

1 SB150
2 126530-2
3 By Senators Williams, Ward, Brewbaker, Waggoner, Holtzclaw,
4 Beason, Scofield, Bussman, Taylor, Dial, Whatley, Reed,
5 Holley, Allen, Marsh, Glover and McGill
6 RFD: Small Business
7 First Read: 03-MAR-11

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8 SYNOPSIS: Existing law does not provide qualified
9 credits from Alabama sales and use taxes for
10 upgrading or expanding existing manufacturing
11 facilities and equipment related to the
12 manufacturing or telecommunication industry.

13 This bill would allow a taxpayer who has
14 operated an existing manufacturing or
15 telecommunications facility or a manufacturing or
16 telecommunications support facility in the state
17 for the previous three years to obtain a credit
18 against income tax liability.

19 This bill would provide in certain instances
20 a tax credit to an employer who provides or
21 sponsors an approved retraining program.

22 This bill would require the Department of
23 Industrial Relations to promulgate rules in support
24 of this act.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To allow a taxpayer who has operated an existing
4 manufacturing or telecommunications facility or a
5 manufacturing or telecommunications support facility in the
6 state for the previous three years to obtain a credit against
7 income tax liability; to provide that in certain instances a
8 tax credit to an employer who provides or sponsors an approved
9 retraining program; and to require the Department of
10 Industrial Relations to promulgate rules in support of this
11 act.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. As used in this act, the following terms
14 have the following meanings:

15 (1) COST OF RETRAINING. Direct instructional costs
16 as defined by the Alabama Technology Network including
17 instructor salaries, materials, supplies, and textbooks, but
18 specifically excluding costs associated with renting or
19 otherwise securing space.

20 (2) EMPLOYEE. Any employee resident in this state
21 who is employed for at least 25 hours a week and who has been
22 continuously employed by the employer for at least 16
23 consecutive weeks.

24 (3) EMPLOYER. An employer upon whom an income tax is
25 imposed by state law.

26 (4) EMPLOYER-PROVIDED. An approved retraining
27 offered on the premises of the employer or on premises

1 approved by the Alabama Technology Network using instructors
2 hired by or employed by an employer.

3 (5) EMPLOYER-SPONSORED. A contractual arrangement
4 with a school, university, college, or other instructional
5 facility which offers approved retraining that is paid for by
6 the employer.

7 (6) PRODUCT. A marketable product or component of a
8 product which has an economic value to the wholesale or retail
9 consumer and is ready to be used without further alteration of
10 its form or a product or material which is marketed as a
11 prepared material or is a component in the manufacturing and
12 assembly of other finished products.

13 (7) QUALIFIED INVESTMENT PROPERTY. All real and
14 personal property purchased or acquired by a taxpayer for use
15 in the construction of an additional manufacturing or
16 telecommunications facility to be located in this state or the
17 expansion of an existing manufacturing or telecommunications
18 facility located in this state, including, but not limited to,
19 amounts expended on land acquisition, improvements, buildings,
20 building improvements, and machinery and equipment to be used
21 in the manufacturing or telecommunications facility.

22 (8) RECOVERED MATERIALS. Those materials including,
23 but not limited to, such materials as aluminum, oil, plastic,
24 paper, paper products, scrap metal, iron, glass, and rubber,
25 which have known use, reuse, or recycling potential; can be
26 feasibly used, reused, or recycled; and have been diverted or
27 removed from the solid waste stream for sale, use, reuse, or

1 recycling, whether or not requiring subsequent separation and
2 processing.

3 (9) RECYCLING. Any process by which materials which
4 would otherwise become solid waste are collected, separated,
5 or processed and reused or returned to use in the form of raw
6 materials or products.

7 (10) RECYCLING MACHINERY AND EQUIPMENT. All tangible
8 personal property used, directly or indirectly, to sort,
9 store, prepare, convert, process, fabricate, or manufacture
10 recovered materials into finished products which are composed
11 of at least 25 percent recovered materials, the term shall
12 include, but is not limited to, power generation and pollution
13 control machinery and equipment.

14 (11) RECYCLING MANUFACTURING FACILITY. Any facility
15 including land, improvements to land, buildings, building
16 improvements, and any recycling machinery and equipment used
17 in the recycling process resulting in the manufacture of
18 finished products from recovered materials, provided that up
19 to 10 percent of any building that is a component of a
20 recycling facility may be used for office space to house
21 support staff for the recycling operation.

22 (12) TAXPAYER. Any person or entity recognized under
23 Alabama law who would otherwise be the responsible party for
24 the payment of the taxes considered in this act, and who
25 experienced the direct expense related to the qualified
26 investment property.

1 Section 2. (a) To qualify for the credits considered
2 in this act, a taxpayer which has operated for the immediately
3 preceding three years an existing manufacturing, shipping or
4 receiving or telecommunications facility, or manufacturing,
5 shipping or receiving or telecommunications support facility
6 in this state shall be allowed a credit against the Alabama
7 sales and use tax imposed under Alabama law in an amount equal
8 to five percent of the cost of all qualified investment
9 property purchased or acquired by the taxpayer in the year,
10 subject to the conditions and limitations set forth in this
11 section. If the qualified investment property purchased or
12 acquired by the taxpayer in the year consists of recycling
13 machinery or equipment, a recycling manufacturing facility,
14 pollution control or prevention machinery or equipment, a
15 pollution control or prevention facility, the amount of the
16 credit shall be equal to eight percent.

