologies.~~

~~(e) Arkansas has been slow to recognize the potential economic and technical benefits of these energy and other emerging technologies. Many of the emerging technologies are at the nanometer scale or nanoscale and are referred to collectively as nanotechnologies.~~

~~(f) Therefore, the General Assembly finds that it is in Arkansas' long-term interest to:~~

~~(1) Establish a foothold in the Arkansas economy for manufacturers of advanced energy and other emerging technologies that are magnets for capital investment and which spin off jobs that are characteristically knowledge-based; and~~

~~(2) Encourage the application of nanotechnology to:~~

~~(A) Biotechnology and agriculture;~~

~~(B) Manufacturing and materials;~~

~~(C) Medicine and health;~~

~~(D) Photonics;~~

~~(E) Nanoelectronics and computer technology;~~

~~(F) Environment and energy;~~

~~(G) Aeronautics and space; and~~

~~(H) National security.~~

~~15-4-2103. Definitions.~~

~~As used in this subchapter:~~

~~(1) "Electric-powered vehicle" may include vehicles powered only by electric batteries, vehicles powered by a combination of electric batteries and internal combustion engines, and vehicles powered by fuel cell equipment;~~

~~(2) "Electric vehicle equipment" means those products designed, manufactured, and produced as original equipment components and intended for express use in an electric-powered vehicle which may qualify for registration and licensure as a passenger vehicle by the State of Arkansas;~~

~~(3) "Fuel cells" means those products designed, manufactured, and produced to convert hydrocarbon fuel to heat and electricity by electrochemical means;~~

~~(4) "Microturbines" means one (1) megawatt or smaller, high-speed generator power plant that includes the turbine, compressor, and generator, all of which are on a single shaft, as well as the power electronics to deliver power to the grid;~~

~~(5) "Nanotechnology" means the materials and systems whose structures and components exhibit novel and significantly improved physical, chemical, and biological properties, phenomena, and processes due to their nanoscale size;~~

~~(6) "Photovoltaic devices" means those products designed, manufactured, and produced to convert sunlight directly into electricity; and~~

~~(7) "Stirling engine" means a high-temperature, high-pressure externally heated engine that uses an alternatively heated and cooled working gas.~~

~~15-4-2104. Credit allowance.~~

~~(a) There shall be allowed a credit against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., in an amount as determined in subsection (b) of this section for any Arkansas taxpayer for the cost of a facility located in Arkansas which designs, develops, or produces photovoltaic devices, electric vehicle equipment, fuel cells, microturbines, Stirling engines, or devices which are reliant upon nanotechnology.~~

~~(b) The amount of the credit allowed shall be equal to fifty percent (50%) of the amount spent during the taxable year to purchase or construct the facility, including land acquisition, infrastructure improvements, renovation, building improvements, machinery, and other manufacturing equipment.~~

~~(c) The costs of service contracts unrelated to the construction of the facility and sales tax shall not be included in determining the amount of the credit.~~

~~(d)(1) No income tax credit shall be claimed by any taxpayer for any facility or equipment which was used in the manufacturing of any of the technologies listed in subsection (a) of this section on or before January 1, 2000, or for which a tax credit was previously claimed by any other taxpayer for any other tax year.~~

~~(2) However, the provisions of this subsection shall not apply if any entity is sold and the entity is entitled to an income tax credit~~

~~under this subchapter.~~

~~(e) This credit shall not be allowed for any portion of facility costs which were provided by federal, state, or local grants.~~

~~15-4-2105. Limit on credit amount — Refund of credit amount.~~

~~(a)(1) The credit allowed by § 15-4-2104 may not exceed the amount of the tax imposed for the taxable year reduced by the sum of all state credits allowable, except payments of tax made by or on behalf of the taxpayer.~~

~~(2) Any unused credit may be carried forward for a maximum of fourteen (14) taxable years after the credit year in which the credit originated.~~

~~(b) The taxpayer shall refund the amount of the income tax credit determined by subsection (c) of this section if within fourteen (14) years of the taxable year for which the credit is originated, the Department of Economic Development and the Department of Finance and Administration find that the taxpayer has ceased to qualify for the tax credits under the provisions of this subchapter.~~

~~(c)(1) In the event it is determined that any taxpayer receiving the benefits under this subchapter has failed to comply with the conditions contained herein, that taxpayer shall be liable for the payment of such additional income taxes as may be due after the income tax credits provided for in this subchapter are disallowed, plus penalties and interest.~~

~~(2) In accordance with § 26-18-208(2)(B), there shall be added to the original tax due a penalty of one percent (1%) of the additional tax due for not more than one (1) month, with an additional one percent (1%) for each additional month or fraction thereof, from the original due date of the tax year in question until the date of payment, not to exceed thirty-five percent (35%) in the aggregate.~~

