

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

SENATE BILL 226

By: Senator M. Pitsch  
By: Representative Wing

## For An Act To Be Entitled

AN ACT TO AMEND THE INCOME TAX CREDIT ALLOWED FOR DONATIONS OR SALES OF MACHINERY AND EQUIPMENT TO CERTAIN EDUCATIONAL INSTITUTIONS; TO ALLOW AN INCOME TAX CREDIT FOR CASH DONATIONS TO CERTAIN EDUCATIONAL INSTITUTIONS FOR THE PURCHASE OF MACHINERY AND EQUIPMENT; TO CREATE AN APPLICATION PROCESS FOR BEING GRANTED AN INCOME TAX CREDIT FOR A DONATION OR SALE TO CERTAIN EDUCATIONAL INSTITUTIONS; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE INCOME TAX CREDIT ALLOWED FOR DONATIONS OR SALES OF MACHINERY AND EQUIPMENT TO CERTAIN EDUCATIONAL INSTITUTIONS.

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

SECTION 1. Arkansas Code § 26-51-1101(2), concerning the definitions used in relation to the treatment of donations or sales of equipment to educational institutions for income tax purposes, is amended to read as follows:

(2) "Cost" means:

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



(B) In the case of a donation or sale below cost by a manufacturer of machinery ~~or~~ and equipment, the enhanced value of the materials used to produce the machinery ~~or~~ and equipment, which shall be deemed to be the lowest price at which the manufacturer sells the machinery ~~or~~ and equipment; or

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

SECTION 2. Arkansas Code § 26-51-1101(5)-(6), concerning the definitions used in relation to the treatment of donations or sales of equipment to educational institutions for income tax purposes, are amended to read as follows:

(5) “Qualified education program” means a program conducted by a qualified educational institution under rules prescribed by the Department of Higher Education for programs in colleges, universities, or junior colleges, by the Department of ~~Workforce~~ Career Education for programs in vocational technical training schools and by the Department of Education for programs in ~~elementary~~ ~~or~~ secondary schools, all of which programs are for the purpose of promoting the use of new machinery and equipment for classroom, laboratory, and other educational instruction;

(6) “Qualified educational institution” means:

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

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

(C) ~~Any~~ A public ~~elementary~~ ~~or~~ secondary school;

SECTION 3. Arkansas Code § 26-51-1101(8), concerning the definitions used in relation to the treatment of donations or sales of equipment to educational institutions for income tax purposes, is amended to read as

follows:

(8) "Qualified research program" means a program of applied or basic research undertaken by a qualified educational institution ~~pursuant to~~ under rules jointly ~~prescribed~~ promulgated by the ~~Division of Science and Technology~~ Executive Director of the Arkansas Economic Development Commission and the Department of Higher Education under § 15-3-110;

SECTION 4. Arkansas Code § 26-51-1102(a), concerning the income tax credit granted in relation to donations or sales of equipment to educational institutions, is amended to read as follows:

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

(A) Donations of new machinery ~~or~~ and equipment; ~~and for sales~~

(B) Sales below cost of machinery and equipment by ~~taxpayers to qualified educational institutions in connection with a qualified education program or a qualified research program; and~~

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

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

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

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

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

SECTION 5. Arkansas Code §§ 26-51-1104 and 26-51-1105 are amended to read as follows:

26-51-1104. Documentation required.

(a) To claim the credit granted by § 26-51-1102, the taxpayer ~~must~~

shall provide the following for each piece of machinery and equipment donated, ~~or~~ sold below cost, or purchased by a qualified educational institution with a cash donation:

(1) ~~A statement~~ An affidavit from the receiving qualified educational institution that ~~it:~~

(A) The qualified educational institution has received the machinery ~~or~~ and equipment; ~~that the~~

(B) The machinery or and equipment is new machinery ~~or~~ and equipment within the meaning of this subchapter; ~~that it~~

(C) The qualified educational institution received the machinery ~~or~~ and equipment as a donation or, if ~~it~~ the qualified educational institution purchased the machinery ~~or~~ and equipment ~~below cost~~, a statement of the amount paid for the machinery ~~or~~ and equipment; and ~~that the~~

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

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

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

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

(b) To claim the credit granted by § 26-51-1102, the taxpayer ~~must~~ shall show that the ~~Division of Science and Technology Executive Director~~ of the Arkansas Economic Development Commission and the Director of the Department of Higher Education have approved the qualified research expenditure as a part of a qualified research program.

(c) Copies of each of the above documents shall be filed by the taxpayer with the Arkansas Economic Development Commission and with his or her return as an attachment to the form prescribed by the Director of the Department of Finance and Administration.

26-51-1105. Rules ~~and regulations~~.

The Director of the Department of Finance and Administration, the Director of the Department of Higher Education, the Director of the Department of Career Education, ~~the Director of the Department of Workforce Education~~ the Commissioner of the Department of Education, and the Executive Director of the Arkansas Economic Development Commission shall jointly promulgate ~~such reasonable rules as they shall deem necessary and appropriate~~ to carry out the purposes of this subchapter.

SECTION 6. Arkansas Code Title 26, Chapter 51, Subchapter 11, is amended to add an additional section to read as follows:

26-51-1106. Application for credit approval.

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

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

(1) Approve the application; or

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

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

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

(e) For an application submitted on or after the effective date of this act, an expenditure incurred before the approval date of the financial incentive agreement required under subsection (b) of this section shall be denied a credit under this subchapter.

**APPROVED: 2/26/19**