

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

## A Bill

DRAFT JLL/JLL  
SENATE BILL

5 By: Senator <NA>  
6

### For An Act To Be Entitled

8 AN ACT TO AMEND THE INCOME TAX EXEMPTION FOR CAPITAL  
9 GAINS; TO REPEAL THE CAPITAL GAINS EXEMPTION FOR  
10 CAPITAL GAINS OVER A CERTAIN AMOUNT; AND FOR OTHER  
11 PURPOSES.  
12  
13

### Subtitle

14 TO REPEAL THE CAPITAL GAINS EXEMPTION FOR  
15 CAPITAL GAINS OVER A CERTAIN AMOUNT.  
16  
17

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

22 (a) The General Assembly finds that:

23 (1) The Arkansas Tax Reform and Relief Legislative Task Force  
24 was charged with:

25 (A) Examining and identifying areas of potential tax  
26 reform within the tax laws; and

27 (B) Recommending legislation to the General Assembly to:

28 (i) Modernize and simplify the Arkansas tax code;

29 (ii) Make Arkansas's tax laws competitive with tax  
30 laws in other states;

31 (iii) Create jobs; and

32 (iv) Ensure fairness to all taxpayers;

33 (2) The state's tax laws should be amended to modernize and  
34 simplify the tax code, increase Arkansas's competitiveness, create jobs, and  
35 ensure fairness to all taxpayers; and

36 (3) Any savings realized by the state through tax reforms should

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1 be dedicated to reducing the tax burden for Arkansas taxpayers.

2 (b) It is the intent of the General Assembly to:

3 (1) Reform Arkansas tax laws to modernize and simplify the tax  
4 code, increase the state's competitiveness, create jobs, and ensure fairness  
5 to all taxpayers; and

6 (2) Offset any revenue savings realized through tax reform with  
7 corresponding changes to reduce the tax burden for Arkansas taxpayers.

8  
9 SECTION 2. Arkansas Code § 26-51-815(b)(3), concerning the income tax  
10 deduction for capital gains, is amended to read as follows:

11 (3) The amount of net capital gain in excess of ten million  
12 dollars (\$10,000,000) from a gain realized on or after January 1, 2014, and  
13 before January 1, 2019, is exempt from the state income tax.

14  
15 SECTION 3. EFFECTIVE DATE. Sections 1 and 2 of this act are effective  
16 for tax years beginning on or after January 1, 2019.

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 92nd General Assembly  
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# A Bill

DRAFT JLL/JLL  
SENATE BILL

5 By: Senator <NA>  
6

## For An Act To Be Entitled

8 AN ACT TO REPEAL THE LAW PROVIDING FOR AN INCOME TAX  
9 CREDIT FOR CERTAIN POLITICAL CONTRIBUTIONS THAT  
10 RESULTED FROM INITIATED MEASURE 1 OF 1996; AND FOR  
11 OTHER PURPOSES.  
12  
13

## Subtitle

14 TO REPEAL THE LAW PROVIDING FOR AN INCOME  
15 TAX CREDIT FOR CERTAIN POLITICAL  
16 CONTRIBUTIONS THAT RESULTED FROM  
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31 (ii) Make Arkansas's tax laws competitive with tax  
32 laws in other states;

33 (iii) Create jobs; and

34 (iv) Ensure fairness to all taxpayers;

35 (2) The state's tax laws should be amended to modernize and  
36 simplify the tax code, increase Arkansas's competitiveness, create jobs, and

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1 ensure fairness to all taxpayers; and

2 (3) Any savings realized by the state through tax reforms should  
3 be dedicated to reducing the tax burden for Arkansas taxpayers.

4 (b) It is the intent of the General Assembly to:

5 (1) Reform Arkansas tax laws to modernize and simplify the tax  
6 code, increase the state's competitiveness, create jobs, and ensure fairness  
7 to all taxpayers; and

8 (2) Offset any revenue savings realized through tax reform with  
9 corresponding changes to reduce the tax burden for Arkansas taxpayers.

10  
11 SECTION 2. Arkansas Code § 7-6-222 is repealed.

12 ~~7-6-222. Tax credits for certain individual political contributions.~~

13 ~~(a) Pursuant to regulations to be adopted by the Department of Finance~~  
14 ~~and Administration, a credit against individual Arkansas income taxes shall~~  
15 ~~be allowed for money contributions made by the taxpayer in a taxable year to~~  
16 ~~one (1) or more of the following:~~

17 ~~(1) A candidate seeking nomination or election to a public~~  
18 ~~office at an election or to the candidate's campaign committee;~~

19 ~~(2) An approved political action committee as defined in § 7-6-~~  
20 ~~201; or~~

21 ~~(3) An organized political party as defined in § 7-1-101.~~

22 ~~(b) The credit allowed by subsection (a) of this section shall be the~~  
23 ~~aggregate contributions, not to exceed fifty dollars (\$50.00), on an~~  
24 ~~individual tax return, or the aggregate contributions, not to exceed one~~  
25 ~~hundred dollars (\$100), on a joint return.~~

26 ~~(c) Credits for contributions qualifying under this section and made~~  
27 ~~prior to April 15 in a calendar year may be applied to the return filed for~~  
28 ~~the previous taxable year.~~

29  
30 SECTION 3. EFFECTIVE DATE. Sections 1 and 2 of this act are effective  
31 for tax years beginning on or after January 1, 2019.

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
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# A Bill

DRAFT JLL/JLL  
SENATE BILL

5 By: Senator <NA>  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE PASS-THROUGH ENTITY TAX ACT; TO  
9 IMPOSE A TAX ON PASS-THROUGH ENTITIES; TO PROVIDE FOR  
10 AN OFFSETTING INCOME TAX CREDIT FOR PASS-THROUGH  
11 ENTITIES; AND FOR OTHER PURPOSES.  
12  
13

## Subtitle

15 TO CREATE THE PASS-THROUGH ENTITY TAX  
16 ACT; TO IMPOSE A TAX ON PASS-THROUGH  
17 ENTITIES; AND TO PROVIDE FOR AN  
18 OFFSETTING INCOME TAX CREDIT FOR PASS-  
19 THROUGH ENTITIES.  
20  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

25 (a) The General Assembly finds that:

26 (1) The Arkansas Tax Reform and Relief Legislative Task Force  
27 was charged with:

28 (A) Examining and identifying areas of potential tax  
29 reform within the tax laws; and

30 (B) Recommending legislation to the General Assembly to:

31 (i) Modernize and simplify the Arkansas tax code;

32 (ii) Make Arkansas's tax laws competitive with tax

33 laws in other states;

34 (iii) Create jobs; and

35 (iv) Ensure fairness to all taxpayers;

36 (2) The state's tax laws should be amended to modernize and

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1 simplify the tax code, increase Arkansas's competitiveness, create jobs, and  
2 ensure fairness to all taxpayers; and

3 (3) Any savings realized by the state through tax reforms should  
4 be dedicated to reducing the tax burden for Arkansas taxpayers.

5 (b) It is the intent of the General Assembly to:

6 (1) Reform Arkansas tax laws to modernize and simplify the tax  
7 code, increase the state's competitiveness, create jobs, and ensure fairness  
8 to all taxpayers; and

9 (2) Offset any revenue savings realized through tax reform with  
10 corresponding changes to reduce the tax burden for Arkansas taxpayers.

11  
12 SECTION 2. Arkansas Code Title 26 is amended to add an additional  
13 chapter to read as follows:

14 Chapter 64

15 Pass-Through Entity Tax Act

16  
17 26-64-101. Title.

18 This chapter shall be known and may be cited as the "Pass-Through  
19 Entity Tax Act".

20  
21 26-64-102. Definitions.

22 As used in this chapter:

23 (1)(A) "Affected business entity" means a partnership or an S  
24 corporation.

25 (B) "Affected business entity" does not include a publicly  
26 traded partnership as defined by 26 U.S.C. § 7704(b), as in effect on January  
27 1, 2019, that has agreed to file an annual information return reporting the  
28 name, address, and taxpayer identification number of each member with an  
29 annual Arkansas income greater than five hundred dollars (\$500) along with  
30 any other information requested by the Director of the Department of Finance  
31 and Administration;

32 (2) "Member" means a:

33 (A) Shareholder of an S corporation;

34 (B) Partner in a general partnership, limited partnership,  
35 or limited liability partnership; and

36 (C) Member of a limited liability company that is treated

1 as a partnership or an S corporation for state income tax purposes;

2 (3) "Nonresident" means the same as defined in § 26-51-102;

3 (4)(A) "Partnership" means a syndicate, group, pool, joint  
4 venture, or other unincorporated organization:

5 (i) Through or by means of which a business,  
6 financial operation, or venture is carried on; and

7 (ii) That is not a trust, estate, or corporation.

8 (B) "Partnership" includes a limited liability company  
9 that is treated as a partnership for state income tax purposes;

10 (5) "Resident" means the same as defined in § 26-51-102;

11 (6) "S corporation" means a corporation or a limited liability  
12 company that is treated as an S corporation for state income tax purposes;  
13 and

14 (7) "Taxable year" means the same as defined in § 26-51-102.

15  
16 26-64-103. Pass-through entity tax.

17 (a) Before the fifteenth day of the third month of the taxable year,  
18 an affected business entity that is required to file a return under Arkansas  
19 Code Title 26, Chapter 51, shall pay to the Director of the Department of  
20 Finance and Administration the tax determined under this section.

21 (b)(1) A tax of six and nine-tenths percent (6.9%) is levied on the  
22 aggregate taxable income of the members of an affected business entity, as  
23 determined under Arkansas Code Title 26, Chapter 51.

24 (2) If the tax levied under subdivision (b)(1) of this section  
25 results in a net loss, the net loss may be carried forward to each succeeding  
26 taxable year until fully utilized.