~~(3) In accordance with § 26-18-508, interest shall be assessed at ten percent (10%) per annum from the date the original tax would have been due until the date of payment.~~

~~(d) A taxpayer who receives a credit under this subchapter for the purchase of machinery or equipment shall not be entitled to claim any other state income tax credit or deduction based on the purchase of the machinery or equipment, except the deduction for normal depreciation.~~

~~15-4-2106. Apportionment of credit amount.~~

~~(a) Under this subchapter, in the case of a proprietorship, partnership, or Subchapter S corporation, the amount of credit determined shall be apportioned to each proprietor, partner, or Subchapter S corporation shareholder in proportion to the amount of income from the entity which the proprietor, partner, or Subchapter S corporation shareholder is required to include as gross income.~~

~~(b) In the case of an estate or trust:~~

~~(1) The amount of the credit determined for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each; and~~

~~(2) Any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to limitations contained in this subchapter, a credit under this subchapter for that amount.~~

~~15-4-2107. Claim procedure.~~

~~(a) To claim the benefits of this subchapter, a taxpayer must obtain certification from the Director of the Department of Economic Development certifying to the Revenue Division of the Department of Finance and Administration that the taxpayer is engaged in activities identified in § 15-4-2102.~~

~~(b) The Department of Economic Development or its successor shall promulgate regulations as necessary to administer this subchapter. These rules or regulations may include, but are not limited to, the establishment of technical specifications and requirements for information and documentation for taxpayers seeking a credit under this subchapter.~~

~~(c) In order to determine eligibility for the credit or to ensure that the facility or equipment is being utilized in the required manner, each agency shall have the right to inspect the facility and records of a taxpayer requesting or receiving a credit under this subchapter.~~

SECTION 3. Arkansas Code § 15-4-2703(2), concerning a definition used in the Consolidated Incentive Act of 2003, is amended to read as follows:

(2)(A) "Average hourly wage" means ~~the weekly earnings, excluding overtime, bonuses, and company-paid benefits, of all new full-time permanent employees hired after the date of the signed financial incentive~~

~~agreement, divided by the number of new full-time permanent employees, divided by forty (40)~~ the amount obtained when payroll, as defined in this section, is divided by the number of hours worked to earn the payroll.

(B) For the purpose of subdivision (2)(A) of this section, forty (40) hours per week shall be used as the number of hours worked for a salaried employee;

SECTION 4. Arkansas Code § 15-4-2703(17)(A)(ii), concerning the definition of "in-house research" used in the Consolidated Incentive Act of 2003, is amended to add an additional subdivision to read as follows:

(A)(ii) "In-house research" includes:

(a) Experimental ~~experimental~~ or laboratory activity to develop new products, improve existing products, or develop new uses of products, but only to the extent that activity is conducted in Arkansas; and

(b) A contractual agreement with a state college, state university, or other research organization to perform research for a targeted business if the President of the Arkansas Science and Technology Authority makes a written determination before the research performed that the research is essential to the core function of the targeted business.

SECTION 5. Arkansas Code § 15-4-2703(36), concerning a definition used in the Consolidated Incentive Act of 2003, is amended to read as follows:

(36)(A) "Regional corporate headquarters" means ~~a site that:~~

~~(A) Is the sole corporate headquarters within the region; and~~

~~(B) Handles headquarters-related functions on a regional basis~~ the location where a headquarter's staff performs functions on a regional basis that involve the services of administration, planning, research and development, marketing, personnel, legal, computer, or telecommunications.

(B) As used in subdivision (36)(A) of this section:

(i) "Regional" means a geographic area composed of this state and a contiguous state.

(ii) However, a function on a regional basis does not include a function involving manufacturing, processing, warehousing, distributing, or wholesaling activities or the operation of a call center;

SECTION 6. Arkansas Code Annotated §§ 15-4-2705(d), concerning a job-creation tax credit, is amended to read as follows:

(d)(1) The credit earned under this section is a percentage of the payroll of the new full-time permanent employees hired following the date of the approved financial incentive agreement.

(2) The percentage shall be determined by the county tier in which the project is located, as follows:

(A) For tier 1 counties, the credit is one percent (1%) of the payroll for the new full-time permanent employees of the business;

(B) For tier 2 counties, the credit is two percent (2%) of the payroll for the new full-time permanent employees of the business;

(C) For tier 3 counties, the credit is three percent (3%) of the payroll for the new full-time permanent employees of the business; and

(D) For tier 4 counties, the credit is four percent (4%) of the payroll for the new full-time permanent employees of the business.

(3) To qualify for a credit under this subsection, the proposed average hourly wage of a company applying for the benefit shall equal or be greater than the lowest county average hourly wage as calculated by the commission based on the most recent calendar year data published by the Arkansas Department of Workforce Services.