17 (b) The credit granted under subsection (a) shall be
18 subject to the following conditions and limitations:

19 (1) In order to qualify as a basis for the credit,
20 the investment in qualified investment property shall occur no
21 sooner than January 1, 2012. The credit may be taken beginning
22 with the tax year immediately following the tax year in which
23 the qualified investment property having an aggregate cost in
24 excess of fifty thousand dollars (\$50,000) is purchased or
25 acquired by the taxpayer. For every year in which a taxpayer
26 claims the credit, the taxpayer shall submit a schedule to the

1 Department of Revenue which will set forth the following
2 information, as a minimum:

3 a. A description of the project.

4 b. The amount of qualified investment property
5 acquired during the taxable year.

6 c. The amount of tax credit claimed for the taxable
7 year.

8 d. The amount of qualified investment property
9 acquired in prior taxable years.

10 e. Any similar tax credit utilized by the taxpayer
11 in prior taxable years.

12 f. The amount of tax credit utilized by the taxpayer
13 in the current taxable year.

14 (2) Any investment in qualified investment property
15 may not result in a loss of jobs at the same location or
16 jobsite in which the taxpayer made the qualified investment.

17 (3) In the initial year in which the taxpayer claims
18 the credit granted in subsection (a), he or she shall include
19 in the description of the project required by paragraph a. of
20 subdivision (1), information which demonstrates that the
21 project includes the acquisition of qualified investment
22 property having an aggregate cost in excess of fifty thousand
23 dollars (\$50,000).

24 (4) Any lease for a period of five years or longer
25 of any real or personal property used in a new or expanded
26 manufacturing or telecommunications facility which would
27 otherwise constitute qualified investment property shall be

1 treated as the purchase or acquisition of qualified investment
2 property by the lessee. The taxpayer may treat the full value
3 of the leased property as qualified investment property in the
4 taxable year in which the lease becomes binding on the lessor
5 and the taxpayer if all other conditions of this subsection
6 have been met.

7 (5) The utilization of the credit granted in
8 subsection (a) shall have not effect on the ability of the
9 taxpayer to claim depreciation for tax purposes on the assets
10 acquired by the taxpayer nor shall the credit have any effect
11 on the basis of the taxpayer in the assets for the purpose of
12 depreciation.

13 (c) Additional state tax credits for the retraining
14 of employees related to and made necessary by the qualified
15 investment property: "Approved retraining" An
16 employer-provided or employer-sponsored retraining that meets
17 the following conditions:

18 (1) With regard to the qualified investment property
19 as considered in paragraph a. of subsection (b), approved
20 retraining enhances the functional skills of employees
21 otherwise unable to function effectively on the job due to
22 skill deficiencies or who would otherwise be displaced because
23 the skill deficiencies would inhibit their utilization of new
24 technology; provided, however, that approved retraining may
25 include any retraining on commercially, mass produced software
26 packages for work processing, database management,
27 presentations, spreadsheets, email, personal information

1 management, or computer operating systems except a retraining
2 tax credit shall be allowable for those providing support or
3 training on the software.

4 (2) It is approved and certified by the Alabama
5 Technology Network.

6 (3) The employer does not require the employee to
7 make any payment for the retraining, either directly or
8 indirectly through use of forfeiture of leave time, vacation
9 time, or other compensation time.

10 (d) A tax credit shall be granted to an employer who
11 provides or sponsors one or more approved retraining programs
12 in a taxable year. The total amount of the tax credit allowed
13 per full-time employee shall be equal to one-half of the costs
14 of retraining per full-time employee, or five hundred dollars
15 (\$500) per full-time employee, whichever is less, for each
16 employee who has successfully completed an approved retraining
17 program; however, the amount of the tax credit authorized
18 under this subsection may not exceed one thousand two hundred
19 fifty dollars (\$1,250) per year per full-time employee who has
20 successfully completed more than one approved retraining
21 program. No employer shall receive a credit if the employer
22 requires that the employee reimburse or pay the employer for
23 the cost of retraining.

24 (e) Any tax credit claimed under this section for
25 any taxable year beginning on or after January 1, 2011, but
26 not used for any taxable year may be carried forward for 10
27 years from the close of the taxable year in which the tax

1 credit was granted. The tax credit granted to any employer
2 pursuant to this section may not exceed 50 percent of the
3 amount of the taxpayer's income tax liability for the taxable
4 year as computed without regard to this section.

5 (f) To be eligible to claim the credit granted under
6 this section, the employer shall certify to the Department of
7 Revenue the name of the employee, the course work successfully
8 completed by the employee, the name of the provider of the
9 approved retraining, and other information as may be required
10 by the Department of Revenue to ensure that credits are only
11 granted to employers who provide or sponsor approved
12 retraining pursuant to this section and that credits are only
13 granted to employers with respect to employees who
14 successfully complete approved retraining. The Department of
15 Revenue shall adopt rules and forms to implement this credit
16 program. The Department of Revenue is expressly authorized and
17 directed to work with the Department of Industrial Relations
18 and the Alabama Technology Network to ensure the proper
19 granting of credits to this section.

20 (g) The Alabama Technology Network is expressly
21 authorized and directed to establish such standards as it
22 deems necessary and convenient in approving employer-provided
23 and employer-sponsored retraining programs. In establishing
24 such standards, the Alabama Technology Network shall establish
25 required hours of classroom instruction, required courses,
26 certification of teachers or instructors, progressive levels
27 of instruction, and standardized measures of employee

1 evaluation to determine successful completion of a course of
2 study as it deems applicable.

3 Section 3. The Department of Industrial Relations
4 shall promulgate rules defining eligible facilities and
5 qualified investment property pursuant to this act.

6 Section 4. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.