27 (3) An affected business entity that is a member of another  
28 affected business entity shall subtract its distributive share of the income  
29 or add its distributive share of the loss from the other affected business  
30 entity to the extent that the income or loss was derived from or connected  
31 with sources within this state.

32 (4)(A) A nonresident individual who is a member of an affected  
33 business entity is not required to file an income tax return under Arkansas  
34 Code Title 26, Chapter 51, if, for the taxable year, the only source of  
35 income derived from or connected with sources within this state for the  
36 member or, if a joint income tax return is filed, the member and his or her

1 spouse, is from one (1) or more affected business entities and each affected  
2 business entity files and pays the taxes due under this section.

3 (B) However, subdivision (b)(4)(A) of this section does  
4 not apply to a nonresident individual who is a member of an affected business  
5 entity that elects to file a combined return under § 26-64-107 if the  
6 nonresident member's tax liability would not be satisfied by the credit  
7 allowed to the nonresident member under § 26-64-104.

8 (c) An affected business entity shall report to the members of the  
9 affected business entity, for each taxable year, each member's direct pro  
10 rata share of the tax imposed under this section on the affected business  
11 entity and any indirect pro rata share of the tax imposed under this section  
12 on any other affected business entity of which the affected business entity  
13 is a member.

14  
15 26-64-104. Credit.

16 (a) There is allowed an income tax credit against the income tax  
17 imposed by the Income Tax Act of 1929, § 26-51-101 et seq., in the amount  
18 determined under subsection (b) of this section for a person who is:

- 19 (1) Subject to the tax imposed under § 26-51-201 et seq.; and  
20 (2) A member of an affected business entity.

21 (b) The credit allowed under subsection (a) of this section is equal  
22 to the product of:

- 23 (1) The taxpayer's direct and indirect pro rata share of the tax  
24 paid under this chapter by any affected business entity of which the person  
25 is a member; and  
26 (2) Ninety-three and one-hundredths percent (93.01%).

27 (c)(1) A person who is subject to the tax imposed under the Income Tax  
28 Act of 1929, § 26-51-101 et seq. as a resident or part-year resident and who  
29 is a member of an affected business entity is entitled to a credit against  
30 the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq. for the  
31 person's direct and indirect pro rata share of taxes paid to another state or  
32 the District of Columbia on income of any affected business entity of which  
33 the person is a member, if the taxes paid to the other state or the District  
34 of Columbia result from a tax that the Director of the Department of Finance  
35 and Administration determines is substantially similar to the tax imposed  
36 under this chapter.

1           (2) The amount of the credit allowed under subdivision (c)(1) of  
2 this section shall be calculated in the manner described by the director,  
3 which shall be consistent with § 26-51-504.

4           (d) If the amount of the credit allowed under this section exceeds a  
5 taxpayer's income tax liability under the Income Tax Act of 1929, § 26-51-101  
6 et seq., the excess amount shall be refunded to the taxpayer.

7           (e)(1) With respect to a company that is a member of an affected  
8 business entity, the credit allowed under this section is applied after all  
9 other applicable credits and is not subject to any limits otherwise imposed  
10 by law.

11           (2) Any unused income tax credit of a company under this  
12 subsection may be carried forward to each succeeding taxable year until fully  
13 utilized.

14           (f) The credit allowed under this section does not apply to taxes  
15 imposed under the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et  
16 seq.

17  
18           26-64-105. Administration.

19           (a) The Director of the Department of Finance and Administration shall  
20 administer and enforce this chapter.

21           (b) Unless otherwise provided, this chapter shall be administered in  
22 accordance with the Arkansas Tax Procedure Act, § 26-18-101 et seq.

23  
24           26-64-106. Interest.

25           Except as otherwise provided in this chapter, if a tax under this  
26 chapter is not paid when due, interest shall be added to the amount of the  
27 tax due at a rate of one percent (1%) per month or any fraction of a month  
28 from the date the tax became due until it is paid in full.

29  
30           26-64-107. Combined return.

31           (a)(1) An affected business entity subject to the tax imposed under  
32 this chapter may elect to file a combined return with one (1) or more  
33 commonly owned affected business entities that are subject to the tax imposed  
34 under this chapter.

35           (2)(A) An affected business entity is commonly owned if more  
36 than eighty percent (80%) of the voting control of an affected business

1 entity is directly or indirectly owned by a common owner or owners, either  
2 corporate or noncorporate.

3 (B) Whether voting control of an affected business entity  
4 is indirectly owned under subdivision (a)(2)(A) of this section is determined  
5 in accordance with 26 U.S.C. § 318, as it existed on January 1, 2019.

6 (b)(1) Each affected business entity making an election under this  
7 section shall submit written notice of the election to file a combined  
8 return, including without limitation the written consent of the other  
9 commonly owned affected business entities to the election, to the Director of  
10 the Department of Finance and Administration before the due date, or the  
11 extended due date if an extension has been granted, for the returns due from  
12 the affected business entities under this chapter.

13 (2) An affected business entity shall submit the written notice  
14 and consent required under this subsection for each taxable year for which  
15 the affected business entity makes an election under this section.

16 (c) Each affected business entity that makes an election under this  
17 section is jointly and severally liable for the tax due under this chapter.

18 (d)(1) Except as otherwise provided in this subsection, affected  
19 business entities that make an election under this section shall net the  
20 amounts of taxable income of each affected business entity under Arkansas  
21 Code Title 26, Chapter 51, after the amounts are separately apportioned or  
22 allocated by each affected business entity.

23 (2) If affected business entities elect to calculate the tax due  
24 under this chapter on the alternative basis allowed under § 26-64-108, the  
25 affected business entities shall net their alternative tax bases instead of  
26 netting the amounts calculated under Arkansas Code Title 26, Chapter 51.

27 (e)(1) An affected business entity that makes an election under this  
28 section shall report to the director the portion of the direct and indirect  
29 pro rata share of the tax paid under this chapter with the combined return  
30 that is allocated to each of the members of the affected business entity.

31 (2) The affected business entities shall file the report  
32 required under subdivision (e)(1) of this section with the combined return.

33 (3) The reported allocation of tax paid under subdivision (e)(1)  
34 of this section is irrevocable.

35 (f) An election made under this section does not affect the  
36 calculation of tax due under the Income Tax Act of 1929, § 26-51-101 et seq.,

1 except with respect to the credit allowed under § 26-64-104.

2

3 26-64-108. Alternative basis.

4 (a) As used in this section:

5 (1) "Modified Arkansas source income" means the aggregate amount  
6 of taxable income for the members of an affected business entity under  
7 Arkansas Code Title 26, Chapter 51, multiplied by a percentage that is equal  
8 to the sum of the ownership interests in the affected business entity owned  
9 by members that are:

10 (A) Subject to the income tax levied under the Income Tax  
11 Act of 1929, § 26-51-101 et seq.; or

12 (B) Affected business entities to the extent that they are  
13 directly or indirectly owned by persons subject to the income tax levied  
14 under the Income Tax Act of 1929, § 26-51-101 et seq.;

15 (2) "Resident portion of unsourced income" means unsourced  
16 income multiplied by a percentage equal to the sum of the ownership interests  
17 in an affected business entity owned by members that are residents of this  
18 state; and

19 (3) "Unsourced income" means the difference of the following,  
20 regardless of the location from which the income is derived or connected:

21 (A) For an affected business entity that is:

22 (i) A partnership, the income described in § 26-51-  
23 405; and

24 (ii) An S corporation, the income computed under §  
25 26-51-409; and

26 (B) The following, as applicable:

27 (i) The aggregate amount of taxable income for the  
28 members of an affected business entity under Arkansas Code Title 26, Chapter  
29 51, without regard to § 26-64-103(b)(3); and

30 (ii) For an affected business entity that is a  
31 partnership, the income described in § 26-51-405 that is derived from or  
32 connected with sources within another state that has jurisdiction to subject  
33 the affected business entity to tax, as determined under Arkansas Code Title  
34 26, Chapter 51.

35 (b)(1) In lieu of calculating the tax due under § 26-64-103, an  
36 affected business entity may elect to calculate the tax due on the

1 alternative basis provided under this section.

2 (2)(A) An affected business entity making an election under this  
3 section shall provide written notice to the Director of the Department of  
4 Finance and Administration by the due date or the extended due date if the  
5 due date has been extended of the return due from the affected business  
6 entity under this chapter.

7 (B) An affected business entity shall submit the written  
8 notice required under this subsection for each taxable year the affected  
9 business entity makes an election under this section.

10 (3) An election made under this section does not affect the  
11 calculation of tax due under Arkansas Code Title 26, Chapter 51, except with  
12 respect to the calculation of the credit under § 26-64-104.

13 (c) The tax due from an affected business entity making an election  
14 under this section is equal to the product of:

15 (1) Six and nine-tenths percent (6.9%); and

16 (2) The sum of the:

17 (A) Resident portion of un sourced income; and

18 (B) Modified Arkansas source income.

19 (d) For purposes of this section, a member that is an affected  
20 business entity is presumed to be directly or indirectly owned by persons  
21 subject to the income tax levied under the Income Tax Act of 1929, § 26-51-  
22 101 et seq., unless the affected business entity establishes otherwise by  
23 clear and convincing evidence to the satisfaction of the director.

24  
25 26-64-109. Applicability of certain income tax laws.

26 To the extent the provisions do not conflict with this chapter, § 26-  
27 18-201 et seq. and §§ 26-18-403, 26-51-807, and 26-51-816 apply to this  
28 chapter in the same manner and with the same effect as the provisions apply  
29 to income tax returns under Arkansas Code Title 26, Chapter 51.

30  
31 26-64-110. Required annual payment.

32 (a) As used in this section, "required annual payment" means the  
33 lesser of:

34 (1) Ninety percent (90%) of the tax due under this chapter for  
35 the taxable year; or

36 (2) If the affected business entity filed a return for the

1 preceding taxable year, one hundred percent (100%) of the tax due under this  
2 chapter as reported on that return.

