

State of Arkansas

96th General Assembly

# A Bill

SENATE BILL \_\_\_\_

Regular Session, 2027

By: Joshua P. Irby

## For An Act To Be Entitled

AN ACT TO CREATE THE JOB CREATION & RETENTION TAX CREDIT ACT; TO PROVIDE TIERED INCENTIVES FOR HIGH-QUALITY, LONG-TERM EMPLOYMENT; TO PREVENT ABUSE; TO PROTECT STATE REVENUE; TO SUPPORT SMALL AND EARLY-STAGE BUSINESSES; AND FOR OTHER PURPOSES.

### Subtitle

TO CREATE A TIERED, PERFORMANCE-BASED JOB CREATION TAX CREDIT THAT REWARDS LONG-TERM, HIGH-WAGE EMPLOYMENT WHILE PROTECTING STATE REVENUE.

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

#### SECTION 1. TITLE.

This act shall be known and may be cited as the "*Job Creation & Retention Tax Credit Act.*"

#### SECTION 2. FINDINGS AND PURPOSE.

(a) The General Assembly finds that:

1. Arkansas benefits most from jobs that are long-term, high-quality, and supported by wages and benefits sufficient to strengthen working families;
2. Tax incentives should reward sustained employment rather than short-term hiring spikes;
3. State revenue must be protected by tying incentives to measurable tax growth through clear, predictable formulas;
4. Administrative and compliance requirements should be streamlined to reduce burden on employers, particularly small businesses and startups;
5. Small, early-stage, seasonal, and cyclical businesses require tailored pathways to

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participate without distorting competition or imposing disproportionate regulatory burdens; and

6. Incentive structures must discourage inefficiency by ensuring that employers are not penalized for responsibly managing low-performance or documented misconduct terminations.

(b) It is the purpose of this act to:

1. Incentivize the creation and retention of high-wage, full-benefit jobs;
2. Encourage multi-year employment stability through a tiered credit system;
3. Prevent manipulation of job counts through baseline protection, wage standards, and anti-churn provisions;
4. Support small employers and startups through simplified compliance pathways and modified qualification thresholds;
5. Improve credit usefulness through extended carryforward and optional transferability; and
6. Ensure that tax credits do not exceed new state revenue generated.

### **SECTION 3. DEFINITIONS.**

(a) As used in this act:

1. "Department" means the Department of Finance and Administration;
2. "Employer" means any entity subject to Arkansas income tax;
3. "Full-time employee" means an individual working at least thirty-five (35) hours per week or one hundred forty (140) hours per month;
4. "Baseline employment level" means:
  - a. The average number of full-time employees during the four (4) calendar quarters immediately preceding the quarter in which the employer applies for the credit; or
  - b. For seasonal or cyclical employers in industries defined by rule (including agriculture, tourism, and retail), the baseline employment level may be calculated as the average number of full-time employees during the corresponding months of the prior two years, or another method approved by the department.  
Employers must provide historical payroll data and sector-specific documentation to support the seasonal or cyclical baseline. Variations of up to  $\pm 10\%$  from this baseline shall not affect credit eligibility;
5. "Net new employee" means a full-time employee counted above the baseline employment level;

6. “Qualified wage” means annualized wages equal to or greater than one hundred ten percent (110%) of the lesser of the county average wage or the statewide average wage, except that:
  - a. Startups and small employers may meet phased-in wage requirements as specified in Section 4(b)(1) and (2);
7. “Qualified benefits” means employer-provided:
  - a. A health insurance plan meeting federal minimum coverage standards; and
  - b. A retirement plan offering employer contribution or match, or partial coverage under phased-in standards;
8. “Retention period” means the employment durations defined in Section 6;
9. “Net new state revenue” means additional payroll tax, income tax, and sales/use tax attributable to net new employees, calculated using standardized formulas, examples, calculators, and industry benchmarks published by the department;
10. “Innovation/Startup employer” means an employer in operation fewer than five (5) years and with fewer than twenty-five (25) employees, eligible for modified thresholds under Section 4;
11. “Low-Performance or Misconduct Exclusion” means documented failure to meet objective performance metrics, repeated violation of workplace policies, or other conduct materially impairing job performance, accompanied by corrective action efforts documented by the employer.

#### **SECTION 4. ELIGIBILITY.**

- (a) An employer is eligible for a tax credit under this act if:
  1. Each claimed employee is a net new employee;
  2. The employee receives qualified wages and qualified benefits, subject to startup-phase or small employer provisions;
  3. The employer maintains or increases its baseline employment level, subject to seasonal or cyclical adjustments;
  4. The employer generates positive net new state revenue; and
  5. The employer is not subject to disqualification for manipulation or prohibited staffing practices.
- (b) Special eligibility pathways:
  1. Small Employer Universal Entry Tier.
    - a. Employers with fewer than ten (10) full-time employees may qualify under a