SECTION 7. Arkansas Code § 15-4-2706(d)(5)(A), concerning an application for a state and local sales and use tax refund, is amended to read as follows:

(5)(A)(i) In order to be eligible for the benefits under this subsection, a business shall sign a job creation financial incentive agreement under § 15-4-2705~~,~~ or § 15-4-2707~~, or subsection (b) of this section~~ and comply with the eligibility requirements of the incentive agreement~~s~~.

(ii) However, a business may apply for benefits under this subsection if:

(a) The business has an existing agreement under subdivision (d)(5)(A) of this section and the provisions of subdivision (d)(5)(B) of this section have been met within the previous forty-eight (48) months; or

(b) The business has signed a job creation financial incentive agreement under § 15-4-2705 or § 15-4-2707 within the previous forty-eight (48) months.

(B) The financial incentive agreement under § 15-4-2705~~,~~ or § 15-4-2707~~, or subsection (b) of this section~~ shall be signed within twenty-four (24) months after signing the financial incentive agreement under this subsection.

SECTION 8. Arkansas Code § 15-4-2706(e)(1)(B), concerning a new targeted business' eligibility for a refund of state and local sales and use taxes, is amended to read as follows:

(B) The business shows proof of an equity investment of at least ~~four hundred thousand dollars ($400,000)~~ two hundred fifty thousand dollars ($250,000).

SECTION 9. Arkansas Code § 15-4-2708(d)(1), concerning a taxpayer's qualification for an income tax credit, is amended to read as follows:

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

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

(B) Projects under the research and development programs of the Arkansas Science and Technology Authority when the projects directly involve an Arkansas business and are approved by the Board of Directors of the Arkansas Science and Technology Authority under rules promulgated by the authority for those programs.

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

(3) A business claiming tax credits earned under this subsection

shall be prohibited from receiving the credit granted by § 26-51-1102(b) for the same expenditures.

(4)(A) A business claiming tax credits earned under this subsection may offset ~~fifty percent (50%)~~ one hundred percent (100%) of the business's Arkansas income tax liability in any one (1) year.

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

SECTION 10. Arkansas Code Annotated § 15-4-2709(b)(3), concerning the proof of equity investment to qualify for a special incentive, is amended to read as follows:

(3) Show proof of an equity investment of ~~four hundred thousand dollars ($400,000)~~ two hundred fifty thousand dollars ($250,000) or more; and

SECTION 11. Arkansas Code Annotated § 15-4-2710 is amended to read as follows:

15-4-2710. Powers and duties of the ~~Department of Economic Development~~ Arkansas Economic Development Commission.

The ~~Department of Economic Development~~ Arkansas Economic Development Commission shall administer this subchapter and in addition to powers and duties mentioned in other laws may:

(1) Promulgate rules and regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to carry out the provisions of this subchapter;

(2) Provide the Department of Finance and Administration with a copy of each financial incentive agreement entered into by the ~~Department of Economic Development~~ Arkansas Economic Development Commission with each qualifying business;

(3) Assist the governing authority in obtaining assistance from any other agency of state government, including assistance to new businesses and industries;

(4) Assist any employer or prospective employer with a qualifying project in obtaining the benefits of any incentive or inducement program authorized by state law;

(5) Act as a liaison between other state agencies and businesses

and industries to ensure that both the spirit and intent of this subchapter are met;

(6) Make disbursements from the Economic Development Incentive Fund to qualified businesses as authorized in § 15-4-2707; and

(7) Negotiate proposals on behalf of the state with prospective businesses that are considering locating new facilities or expanding existing facilities that would seek the benefits of § 15-4-2706(b) or (e), § 15-4-2707, § 15-4-2708(c), or § 15-4-2709.

SECTION 12. Arkansas Code § 15-4-2711(j)(1), concerning a business' failure to reach its requirement for benefits, is amended to read as follows:

(j)(1) If a business fails to reach the average hourly wage requirement for benefits under this subchapter within twenty-four (24) months of the effective date of the financial incentive agreement, the business will be liable for the repayment of all benefits previously received by the business.

SECTION 13. Arkansas Code § 15-4-2712 is amended to read as follows:

15-4-2712. Restrictions.

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

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

(2) The job creation tax credits authorized in § 15-4-2709, the sales and use tax refund authorized in § 15-4-2706(e), and the research and development tax credit authorized in § 15-4-2708(c) may be combined with each other but may not be combined with any other incentives authorized in this subchapter during the period in which the business qualifies for benefits under § 15-4-2709.

(3) The job creation tax credit authorized in § 15-4-2705 may not be combined with the investment tax credit authorized in § 15-4-2706(b).

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

(5) The investment tax credit authorized in § 15-4-2706(b) may not be combined with the sales and use tax refund authorized in § 15-4-

2706(d) for the same project.

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

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

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

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

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

(5) The research and development tax credit authorized in § 15-4-2708(c).

APPROVED: 3/31/2009