3 (b)(1) An affected business entity that is required to pay tax under  
4 this chapter shall make a required annual payment each taxable year in four  
5 (4) estimated installments on the fifteenth day of the:

6 (A) Fourth month of the taxable year;

7 (B) Sixth month of the taxable year;

8 (C) Ninth month of the taxable year; and

9 (D) First month of the next succeeding taxable year.

10 (2) An affected business entity may elect to pay a required  
11 installment payment under this subsection before the date specified in  
12 subdivision (b)(1) of this section.

13 (3) Except as otherwise provided in this section, the amount of  
14 each installment payment required under this subsection shall be twenty-five  
15 percent (25%) of the required annual payment.

16 (c)(1) If an affected business entity establishes that the affected  
17 business entity's annualized income installment calculated under subdivision  
18 (c)(3) of this section is less than the required annual payment, the required  
19 installment payment under this section is the annualized income installment.

20 (2) However, an affected business entity shall recapture a  
21 reduction in a required installment payment resulting under subdivision  
22 (c)(1) of this section by increasing:

23 (A) The amount of the next required installment payment by  
24 the amount of the reduction; and

25 (B) Subsequent required installment payments to the extent  
26 the reduction was not previously recaptured under this subsection.

27 (3) The annualized income installment under this section is the  
28 difference between:

29 (A) The product of:

30 (i) The tax imposed under this chapter for the  
31 taxable year that would be due if income subject to the tax imposed under  
32 this chapter for the months in the taxable year ending before the due date of  
33 the installment were annualized; and

34 (ii) The following percentage:

35 (a) For the first required installment,  
36 twenty-two and five-tenths percent (22.5%);

1                                   (b) For the second required installment,  
2 forty-five percent (45%);

3                                   (c) For the third required installment, sixty-  
4 seven and five-tenths percent (67.5%); and

5                                   (d) For the fourth required installment,  
6 ninety percent (90%); and

7                                   (B) The aggregate amount of any prior required  
8 installments for the taxable year.

9                                   (d)(1) Except as otherwise provided in this section, if an affected  
10 business entity makes an underpayment of estimated tax under this section,  
11 there shall be added to the tax imposed under this chapter an amount  
12 determined by applying interest at the rate of one percent (1%) per month or  
13 fraction of a month to the amount of the underpayment for the period of the  
14 underpayment.

15                                   (2) The amount of an underpayment under this subsection is the  
16 amount by which the required installment exceeds the amount, if any, of the  
17 installment paid on or before the due date of the installment.

18                                   (3) The period of the underpayment under this subsection runs  
19 from the due date of the installment to the earlier of:

20                                   (A) The fifteenth day of the third month of the next  
21 succeeding taxable year; or

22                                   (B) With respect to any portion of the underpayment, the  
23 date on which the portion is paid.

24                                   (4) A payment of estimated tax under this section shall be  
25 credited against unpaid or underpaid required installments in the order in  
26 which the installments are required to be paid.

27                                   (e) Payment of the estimated tax under this section or any required  
28 installment of estimated tax is a payment on account of the tax imposed under  
29 this chapter.

30  
31                                   SECTION 3. EFFECTIVE DATE. Sections 1 and 2 of this act are effective  
32 for tax years beginning on or after January 1, 2019.

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019

# A Bill

DRAFT JLL/JLL  
SENATE BILL

4  
5 By: Senator <NA>

## For An Act To Be Entitled

8 AN ACT TO IMPOSE AN ADDITIONAL REGISTRATION FEE ON  
9 ELECTRIC VEHICLES, HYBRID VEHICLES, AND ALTERNATIVE  
10 FUEL VEHICLES; TO DISTRIBUTE THE REVENUES COLLECTED  
11 FROM THE FEE ON ELECTRIC VEHICLES, HYBRID VEHICLES,  
12 AND ALTERNATIVE FUEL VEHICLES UNDER THE ARKANSAS  
13 HIGHWAY REVENUE DISTRIBUTION LAW; AND FOR OTHER  
14 PURPOSES.

## Subtitle

17  
18 TO IMPOSE AN ADDITIONAL REGISTRATION FEE  
19 ON ELECTRIC VEHICLES, HYBRID VEHICLES,  
20 AND ALTERNATIVE FUEL VEHICLES; AND TO  
21 DEDICATE THE REVENUES COLLECTED FROM THE  
22 ADDITIONAL REGISTRATION FEE TO HIGHWAY  
23 FUNDING.

24  
25  
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27  
28 SECTION 1. Arkansas Code § 19-6-301, concerning the enumeration of  
29 special revenues, is amended to add an additional subdivision to read as  
30 follows:

31 (263) Additional registration fees for electric vehicles, hybrid  
32 vehicles, and alternative fuel vehicles, § 27-14-614.

33  
34 SECTION 2. Arkansas Code Title 27, Chapter 14, Subchapter 6, is  
35 amended to add an additional section to read as follows:

36 27-14-614. Additional fee for electric vehicles, hybrid vehicles, and

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1 alternative fuel vehicles.

2 (a) As used in this section:

3 (1) "Alternative fuel vehicle" means a vehicle that is propelled  
4 by an internal combustion engine that is capable of being fueled by:

5 (A) Propane gas;

6 (B) Compressed natural gas; or

7 (C) Liquefied natural gas;

8 (2) "Electric vehicle" means a vehicle that:

9 (A) Is propelled by an electric motor powered by a battery  
10 or other electrical device incorporated into the vehicle; and

11 (B) Is not propelled by an internal combustion engine; and

12 (3) "Hybrid vehicle" means a vehicle that draws propulsion  
13 energy from both an internal combustion engine and an energy storage device.

14 (b) In addition to the other fees required to be paid to register a  
15 vehicle under this subchapter, there is levied an annual fee of:

16 (1) One hundred dollars (\$100) for each electric vehicle  
17 registered;

18 (2) One hundred dollars (\$100) for each alternative fuel vehicle  
19 registered; and

20 (3) Fifty dollars (\$50.00) for each hybrid vehicle registered.

21 (c) The revenues collected under this section are special revenues and  
22 shall be distributed under the Arkansas Highway Revenue Distribution Law, §  
23 27-70-201 et seq.

24  
25  
26  
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Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

DRAFT JLL/JLL  
SENATE BILL

5 By: Senator <NA>  
6

## For An Act To Be Entitled

8 AN ACT TO PROVIDE FOR THE INDEXING OF MOTOR FUEL  
9 TAXES AND DISTILLATE SPECIAL FUEL TAXES; TO DECLARE  
10 AN EMERGENCY; AND FOR OTHER PURPOSES.  
11

## Subtitle

12 TO PROVIDE FOR THE INDEXING OF MOTOR FUEL  
13 TAXES AND DISTILLATE SPECIAL FUEL TAXES;  
14 AND TO DECLARE AN EMERGENCY.  
15  
16  
17

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

22 (a) The General Assembly finds that:

23 (1) The Arkansas Tax Reform and Relief Legislative Task Force  
24 was charged, in part, with examining and identifying areas of potential tax  
25 reform within the tax laws;

26 (2) The taxes applicable to motor fuel have not changed since  
27 1999, and the taxes applicable to distillate special fuel have not changed  
28 since 2000;

29 (3) As a result of the stagnation of revenue generated by the  
30 taxes on motor fuel and distillate special fuel, there is inadequate funding  
31 for maintaining, improving, and constructing highways and roads in the state;  
32 and

33 (4) Indexing the motor fuel tax and the distillate special fuel  
34 tax would enable the state to better maintain and improve existing roadways  
35 and construct new roadways.

36 (b) It is the intent of the General Assembly to provide a means for

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1 the revenue generated by the motor fuel tax and the distillate special fuel  
2 tax to grow with the cost of living to provide increased revenue for the  
3 maintenance, improvement, and construction of roadways in the state.  
4

5 SECTION 2. Arkansas Code Title 26, Chapter 55, Subchapter 2, is  
6 amended to add an additional section to read as follows:

7 26-55-251. Indexing of motor fuel taxes.

8 (a) The taxes levied in §§ 26-55-205, 26-55-1002, 26-55-1006, 26-55-  
9 1201, and 26-56-601 shall be increased on January 1, 2020, and again on  
10 January 1 of each subsequent year in accordance with subsection (b) of this  
11 section.

12 (b)(1) On or before December 1 of each year, the Director of the  
13 Department of Finance and Administration shall determine and announce:

14 (A)(i) The percentage, if any, by which the average of the  
15 Consumer Price Index for the twelve (12) months ending September 30 exceeds  
16 the average of the Consumer Price Index for the same twelve-month period for  
17 the preceding year.

18 (ii) As used in this subsection, "Consumer Price  
19 Index" means the Consumer Price Index for All Urban Consumers published  
20 monthly by the Bureau of Labor Statistics of the United States Department of  
21 Labor; and

22 (B) The total motor fuel tax rate that will be effective  
23 on January 1 of the following year, as determined under subdivision (b)(2) of  
24 this section.

25 (2) On January 1 of each year, the total motor fuel tax rate  
26 under §§ 26-55-205, 26-55-1002, 26-55-1006, 26-55-1201, and 26-56-601 shall  
27 be increased by the amount, rounded to the nearest one-tenth cent (0.1¢),  
28 that equals the product of multiplying:

29 (A) The total motor fuel tax rate in effect on the date of  
30 the director's announcement under subdivision (b)(1)(B) of this section; and

31 (B) The lesser of:

32 (i) The percentage growth in the Consumer Price  
33 Index announced under subdivision (b)(1)(A) of this section; and

34 (ii) Four percent (4%).

35 (3) If there is a decline in growth or no growth in the Consumer  
36 Price Index, the total motor fuel tax rate shall remain unchanged for that

1 year.