- simplified reporting and credit pathway;
  - b. Annual rather than quarterly reporting is permitted, documenting employment, wages, and benefits;
  - c. Qualified wages must meet at least 90% of the lesser of county or statewide average wage;
  - d. Qualified benefits must include at minimum a health plan or retirement contribution at reduced thresholds; Total credit per employee in this pathway shall not exceed 50% of the Tier 1 maximum credit until the employer exceeds ten (10) employees;
  - e. Employers exceeding ten (10) full-time employees must transition to standard Tier 1–3 requirements.
2. Innovation/Startup Pathway.
- a. Startup employers (fewer than five (5) years in operation and fewer than twenty-five (25) employees) may qualify under phased-in thresholds;
  - b. Qualified wages may start at 80% of county or statewide average and increase to 110% over three (3) years;
  - c. Qualified benefits may start at partial coverage and increase to Tier 1 standard within 36 months;
  - d. Retention credits may be claimed for employees retained 12, 24, and 36 months using phased-in thresholds;
  - e. Annual reporting of phased increases is required for department review;
  - f. Total credit per employee shall not exceed standard Tier 1–3 maximum at the end of 36 months.
3. Documented Low-Performance or Misconduct Exclusion. Employers may exclude employees from retention credit calculations if separation results from:
- a. Documented failure to meet objective performance metrics;
  - b. Repeated violation of workplace policies; or
  - c. Other materially impairing conduct, provided:
    - i. Written performance or disciplinary records are maintained;
    - ii. Corrective actions or improvement plans are documented;
    - iii. Employees were notified of deficiencies and given an opportunity to improve; and
    - iv. Documentation is submitted to the department for review and approval.
- (c) Employers reducing their baseline employment level outside approved seasonal or cyclical

patterns shall be ineligible for new credits until the baseline is restored. Employers whose baseline is adjusted under Section 3(4)(B) using department-approved seasonal or cyclical calculations shall not be penalized for routine fluctuations within  $\pm 10\%$  of the seasonal baseline.

#### **SECTION 5. NON-REFUNDABLE CREDIT WITH CARRYFORWARD AND LIMITED TRANSFERABILITY.**

- (a) The tax credit created under this act is non-refundable.
- (b) Any unused credit may be carried forward for up to eight (8) consecutive tax years.
- (c) Credits may not reduce a tax liability below zero.
- (d) An employer may transfer up to twenty-five percent (25%) of unused credits to another Arkansas taxpayer, subject to department approval and reporting requirements.

#### **SECTION 6. TIERED RETENTION CREDIT STRUCTURE.**

- (a) Tier 1: Twelve-Month Retention
  - 1. Credit: Up to 0.5% of qualified annual wages, not to exceed \$1,000.
  - 2. Conditions: Employee retained 12 consecutive months; wages and benefits documented.
- (b) Tier 2: Twenty-Four-Month Retention
  - 1. Credit: Up to 1.5% of qualified annual wages.
  - 2. Conditions: Employee retained 24 consecutive months; benefits maintained without reduction.
- (c) Tier 3: Thirty-Six-Month Retention
  - 1. Credit: Up to 3% of qualified annual wages.
  - 2. Conditions: Employee retained 36 consecutive months; wages increase  $\geq 2\%$  annually; positive net new state revenue demonstrated.

#### **SECTION 7. REVENUE GUARDRAIL — CREDIT LIMITATION.**

- (a) Total credits per employee  $\leq 75\%$  of net new state revenue.
- (b) Credits above this limit denied or reduced.

#### **SECTION 8. ANTI-GAMING PROVISIONS.**

- (a) Employers shall not receive credit if:
  - 1. Terminate employees to create false net new employees;
  - 2. Reduce hours, convert positions to contractors, or manipulate staffing;

3. Cycle employees to restart retention periods.
- (b) Department may suspend credit eligibility for manipulation.
- (c) Low-Performance or Misconduct Exclusions shall not be considered manipulation, subject to documentation and department approval.

#### **SECTION 9. RECAPTURE AND ENFORCEMENT.**

- (a) Credits for employees who fail retention period recaptured pro-rata, except separations approved under Low-Performance or Misconduct Exclusion.
- (b) Misrepresentation triggers repayment, interest, and civil penalties under Arkansas law.

#### **SECTION 10. REPORTING REQUIREMENTS.**

- (a) Employers shall submit payroll, employment, wages, benefits, baseline certification, retention verification, and net new state revenue documentation.
- (b) Simplified annual reporting allowed for small employers  $\leq 10$  employees, stable employment  $\pm 5\%$ , and startups.
- (c) Automated verification tools shall be used.
- (d) Documentation for Low-Performance / Misconduct Exclusions must be submitted for department review.

#### **SECTION 11. RULEMAKING AUTHORITY.**

- (a) Department shall promulgate rules for revenue calculation formulas, verification, audits, sector-specific baselines, startup/small employer pathways, anti-gaming guidance, and approval of Low-Performance / Misconduct Exclusions.

#### **SECTION 12. EFFECTIVE DATE.**

This act applies to tax years beginning on or after January 1, 2028.