

SENATE BILL 2426

By Jackson

AN ACT to amend Tennessee Code Annotated, Title 67,
relative to the "Allied Investments in Tennessee
Act."

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

SECTION 1. Tennessee Code Annotated, Title 67, is amended by adding the following
as a new chapter:

67-11-101.

(a) This chapter is known and may be cited as the "Allied Investments in
Tennessee Act."

(b) The purpose of this chapter is to increase supply chain investment, job
creation, wage growth, and economic well-being within this state by providing one
hundred percent (100%) bonus depreciation for certain business capital investments in
this state, and to prohibit the application of tax credits and other economic or financial
incentives for companies domiciled within countries of concern.

67-11-102.

As used in this chapter:

(1) "Department" means the department of revenue;

(2) "Full expensing" or "one hundred percent (100%) bonus depreciation"
means the method for taxpayers to recover costs for research and development
experimental expenditures and depreciable business assets by immediately
deducting the full cost of such expenditures from taxable income in the tax year
in which the cost is incurred or the property is placed in service;

(3) "Qualified improvement property" has the same meaning as defined in 26 U.S.C. § 168(e)(6);

(4) "Qualified property" has the same meaning as defined in 26 U.S.C. § 168(k)(2); and

(5) "Research and development experimental expenditures" has the same meaning as described in 26 U.S.C. § 174.

67-11-103.

(a) The department shall allow taxpayers subject to the excise tax under chapter 4, part 20 of this title the option for full expensing for research and development experimental expenditures.

(b) For purposes of calculating taxes for a taxable year, a taxpayer may treat research and development experimental expenditures that are paid or incurred by the taxpayer during the taxable year in connection with the taxpayer's trade or business as expenses that are not chargeable to the capital account. Notwithstanding § 67-4-2006, such expenditures as treated by the taxpayer are allowed as an immediate deduction and remain allowable as a full and immediate expense deduction in the year in which the expenses are incurred.

(c) Notwithstanding subsection (b), a taxpayer may alternatively treat the depreciation of research and experimental expenditures in accordance with the schedule provided in 26 U.S.C. § 174.

(d) A taxpayer may make an election for a taxable year if made not later than the time prescribed by law for the filing of the excise tax return for the taxable year. The method elected by the taxpayer is irrevocable unless the revocation is specifically approved by the commissioner of revenue.

67-11-104.

(a) The department shall allow taxpayers subject to the franchise tax under chapter 4, part 21 of this title and the excise tax under chapter 4, part 20 of this title to immediately deduct as an expense the cost of certain depreciable assets to allow such taxpayers the option for full expensing for qualified property and qualified improvement property.

(b) Notwithstanding § 67-4-2006 or another law, for purposes of calculating taxes, expenditures for business assets that are qualified property or qualified improvement property are eligible for one hundred percent (100%) bonus depreciation and may be deducted as an expense incurred by the taxpayer during the taxable year in which the property is placed in service. The property is fully and immediately deductible as an expense in the year in which the property is placed in service.

(c) Notwithstanding subsection (b), a taxpayer may alternatively treat the depreciation of qualified property and qualified improvement property in accordance with the schedule provided in 26 U.S.C. § 168.

(d) A taxpayer may make an election for a taxable year if made not later than the time prescribed by law for the filing of the applicable tax return for the taxable year. The method elected by the taxpayer is irrevocable unless the revocation is specifically approved by the commissioner of revenue.

(e) For purposes of this section, a taxpayer shall conform to the full expensing provisions described in 26 U.S.C. § 179.

67-11-105.

(a) As used in this section, unless the context otherwise requires:

(1) "Contract" means an agreement between an employer and this state, a department or agency of this state, a political subdivision of this state, or a department or agency of a political subdivision of this state;

(2) "Country of concern" means:

(A) The People's Republic of China;

(B) The Russian Federation;

(C) The Islamic Republic of Iran;

(D) The Democratic People's Republic of Korea;

(E) The Republic of Cuba;

(F) The Venezuelan regime of Nicolás Maduro;

(G) The Syrian Arab Republic; or

(H) Any other nation-state categorized as a country of concern by

the governor in consultation with the United States department of state;

(3) "Domicile" means the country in which a company is registered, where the company's affairs are primarily completed, or where the plurality of ownership is held;

(4) "Employer" means a business entity that voluntarily pursues tax credits or other financial or economic incentives under this chapter or that enters into a contract for the purpose of receiving tax credits or other financial or economic incentives;

(5) "Financial or economic incentive" means anything of financial or economic value that is offered by the state government or a political subdivision thereof for the purpose of incentivizing an employer to invest, expand, locate facilities, locate employees, or otherwise deepen its economic engagement within this state;

(6) "Subcontractor" means an individual or entity that has contracted with an employer to perform work or provide services; and

(7) "Tax credit" means any amount authorized through a contract, program, or agreement between an employer and this state, or political subdivision thereof, that reduces the employer's total tax liability.

(b) To be eligible to receive a tax credit or other economic or financial benefit in this state, an employer shall not:

- (1) Be domiciled within a country of concern;
- (2) Be owned by the government of a country of concern;
- (3) Be owned by a company domiciled within a country of concern; or
- (4) Contract with employers or subcontractors domiciled within a country of concern.

(c) Subsection (b) applies to any work or service for an employer on a project for which a tax credit is sought.

(d)

(1) A person or entity may report, based upon a reasonable belief, a suspected violation of this section to the department of economic and community development; provided, that a report must be made within one (1) year of the end of the term of a contract.

(2) Upon receiving a report pursuant to subdivision (d)(1), the department of economic and community development shall request a written statement from the employer as to whether a violation has occurred and shall conduct an investigation to determine whether a violation occurred.

(3) It is deemed a material breach of contract for an employer to refuse to provide a written statement described in subdivision (d)(2).

(4) If the department of economic and community development finds that an employer has violated this section, then the department shall provide written

notice of the findings to the employer and initiate legal proceedings to recover any funds and penalties pursuant to subsection (e).

(e) If an employer violates this section, then the employer is liable for the amount of the tax credits and any other financial or economic incentives received plus a penalty equal to fifty percent (50%) of the total value of any tax credits and any other financial or economic incentives received.

(f) Notwithstanding another law to the contrary, prior to executing a contract that awards a tax credit or other economic or financial incentive, the department of economic and community development and any other contracting state department or agency, or political subdivision of the state or department or agency thereof, must execute a separate agreement with the contracting party that reserves the right of the department, agency, or other governmental entity to recover credits, grants, funds, and other disbursed incentives if this section is violated.

67-11-106.

The departments of revenue and economic and community development are authorized to promulgate rules to effectuate the purposes of this chapter. Rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. For purposes of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect January 1, 2025, the public welfare requiring it, and applies to tax years beginning on or after that date.