2  
3 SECTION 3. Arkansas Code Title 26, Chapter 56, Subchapter 2, is  
4 amended to add an additional section to read as follows:

5 26-56-233. Indexing of distillate special fuel taxes.

6 (a) The taxes levied in §§ 26-55-1201, 26-56-201, 26-56-502, 26-56-  
7 601, and 26-56-802 shall be increased on January 1, 2020, and again on  
8 January 1 of each subsequent year in accordance with subsection (b) of this  
9 section.

10 (b)(1) On or before December 1 of each year, the Director of the  
11 Department of Finance and Administration shall determine and announce:

12 (A)(i) The percentage, if any, by which the average of the  
13 Consumer Price Index for the twelve (12) months ending September 30 exceeds  
14 the average of the Consumer Price Index for the same twelve-month period for  
15 the preceding year.

16 (ii) As used in this subsection, "Consumer Price  
17 Index" means the Consumer Price Index for All Urban Consumers published  
18 monthly by the Bureau of Labor Statistics of the United States Department of  
19 Labor; and

20 (B) The total distillate special fuel tax rate that will  
21 be effective on January 1 of the following year, as determined under  
22 subdivision (b)(2) of this section.

23 (2) On January 1 of each year, the total distillate special fuel  
24 tax rate under §§ 26-55-1201, 26-56-201, 26-56-502, 26-56-601, and 26-56-802  
25 shall be increased by the amount, rounded to the nearest one-tenth cent  
26 (0.1¢), that equals the product of multiplying:

27 (A) The total distillate special fuel tax rate in effect  
28 on the date of the director's announcement under subdivision (b)(1)(B) of  
29 this section; and

30 (B) The lesser of:

31 (i) The percentage growth in the Consumer Price  
32 Index announced under subdivision (b)(1)(A) of this section; and

33 (ii) Four percent (4%).

34 (3) If there is a decline in growth or no growth in the Consumer  
35 Price Index, the total distillate special fuel tax rate shall remain  
36 unchanged for that year.

1  
2           SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
3 General Assembly of the State of Arkansas that the highways, roads, streets,  
4 and bridges of this state are in dire need of construction, reconstruction,  
5 and maintenance; that well-maintained highways, roads, streets, and bridges  
6 are necessary for economic development in this state; that providing for an  
7 indexed tax on motor fuel and distillate special fuel is necessary to help  
8 pay for the construction, reconstruction, and maintenance of the highways,  
9 roads, streets, and bridges of this state; and that the additional revenues  
10 generated under this act will enable the state to maintain its roadways,  
11 which is essential to the economic wellbeing of the state and the public  
12 health, safety, and welfare of its citizens. Therefore, an emergency is  
13 declared to exist, and this act being necessary for the preservation of the  
14 public peace, health, and safety shall become effective on July 1, 2019.

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Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019

# A Bill

DRAFT JLL/JLL  
SENATE BILL

4  
5 By: Senator <NA>  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE ARKANSAS TAX REFORM ACT OF 2019;  
9 TO REFORM THE TAX LAWS OF THE STATE; TO AMEND THE  
10 ARKANSAS CORPORATE FRANCHISE TAX ACT OF 1979; TO  
11 TRANSFER THE ADMINISTRATION AND COLLECTION OF THE  
12 FRANCHISE TAX TO THE DEPARTMENT OF FINANCE AND  
13 ADMINISTRATION; TO ELIMINATE THE FRANCHISE TAX  
14 PENALTY ON CLOSED BUSINESSES; TO REQUIRE REPORTING OF  
15 CERTAIN INFORMATION RELATED TO TAXES; TO REQUIRE  
16 BIENNIAL REPORTS OF THE EFFECT OF EXEMPTIONS,  
17 DISCOUNTS, EXCLUSIONS, CREDITS, DEDUCTIONS, SPECIAL  
18 ACCOUNTING TREATMENTS, AND SPECIAL RATES RELATING TO  
19 INCOME TAX AND SALES AND USE TAX; TO PROVIDE FOR  
20 GUIDELINES AND PENALTIES RELATED TO ASSESSMENTS FOR  
21 PURPOSES OF PROPERTY TAXES; TO REQUIRE THE ASSESSMENT  
22 COORDINATION DEPARTMENT TO ESTABLISH MANDATORY  
23 GUIDELINES FOR COUNTIES RELATED TO THE ASSESSMENT OF  
24 BUSINESS INVENTORY AND PROPERTY THAT IS EXEMPT FROM  
25 AD VALOREM TAX; TO PROVIDE FOR PENALTIES FOR  
26 NONCOMPLIANCE WITH THE GUIDELINES ESTABLISHED BY THE  
27 ASSESSMENT COORDINATION DEPARTMENT; TO EXEMPT CAR  
28 WASHES FROM SALES TAX; TO LEVY A FEE ON CAR WASHES IN  
29 LIEU OF THE SALES TAX; TO REQUIRE THAT THE SALES AND  
30 USE TAX EXEMPTION FOR ALL-TERRAIN VEHICLES USED  
31 EXCLUSIVELY FOR FARMING BE ADMINISTERED AS A REBATE;  
32 TO IMPLEMENT A CAP ON THE TOTAL AMOUNT OF SALES AND  
33 USE TAX THAT MAY BE LEVIED BY A COUNTY OR CITY; TO  
34 REPEAL CERTAIN SALES TAX EXEMPTIONS FOR NAMED  
35 ENTITIES; TO CREATE SALES TAX REBATES FOR VARIOUS  
36 TYPES OF ORGANIZATIONS; TO CREATE CAPS ON CERTAIN

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1 SALES TAX REBATES; AND FOR OTHER PURPOSES.

2  
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4 **Subtitle**

5 TO CREATE THE ARKANSAS TAX REFORM ACT OF  
6 2019; AND TO REFORM THE SALES TAX, INCOME  
7 TAX, PROPERTY TAX, AND FRANCHISE TAX LAWS  
8 OF THE STATE.  
9

10  
11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
12

13 SECTION 1. DO NOT CODIFY. Title.

14 This act shall be known and may be cited as the "Arkansas Tax Reform  
15 Act of 2019".  
16

17 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

18 (a) The General Assembly finds that:

19 (1) The Arkansas Tax Reform and Relief Legislative Task Force  
20 was charged with:

21 (A) Examining and identifying areas of potential tax  
22 reform within the tax laws; and

23 (B) Recommending legislation to the General Assembly, in  
24 part, to modernize and simplify the Arkansas tax code and ensure fairness to  
25 all taxpayers;

26 (2) There are several areas of the tax code that should be  
27 amended to reform the state's tax laws to modernize and simplify the tax code  
28 and ensure fairness to all taxpayers; and

29 (3) Any savings realized by the state through tax reforms should  
30 be dedicated to reducing the tax burden for Arkansas taxpayers.

31 (b) It is the intent of the General Assembly to:

32 (1) Reform Arkansas tax laws to modernize and simplify the tax  
33 code and ensure fairness to all taxpayers; and

34 (2) Offset any revenue savings realized through tax reform with  
35 corresponding changes to reduce the tax burden for Arkansas taxpayers.  
36

1 SECTION 3. Arkansas Code § 4-25-109(c), concerning a corporation  
2 changing its state of incorporation, is amended to read as follows:

3 (c)(1) The change may be made by a foreign corporation by filing with  
4 the Secretary of State:

5 (A) A certified copy of its original or restated articles  
6 and all amendments subsequent to the latest restatement, which were filed in  
7 the other jurisdiction;

8 (B) The original of a certificate of good standing from  
9 the state of original jurisdiction, dated not more than thirty (30) days  
10 earlier than the date of filing in this state;

11 (C) An application for incorporation pursuant to this  
12 section, signed for the corporation by its president or vice president and  
13 its secretary or assistant secretary, and acknowledged by one (1) of the  
14 signing officers, setting forth the requirements of § 4-27-202;

15 (D) A franchise tax contact sheet provided by the  
16 ~~Secretary of State~~ Department of Finance and Administration; and

17 (E) A certificate by the Secretary of State or other  
18 proper officer of the jurisdiction in which the corporation is incorporated,  
19 reciting that the corporation has taken all action required under the laws of  
20 the jurisdiction to become a corporation incorporated under the laws of this  
21 state.

22  
23 SECTION 4. Arkansas Code § 4-27-120(i), concerning the filing  
24 requirements under the Arkansas Business Corporation Act of 1987, is amended  
25 to read as follows:

26 (i) The document must be delivered to the office of the Secretary of  
27 State for filing and must be accompanied by one (1) exact or conformed copy  
28 ~~(except as provided in §§ 4-27-503 and 4-27-1509 [repealed])~~, the correct  
29 filing fee, and proof of payment of any franchise tax, license fee, or  
30 penalty required by this chapter or other law.

31  
32 SECTION 5. Arkansas Code § 4-27-121(a), concerning the forms  
33 prescribed and furnished under the Arkansas Business Corporation Act of 1987,  
34 is amended to read as follows:

35 (a) The Secretary of State may prescribe and furnish on request forms  
36 for: (1) an application for a certificate of existence, (2) a foreign

1 corporation's application for a certificate of authority to transact business  
2 in this state, and (3) a foreign corporation's application for a certificate  
3 of withdrawal, ~~and (4) the annual franchise tax report~~. If the Secretary of  
4 State so requires, use of these forms is mandatory.

5  
6 SECTION 6. Arkansas Code § 4-27-128(b), concerning certificates of  
7 existence under the Arkansas Business Corporation Act of 1987, is amended to  
8 read as follows:

9 (b) A certificate of existence or authorization sets forth:

10 (1) the domestic corporation's corporate name or the foreign  
11 corporation's corporate name used in this state;

12 (2) that

13 (i) the domestic corporation is duly incorporated under  
14 the laws of this state, the date of its incorporation, and the period of its  
15 duration if less than perpetual; or

16 (ii) that the foreign corporation is authorized to  
17 transact business in this state;

18 (3) that all fees, taxes, and penalties owed to this state have  
19 been paid, if

20 (i) payment is reflected in the records of the Secretary  
21 of State and

22 (ii) nonpayment affects the existence or authorization of  
23 the domestic or foreign corporation;

24 (4) that its most recent annual franchise tax report required by  
25 § 4-27-1622 has been delivered to the ~~Secretary of State~~ Department of  
26 Finance and Administration;

27 (5) that articles of dissolution have not been filed; and

28 (6) other facts of record in the office of the Secretary of  
29 State that may be requested by the applicant.

30  
31 SECTION 7. Arkansas Code § 4-27-1420 is amended to read as follows:

32 4-27-1420. Grounds for administrative dissolution.

33 The Secretary of State may commence a proceeding under § 4-27-1421 to  
34 administratively dissolve a corporation if:

35 (1) the corporation does not pay within sixty (60) days after  
36 they are due any franchise taxes or penalties imposed by this chapter or

1 other law;

2 (2) the corporation does not deliver its annual franchise tax  
3 report to the ~~Secretary of State~~ Department of Finance and Administration  
4 within sixty (60) days after it is due;

5 (3) the corporation is without a registered agent in this state  
6 for sixty (60) days or more;

7 (4) the corporation does not notify the Secretary of State  
8 within sixty (60) days that its registered agent has been changed or has  
9 resigned; or

10 (5) the corporation's period of duration stated in its articles  
11 of incorporation expires.

12

13 SECTION 8. Arkansas Code § 4-27-1530 is amended to read as follows:  
14 4-27-1530. Grounds for revocation.

15 The Secretary of State may commence a proceeding under § 4-27-1531 to  
16 revoke the certificate of authority of a foreign corporation authorized to  
17 transact business in this state if:

18 (1) the foreign corporation does not deliver its annual  
19 franchise tax report to the ~~Secretary of State~~ Department of Finance and  
20 Administration within sixty (60) days after it is due;

21 (2) the foreign corporation does not pay within sixty (60) days  
22 after they are due any franchise taxes or penalties imposed by this chapter  
23 or other law;

24 (3) the foreign corporation is without a registered agent in  
25 this state for sixty (60) days or more;

26 (4) the foreign corporation does not file an appropriate notice  
27 with the Secretary of State within sixty (60) days of the change or  
28 resignation of the foreign corporation's registered agent;

29 (5) an incorporator, director, officer, or agent of the foreign  
30 corporation signed a document he or she knew was false in any material  
31 respect with intent that the document be delivered to the Secretary of State  
32 for filing;

33 (6) the Secretary of State receives a duly authenticated  
34 certificate from the Secretary of State or other official having custody of  
35 corporate records in the state or country under whose law the foreign  
36 corporation is incorporated stating that it has been dissolved or disappeared

1 as the result of a merger.

2

3 SECTION 9. Arkansas Code § 4-27-1601(e), concerning corporate records  
4 under the Arkansas Business Corporation Act of 1987, is amended to read as  
5 follows:

6 (e) A corporation shall keep a copy of the following records at its  
7 principal office:

8 (1) its articles or restated articles of incorporation and all  
9 amendments to them currently in effect;

10 (2) its bylaws or restated bylaws and all amendments to them  
11 currently in effect;

12 (3) resolutions adopted by its board of directors creating one  
13 (1) or more classes or series of shares, and fixing their relative rights,  
14 preferences, and limitations, if shares issued pursuant to those resolutions  
15 are outstanding;

16 (4) the minutes of all shareholders' meetings, and records of  
17 all action taken by shareholders without a meeting, for the past three (3)  
18 years;

19 (5) all written communications to shareholders generally within  
20 the past three (3) years, including the financial statements furnished for  
21 the past three (3) years under § 4-27-1620;

22 (6) a list of the names and business addresses of its current  
23 directors and officers; and

24 (7) its most recent annual franchise tax report delivered to the  
25 ~~Secretary of State~~ Department of Finance and Administration under § 4-27-  
26 1622.

27

28 SECTION 10. Arkansas Code § 4-27-1622 is amended to read as follows:

29 4-27-1622. Annual franchise tax report for ~~Secretary of State~~ the  
30 Department of Finance and Administration.

31 (a) Each domestic corporation, and each foreign corporation authorized  
32 to transact business in this state, shall deliver to the ~~Secretary of State~~  
33 Department of Finance and Administration for filing an annual franchise tax  
34 report that sets forth:

35 (1) the name of the corporation;

36 (2) the jurisdiction under which the corporation is

1 incorporated;

2 (3) the information required by § 4-20-105(a);

3 (4) the address of its principal office, wherever it is located;

4 (5) the names of its principal officers;

5 (6) the total number of authorized shares, itemized by class and  
6 series, if any, within each class;

7 (7) the total number of issued and outstanding shares, itemized  
8 by class and series, if any, within each class; and

9 (8) such other information as the ~~Secretary of State~~ Director of  
10 the Department of Finance and Administration may specify in a form  
11 promulgated pursuant to ~~§ 4-27-121(a)~~ under the Arkansas Corporate Franchise  
12 Tax Act of 1979, § 26-54-101 et seq.

13 (b) The requirements as to the applicability, use, and filing of the  
14 annual franchise tax report shall be as set forth in the Arkansas Corporate  
15 Franchise Tax Act of 1979, § 26-54-101 et seq.

16

17 SECTION 11. Arkansas Code § 4-33-120(i), concerning filing  
18 requirements under the Arkansas Nonprofit Corporation Act of 1993, is amended  
19 to read as follows:

20 (i) The document must be delivered to the office of the Secretary of  
21 State for filing and must be accompanied by one (1) exact or conformed copy  
22 (except as provided in §§ 4-33-503 and 4-33-1509), the correct filing fee,  
23 and proof of payment of any franchise tax, license fee, or penalty required  
24 by this chapter or other law.

25

26 SECTION 12. Arkansas Code § 17-19-202(c), concerning licensing  
27 applications for bail bond companies, is amended to read as follows:

28 (c)(1) An application for a professional bail bond company license  
29 shall be accompanied by proof that the applicant:

30 (A) Is an Arkansas partnership, firm, or corporation, a  
31 foreign corporation registered and authorized to conduct business in the  
32 State of Arkansas, or an individual who is a resident of the state; and

33 (B) Has at least one (1) owner or partner that has been  
34 licensed for at least two (2) years during the last three (3) years by the  
35 State of Arkansas as a professional bail bondsman.

36 (2) A corporation shall file proof that its most recent annual

1 franchise tax has been paid to the ~~Secretary of State~~ Department of Finance  
2 and Administration.

3  
4 SECTION 13. Arkansas Code § 23-48-1009 is amended to read as follows:  
5 23-48-1009. Grounds for revocation.

6 The Bank Commissioner may commence a proceeding under § 23-48-1010 to  
7 revoke the certificate of authority of a registered out-of-state bank if:

8 (1) The out-of-state bank does not deliver its annual franchise  
9 tax report to the ~~Secretary of State~~ Department of Finance and Administration  
10 within sixty (60) days after it is due;

11 (2) The out-of-state bank does not pay within sixty (60) days  
12 after they are due any franchise taxes or penalties imposed by this chapter  
13 or other law;

14 (3) The out-of-state bank is without a registered agent or  
15 registered office in this state for sixty (60) days or more;

16 (4) The out-of-state bank does not inform the commissioner under  
17 § 23-48-1005 or § 23-48-1006 that its registered agent or registered office  
18 has changed, that its registered agent has resigned, or that its registered  
19 office has been discontinued within sixty (60) days of the change,  
20 resignation, or discontinuance;

21 (5) The out-of-state bank or an officer, director, or employee  
22 thereof is found to be violating federal banking laws or regulations,  
23 violating the banking laws of this state or department regulations, violating  
24 any regulatory agreement, or jeopardizing the safety and soundness of the  
25 out-of-state bank;

26 (6) An incorporator, director, officer, or agent of the out-of-  
27 state bank signed a document he or she knew was false in any material respect  
28 with intent that the document be delivered to the commissioner for filing; or

29 (7) The commissioner receives a duly authenticated certificate  
30 from the bank supervisory agency or other official having custody of the  
31 corporate records of banking institutions in the state or country under whose  
32 law the out-of-state bank is chartered stating that it has been dissolved or  
33 disappeared as the result of a merger.

34  
35 SECTION 14. Arkansas Code Title 26, Chapter 26, Subchapter 11, is  
36 amended to add an additional section to read as follows:

1           26-26-1125. Guidelines for assessing property – Noncompliance.

2           (a) The Assessment Coordination Department shall:

3                   (1) Establish mandatory guidelines for county assessors to  
4 follow in:

5                           (A) Identifying property that is exempt from ad valorem  
6 taxation; and

7                           (B) Assessing business inventory;

8                   (2) Adopt rules necessary for:

9                           (A) The general guidance and assistance of county  
10 assessors in identifying exempt property and assessing business inventory;  
11 and

12                           (B) Determining when a county is noncompliant with the  
13 rules established by the department under this section;

14                   (3) Confer with and assist county assessors in identifying  
15 exempt property and assessing business inventory to ensure that all  
16 assessments of property are just and uniform throughout the state;

17                   (4) Prescribe any forms necessary to assist county assessors in  
18 uniformly identifying exempt property and assessing business inventory;

19                   (5) Monitor each county's compliance with the rules established  
20 by the department under this section; and

21                   (6) As soon as is practicable, notify immediately the  
22 Legislative Council or, if the General Assembly is in session, the Joint  
23 Budget Committee, when a county is determined to be noncompliant with the  
24 rules established by the department under this section.

25           (b) A county assessor shall:

26                   (1) Assess property in accordance with the rules adopted by the  
27 department; and

28                   (2) Use only a form that is prescribed or approved by the  
29 department to identify exempt property or assess business inventory.

30           (c) Upon receiving notification under subdivision (a)(6) of this  
31 section, the Legislative Council or, if the General Assembly is in session,  
32 the Joint Budget Committee, may recommend to the General Assembly that a  
33 noncompliant county's general revenue turnback funds, as defined in the  
34 Revenue Stabilization Law, § 19-5-101 et seq., be reduced or withheld until  
35 the county becomes compliant under this section.

36

1 SECTION 15. Arkansas Code Title 26, Chapter 50, Subchapter 1, is  
2 amended to add an additional section to read as follows:

3 26-50-103. Biennial report on certain state taxes.

4 (a) Before each regular session of the General Assembly, the Director  
5 of the Department of Finance and Administration shall report to the  
6 Legislative Council and the Governor on the effect of each exemption,  
7 discount, exclusion, credit, deduction, special accounting treatment, or  
8 special rate relating to state income tax and state sales and use tax.

9 (b)(1) In preparing the report required under subsection (a) of this  
10 section, if actual data is not available, the director shall use available  
11 statistical data to estimate the effect of each exemption, discount,  
12 exclusion, credit, deduction, special accounting treatment, or special rate.

13 (2) If the director concludes that the effect of an exemption,  
14 discount, exclusion, credit, deduction, special accounting treatment, or  
15 special rate cannot be determined, the director shall include in the report a  
16 complete explanation of why he or she reached that conclusion.

17 (c) The report required under subsection (a) of this section:

18 (1) Shall include:

19 (A) An analysis of each exemption, discount, exclusion,  
20 credit, deduction, special accounting treatment, and special rate that  
21 reduces the amount of tax payable, including without limitation:

22 (i) An estimate of the loss of revenue for a six-  
23 year period beginning with the fiscal year in which the report is submitted;  
24 and

25 (ii) A citation to the statutory or other legal  
26 authority for the exemption, discount, exclusion, credit, deduction, special  
27 accounting treatment, or special rate; and

28 (B) For an exemption, discount, exclusion, credit,  
29 deduction, special accounting treatment, or special rate that reduces revenue  
30 by more than one percent (1%) of the total revenue for the relevant tax, the  
31 effect of the exemption, discount, exclusion, credit, deduction, special  
32 accounting treatment, or special rate on:

33 (i) The distribution of the tax burden by:

34 (a) Income class; and

35 (b) Industry or business class; and

36 (ii) Total income by income class; and

1           (2) May include:

2                   (A) An assessment of the intended purpose of each  
 3 exemption, discount, exclusion, credit, deduction, special accounting  
 4 treatment, and special rate and whether the exemption, discount, exclusion,  
 5 credit, deduction, special accounting treatment, or special rate is achieving  
 6 that purpose; and

7                   (B) A recommendation for retaining, eliminating, or  
 8 amending the law related to each exemption, discount, exclusion, credit,  
 9 deduction, special accounting treatment, or special rate.

10           (d)(1) The director may request from any state officer or state agency  
 11 information necessary to complete the report required under subsection (a) of  
 12 this section.

13           (2) Each state officer and state agency shall cooperate with the  
 14 director in providing information or analysis for the report required under  
 15 subsection (a) of this section.

16  
 17           SECTION 16. Arkansas Code § 26-52-301(3)(B)(ii), concerning the levy  
 18 of sales tax on certain products and services, is amended to read as follows:

19                   (ii)(a) However, the provisions of this section  
 20 shall do not apply to a coin-operated car wash.

21                               ~~(b) As used in subdivision (3)(B)(ii)(a) of~~  
 22 ~~this section, "coin-operated car wash" means a car wash in which the car~~  
 23 ~~washing equipment is activated by the insertion of coins into a slot or~~  
 24 ~~receptacle and the labor of washing the exterior of the car or motor vehicle~~  
 25 ~~is performed solely by the customer or by mechanical equipment.~~

26  
 27           SECTION 17. Arkansas Code § 26-52-401(8)-(10), concerning various  
 28 products and services that are exempt from sales tax, are repealed.

29                   ~~(8) Gross receipts or gross proceeds derived from sales of~~  
 30 ~~tangible personal property, specified digital products, a digital code, or~~  
 31 ~~services to the Boys & Girls Club of America;~~

32                   ~~(9) Gross receipts or gross proceeds derived from sales of~~  
 33 ~~tangible personal property, specified digital products, a digital code, or~~  
 34 ~~services to the Poets' Roundtable of Arkansas;~~

35                   ~~(10) Gross receipts or gross proceeds derived from sales of~~  
 36 ~~tangible personal property, specified digital products, a digital code, or~~

1 ~~services to 4-H clubs and FFA clubs in this state, to the Arkansas 4-H~~  
2 ~~Foundation, the Arkansas Future Farmers of America Foundation, and the~~  
3 ~~Arkansas Future Farmers of America Association;~~  
4

5 SECTION 18. Arkansas Code § 26-52-401(31), concerning various products  
6 and services that are exempt from sales tax, is repealed.

7 ~~(31) Gross receipts or gross proceeds derived from sales of~~  
8 ~~tangible personal property, specified digital products, a digital code, or~~  
9 ~~services to Habitat for Humanity;~~  
10

11 SECTION 19. Arkansas Code § 26-52-401(33) and (34), concerning various  
12 products and services that are exempt from sales tax, are repealed.

13 ~~(33) Gross receipts or gross proceeds derived from sales of~~  
14 ~~tangible personal property, specified digital products, a digital code, or~~  
15 ~~services to The Salvation Army;~~

16 ~~(34) Gross receipts or gross proceeds derived from sales of~~  
17 ~~tangible personal property, specified digital products, a digital code, and~~  
18 ~~services to Heifer International, Inc.;~~  
19

20 SECTION 20. Arkansas Code § 26-52-401(37), concerning various products  
21 and services that are exempt from sales tax, is repealed.

22 ~~(37) Gross receipts or gross proceeds derived from sales of~~  
23 ~~tangible personal property, specified digital products, a digital code, or~~  
24 ~~services to the Arkansas Symphony Orchestra Society, Inc.;~~  
25

26 SECTION 21. Arkansas Code § 26-52-401(39), concerning various products  
27 and services that are exempt from sales tax, is repealed.

28 ~~(39) Gross receipts or gross proceeds derived from sales of~~  
29 ~~tangible personal property, specified digital products, a digital code, or~~  
30 ~~services to the Arkansas Black Hall of Fame Foundation, Inc.~~  
31

32 SECTION 22. Arkansas Code § 26-52-403(b) and (c), concerning the sales  
33 and use tax exemption for farm equipment and machinery, is amended to read as  
34 follows:

35 (b)(1) The gross receipts or gross proceeds derived from the sale of  
36 new and used farm equipment and machinery are exempt from the Arkansas gross

1 receipts tax levied by this chapter.

2 (2) However, to the extent that the exemption provided for under  
 3 this section applies to all-terrain vehicles that are not subject to  
 4 licensing or registration for use on the highways, the exemption shall be  
 5 administered as a rebate.

6 (c) The Director of the Department of Finance and Administration shall  
 7 promulgate rules and prescribe forms for claiming the exemption and rebate  
 8 provided by this section.

9  
 10 SECTION 23. Arkansas Code § 26-52-424 is repealed.

11 ~~26-52-424. Sales to Community Service Clearinghouse, Inc., of Fort~~  
 12 ~~Smith.~~

13 ~~The gross receipts or gross proceeds derived from sales to the~~  
 14 ~~Community Service Clearinghouse, Inc., of Fort Smith are hereafter exempt~~  
 15 ~~from:~~

16 ~~(1) The Arkansas gross receipts tax levied by §§ 26-52-301, 26-~~  
 17 ~~52-302, and 26-63-402;~~

18 ~~(2) The Arkansas compensating use tax levied by §§ 26-53-106 and~~  
 19 ~~26-53-107; and~~

20 ~~(3) All city and county sales and use taxes.~~

21  
 22 SECTION 24. Arkansas Code § 26-52-443 is repealed.

23 ~~26-52-443. Exemption for American Search Dog Association, Inc.~~

24 ~~The gross receipts or gross proceeds from the sale of tangible personal~~  
 25 ~~property, specified digital products, a digital code, or a service to the~~  
 26 ~~Arkansas Search Dog Association, Inc., are exempt from the gross receipts tax~~  
 27 ~~levied by this chapter and the compensating use tax levied by the Arkansas~~  
 28 ~~Compensating Tax Act of 1949, § 26-53-101 et seq.~~

29  
 30 SECTION 25. Arkansas Code Title 26, Chapter 52, Subchapter 4, is  
 31 amended to add an additional section to read as follows:

32 26-52-452. Certain nonprofit organizations – Rebate.

33 (a) Subject to the limitations stated in this section, the following  
 34 organizations may claim a rebate of the amount of gross receipts tax levied  
 35 by this chapter and the compensating use tax levied by the Arkansas  
 36 Compensating Tax Act of 1949, § 26-53-101 et seq., that the organization paid

1 on the sale of tangible personal property, a service, a specified digital  
2 product, or a digital code to the organization:

3 (1)(A) A nonprofit patriotic society for youth, including  
4 without limitation a youth group listed in Title 36 of the United States  
5 Code, as it existed on January 1, 2019.

6 (B) The total amount of rebates that may be claimed in a  
7 calendar year under subdivision (a)(1)(A) of this section is ninety-one  
8 thousand dollars (\$91,000);

9 (2)(A) A nonprofit organization dedicated to the study or  
10 performance, or both, of the arts, including without limitation poetry,  
11 theatre, dance, visual arts, and music.

12 (B) The total amount of rebates that may be claimed in a  
13 calendar year under subdivision (a)(2)(A) of this section is four thousand  
14 nine hundred dollars (\$4,900);

15 (3)(A) An international nonprofit organization dedicated to  
16 providing for or increasing access to property and services that address  
17 basic needs, including without limitation housing, food, and potable water.

18 (B) The total amount of rebates that may be claimed in a  
19 calendar year under subdivision (a)(3)(A) of this section is three hundred  
20 thirty-three thousand dollars (\$333,000);

21 (4)(A) A nonprofit hall of fame established to honor current and  
22 former Arkansas residents.

23 (B) The total amount of rebates that may be claimed in a  
24 calendar year under subdivision (a)(4)(A) of this section is five thousand  
25 dollars (\$5,000);

26 (5)(A) A nonprofit organization that partners with local  
27 agencies and other nonprofit organizations to provide comprehensive  
28 assistance to individuals and families in need.

29 (B) The total amount of rebates that may be claimed in a  
30 calendar year under subdivision (a)(5)(A) of this section is six thousand  
31 dollars (\$6,000); and

32 (6)(A) A nonprofit organization that is dedicated to assisting  
33 law enforcement and emergency personnel in their official duties.

34 (B) The total amount of rebates that may be claimed in a  
35 calendar year under subdivision (a)(6)(A) of this section is seven hundred  
36 dollars (\$700).

1           **(b) The Director of the Department of Finance and Administration shall**  
2 **adopt rules to implement and administer this section.**

3  
4           SECTION 26. Arkansas Code § 26-54-105(a)-(c), concerning franchise tax  
5 reports under the Arkansas Corporate Franchise Tax Act of 1979, is amended to  
6 read as follows:

7           (a)(1) ~~The Secretary of State~~ **Department of Finance and Administration**  
8 shall furnish report forms to each corporation subject to the provisions of  
9 this chapter by mailing them to the corporation's current agent for service  
10 or other person identified by the corporation.

11           (2) When filing the franchise tax report, a corporation may  
12 state who is to receive a franchise tax form the following year if that  
13 person is different from the agent for service on file for the corporation at  
14 that time.

15           (b) Any corporation that fails to receive the report forms by March 20  
16 of the reporting year shall make written request for them to the ~~Secretary of~~  
17 **State department** on or before March 31.

18           (c)(1) Each corporation subject to the requirements of this chapter  
19 shall file a franchise tax report with the ~~Secretary of State~~ **department** that  
20 shows the condition and status of the corporation as of the close of business  
21 on the last day of the corporation's preceding fiscal year and other  
22 information required by the ~~Secretary of State~~ **department**.

23           ~~(2)(A)~~ The franchise tax as computed on the report shall be  
24 remitted with the franchise tax report ~~on or before June 1 of the reporting~~  
25 ~~year for franchise tax due for calendar year 2003 and years prior to 2003 and~~  
26 **submitted to the department with the corporation's income tax return.**

27           ~~(B)~~ ~~The franchise tax as computed on the report shall be~~  
28 ~~remitted with the franchise tax report on or before May 1 of the reporting~~  
29 ~~year for franchise tax due for calendar year 2004 and subsequent years.~~

30  
31           SECTION 27. Arkansas Code § 26-54-107 is amended to read as follows:  
32           26-54-107. Computation of tax – Penalty – Relief.

33           (a) ~~The Secretary of State~~ **Director of the Department of Finance and**  
34 **Administration** from the information reported and from any other information  
35 received by him or her bearing upon the subject shall compute the amount of  
36 tax of each corporation at the rate or rates provided by this chapter.

1 (b)(1)(A) If the taxpayer fails to comply with the filing and  
2 remittance requirements under § 26-54-105(c) ~~by May 1~~, the ~~Secretary of State~~  
3 director shall assess the corporation a penalty of twenty-five dollars  
4 (\$25.00) plus interest on the tax and penalty from the date due until paid at  
5 the rate of ten percent (10%) per year.

6 (B) However, the franchise tax, penalty, and interest for  
7 any tax year shall not exceed two (2) times the corporation's tax owed.

8 (2) On or before November 1 of each year, the ~~Secretary of State~~  
9 director shall mail notice to the corporation at its last known address  
10 stating that the corporation is subject to forfeiture of its corporate  
11 charter under § 26-54-111 for the failure to pay corporate franchise tax.

12 (c) The ~~Secretary of State~~ director or his or her designee may agree  
13 to settle or compromise a dispute concerning interest or penalties associated  
14 with corporate franchise taxes if the taxpayer:

15 (1) Disputes the proposed amount; or

16 (2) Is insolvent or bankrupt.

17 (d)(1) The ~~Secretary of State~~ director may waive any accrued interest  
18 or assessed penalties imposed on a taxpayer due to a failure to remit  
19 corporate franchise taxes under § 26-54-105(c), if:

20 (A) The taxpayer is reasonably mistaken about the  
21 application of this chapter or the computation of the franchise tax to the  
22 corporation; or

23 (B) A taxpayer cannot pay the accrued interest or assessed  
24 penalties because of the taxpayer's insolvency or bankruptcy.

25 (2) The ~~Secretary of State~~ director may waive any fees that a  
26 taxpayer owes if the taxpayer desires to dissolve the corporation.

27 (3) If a taxpayer demonstrates that a corporation was not doing  
28 business in the state for the period for which penalties and interest are  
29 owed under this section, the director shall waive the amount due under this  
30 section if the taxpayer demonstrates that the taxpayer intends to dissolve  
31 the corporation.

32 (e) If the parties cannot resolve the dispute, the parties may pursue  
33 any other remedy available to them, including, but not limited to, remedies  
34 available under the Arkansas Administrative Procedure Act, § 25-15-201 et  
35 seq.

36 (f) The ~~Secretary of State~~ director shall develop guidelines to assist

1 a taxpayer in resolving a corporate franchise tax dispute.

2  
3 SECTION 28. Arkansas Code §§ 26-54-109 – 26-54-112 are amended to read  
4 as follows:

5 26-54-109. Lists of corporations to be prepared.

6 (a)(1) The Secretary of State, Bank Commissioner, Insurance  
7 Commissioner, and any other officer or agency of the state authorized to  
8 issue corporate permits or authorities to do business in this state shall  
9 prepare and maintain a correct list of all corporations organizing or  
10 qualifying through their respective offices or agencies.

11 (2) Each official or agency shall file with the ~~Secretary of~~  
12 State Department of Finance and Administration a monthly report showing:

13 (A) The name and address of each new corporation organized  
14 or qualified;

15 (B) The authorized and outstanding capital stock;

16 (C) The name changes, mergers, charter forfeitures,  
17 dissolutions, or withdrawals; and

18 (D) All other information concerning the corporation  
19 required by the ~~Secretary of State~~ department.

20 (b) Upon request of the ~~Secretary of State~~ Director of the Department  
21 of Finance and Administration, each official or agency shall prepare and  
22 certify to the ~~Secretary of State~~ director a complete list of the names and  
23 addresses of all corporations which have organized or qualified through their  
24 respective office or agency and which are subject to the provisions of this  
25 chapter.

26 (c) Officials or agencies of the state, county, or municipalities  
27 authorized to issue permits shall notify each corporation receiving a permit  
28 of the requirements to register the corporation with the Secretary of State  
29 prior to conducting business in Arkansas.

30 (d) Any corporation filing instruments providing for the organization  
31 of any common law or statutory trust or similar organization with any county  
32 clerk, or other clerk of the various counties of this state, shall file them  
33 in duplicate. The clerk receiving the documents for filing or recordation  
34 shall file mark them and forward the file-marked duplicate to the Secretary  
35 of State.

36 (e) The ~~Director of the Department of Finance and Administration~~

1 director shall provide the Secretary of State a list of corporations doing  
2 business in this state and filing franchise tax reports with the ~~Department~~  
3 ~~of Finance and Administration~~ department. However, the director shall not  
4 include any information deemed confidential by any other law.

5  
6 26-54-110. Dissolution or withdrawal by corporations.

7 Applications for dissolution or withdrawal by a corporation,  
8 association, or organization cannot be accepted by the authority which  
9 initially authorized or granted an authority to the corporation to do  
10 business in Arkansas until receipt of a statement verified by the ~~Secretary~~  
11 ~~of State~~ Director of the Department of Finance and Administration that the  
12 franchise tax due has been paid.

13  
14 26-54-111. Charter forfeiture for failure to pay tax – Procedure.

15 (a) On or before January 31 of each year, the Secretary of State shall  
16 proclaim as forfeited the corporate charters or authorities, as the case may  
17 be, of all corporations, both domestic and foreign that according to the  
18 ~~Secretary of State's~~ Department of Finance and Administration's records are  
19 delinquent in the payment of the annual franchise tax for a prior year.

20 (b) A copy of the proclamation, or applicable portion thereof, shall  
21 be furnished to each other official or agency of the state which is  
22 authorized to issue corporation charters or authorities. Upon their receipt  
23 of the proclamation, the several officials shall at once correct their  
24 respective records in accordance with the proclamation.

25  
26 26-54-112. Reinstatement of corporations.

27 (a)(1)(A)(i) Any corporation whose charter or permit authority to do  
28 business in the state has been declared forfeited by proclamation of the  
29 Governor or the Secretary of State may be reinstated to all its rights,  
30 powers, and property.

31 (ii) Reinstatement shall be retroactive to the time  
32 that the corporation's authority to do business in the state was declared  
33 forfeited.

34 (B) The reinstatement shall be made after the filing of  
35 all delinquent franchise tax reports satisfactory to the ~~Secretary of State~~  
36 Department of Finance and Administration and the payment of all taxes and

1 penalties due for each year of delinquency.

2 (2) However, no reinstatement shall be allowed after seven (7)  
3 years from the date the charter or permit authority to do business in the  
4 state was declared forfeited by proclamation of the Governor or the Secretary  
5 of State.

6 (b) If the Secretary of State issued the original corporate charter,  
7 permit, or authority, the Secretary of State shall reinstate the corporation  
8 upon payment by the corporation of all amounts due, as provided in subsection  
9 (a) of this section.

10 (c)(1) If the original corporate charter, permit, or authority was  
11 issued by an official other than the Secretary of State, the official shall  
12 reinstate the corporation upon the corporation's filing with the official the  
13 receipt of the ~~Secretary of State~~ department showing payment of all amounts  
14 due, as provided in subsection (a) of this section.

15 (2) Thereafter, the corporation shall stand in all respects as  
16 though its name had never been declared forfeited.

17  
18 SECTION 29. Arkansas Code § 26-54-114 is amended to read as follows:  
19 26-54-114. Nonpayment of franchise taxes.

20 (a) No corporation or limited liability company shall be allowed to  
21 file any forms or documentation related to that corporation or limited  
22 liability company if the corporation or limited liability company owes past-  
23 due franchise taxes to the ~~Secretary of State~~ Department of Finance and  
24 Administration.

25 (b) No person shall be allowed to file any initial forms or  
26 documentation with the Secretary of State to create any legal entity in the  
27 State of Arkansas or to obtain authority to do business in the State of  
28 Arkansas if that person is substantially connected to any corporation or  
29 limited liability company that owes past-due franchise taxes to the ~~Secretary~~  
30 ~~of State~~ department.

31 (c) As used in this section:

32 (1) "Past-due franchise taxes" means only those taxes owed three  
33 (3) years prior to the year in which the current filing is presented;

34 (2) "Past officer or director" means a person who was associated  
35 with the corporation or limited liability company during the time that its  
36 charter was revoked for nonpayment of franchise taxes; and

1 (3) "Substantially connected" means a present officer or  
2 director or a past officer or director of a corporation.

3  
4 SECTION 30. Arkansas Code Title 26, Chapter 54, Subchapter 1, is  
5 amended to add an additional section to read as follows:

6 26-54-115. Rules.

7 The Director of the Department of Finance and Administration shall  
8 adopt rules to implement and administer this chapter.

9  
10 SECTION 31. Arkansas Code Title 26, Chapter 57, is amended to add an  
11 additional subchapter to read as follows:

12 Subchapter 16 – Car Washes

13  
14 26-57-1601. Definitions.

15 As used in this subchapter:

16 (1) "Automatic car wash" means a car wash bay that provides a  
17 car wash using mechanical equipment that cleans the motor vehicle while the  
18 motor vehicle remains stationary;

19 (2) "Car wash tunnel" means a car wash bay that provides a fully  
20 automated car wash in which the motor vehicle is moved through a tunnel by a  
21 conveyor system; and

22 (3) "Self-service bay" means a car wash bay that allows a person  
23 to manually wash a motor vehicle using equipment and supplies provided by the  
24 car wash operator.

25  
26 26-57-1602. Registration.

27 (a) A person that is the operator of a car wash in this state that is  
28 made available for use by the general public shall pay the fee required under  
29 § 26-57-1603 in lieu of paying the sales tax under the Arkansas Gross  
30 Receipts Act of 1941, § 26-52-101 et seq., and the compensating use tax under  
31 the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

32 (b) A car wash operator that is required to pay a fee under § 26-57-  
33 1603 shall register with the Director of the Department of Finance and  
34 Administration before a self-service bay, an automatic car wash, or a car  
35 wash tunnel is made available for use by the general public.

36 (c) The registration form provided for in this section shall:

- 1           (1) Be in the form prescribed by the director; and
- 2           (2) Contain the information required by rules adopted by the
- 3 director to implement this subchapter.

4

5           26-57-1603. Fees.

6           (a) A car wash operator that uses water from a public water system  
 7 shall pay to the Director of the Department of Finance and Administration the  
 8 following monthly fee:

9           (1) For a car wash operator that operates only one (1) or more  
 10 car wash tunnels, the car wash operator shall calculate the monthly fee due  
 11 under this subsection as follows:

12           (A) Multiply by nine-tenths (0.9) the total aggregate  
 13 number of gallons of water the car wash operator used during the preceding  
 14 month for all of the car wash operator's car wash tunnels; and

15           (B) Multiply the product obtained under subdivision  
 16 (a)(1)(A) of this section by seventy-five hundredths of one cent (0.75¢); and

17           (2) For a car wash operator that operates one (1) or more car  
 18 wash tunnels and one (1) or more self-service bays or automatic car washes,  
 19 or both, the car wash operator shall calculate the monthly fee due under this  
 20 subsection as follows:

21           (A) Multiply the number of self-service bays and automatic  
 22 car washes by one-tenth (0.1);

23           (B) Subtract the lesser of five-tenths (0.5) or the  
 24 product obtained under subdivision (a)(2)(A) of this section from nine-tenths  
 25 (0.9);

26           (C) Multiply the total aggregate number of gallons of  
 27 water the car wash operator used during the preceding month for all of the  
 28 car wash operator's car wash tunnels by the difference obtained under  
 29 subdivision (a)(2)(B) of this section; and

30           (D) Multiply the product obtained under subdivision  
 31 (a)(2)(C) of this section by seventy-five hundredths of one cent (0.75¢).

32           (b)(1) Except as otherwise provided in this subsection, a car wash  
 33 operator that uses water from a private well or nonpublic water system shall  
 34 pay to the director an annual fee of:

35           (A) One hundred dollars (\$100) for each self-service bay  
 36 operated by the car wash operator; and

1                   (B) Five hundred dollars (\$500) for each automatic car  
2 wash operated by the car wash operator.

3                   (2) A car wash operator that has one (1) or more self-service  
4 bays and one (1) or more automatic car washes at the same location is not  
5 required to pay the fee levied under subdivision (b)(1)(A) of this section on  
6 the self-service bays.

7                   (3) A fee paid for a self-service bay or automatic car wash  
8 operated only during the last six (6) months of the fiscal year shall be  
9 equal to one-half ( $\frac{1}{2}$ ) of the annual fee levied under this subsection.

10  
11                   26-57-1604. Distribution of revenues.

12                   All revenue collected under this subchapter shall be general revenues  
13 and shall be deposited into the State Treasury to the credit of the State  
14 Apportionment Fund.

15  
16                   26-57-1605. Rules.

17                   The Director of the Department of Finance and Administration shall  
18 adopt rules to implement and administer this subchapter.

19  
20                   SECTION 32. Arkansas Code Title 26, Chapter 73, Subchapter 1, is  
21 amended to add an additional section to read as follows:

22                   26-73-116. Cap on local sales and use tax.

23                   (a) As used in this section, "municipality" means a city of the first  
24 class, a city of the second class, or an incorporated town.

25                   (b) The total aggregate amount of sales and use tax that may be levied  
26 by a county for any purpose shall not exceed a total aggregate rate of three  
27 percent (3%).

28                   (c) The total aggregate amount of sales and use tax that may be levied  
29 by a municipality for any purpose shall not exceed a total aggregate rate of  
30 four percent (4%).

31                   (d) A county or municipality that has a total aggregate sales and use  
32 tax rate as of January 1, 2019, that exceeds the maximum amount allowed under  
33 this section may continue to levy sales and use tax in excess of the maximum  
34 amount until the total aggregate amount of sales and use tax falls below the  
35 maximum amount by the expiration or abolishment of one (1) or more sales and  
36 use tax levies.

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SECTION 33. DO NOT CODIFY. Rules.

(a) When adopting the initial rules required under Sections 3-15 and 26-30 of this act, the final rules shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before January 1, 2020; or

(2) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

(b) The director of the relevant state agency shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rules for approval before January 1, 2020.

SECTION 34. DO NOT CODIFY. Rules.

(a) When adopting the initial rules required under Sections 16-25 and 31-32 of this act, the final rules shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before October 1, 2019; or

(2) If approval under § 10-3-309 has not occurred by October 1, 2019, as soon as practicable after approval under § 10-3-309.

(b) The Director of the Department of Finance and Administration shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of October 1, 2019, so that the Legislative Council may consider the rules for approval before October 1, 2019.

SECTION 35. EFFECTIVE DATES.

(a) Sections 3-15 and 26-30 of this act are effective on and after January 1, 2020.

(b) Sections 16-25 and 31-32 of this act are effective on the first day of the calendar quarter following the effective date of the act.



Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

DRAFT JLL/JLL  
SENATE BILL

5 By: Senator <NA>  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE TAX REFORM AND RELIEF ACT OF  
9 2019; TO REFORM ARKANSAS TAX LAWS TO PROVIDE TAX  
10 RELIEF FOR ARKANSAS TAXPAYERS; TO AMEND THE INCOME  
11 TAX IMPOSED ON INDIVIDUALS, TRUSTS, AND ESTATES; TO  
12 SIMPLIFY THE INCOME TAX IMPOSED ON INDIVIDUALS,  
13 TRUSTS, AND ESTATES; TO GRADUALLY REDUCE THE INCOME  
14 TAX RATES APPLICABLE TO INDIVIDUALS, TRUSTS, AND  
15 ESTATES; TO AMEND THE ARKANSAS GROSS RECEIPTS ACT OF  
16 1941; TO REQUIRE THE COLLECTION OF SALES AND USE TAX  
17 BY REMOTE SELLERS; TO REPEAL THE SALES AND USE TAX  
18 EXEMPTION FOR PUBLICATIONS SOLD THROUGH A  
19 SUBSCRIPTION; AND FOR OTHER PURPOSES.  
20

## Subtitle

21  
22 TO CREATE THE TAX REFORM AND RELIEF ACT  
23 OF 2019; TO REFORM ARKANSAS TAX LAWS TO  
24 PROVIDE TAX RELIEF FOR ARKANSAS  
25 TAXPAYERS; TO GRADUALLY REDUCE INCOME TAX  
26 RATES; AND TO REQUIRE THE COLLECTION OF  
27 SALES AND USE TAX BY REMOTE SELLERS.  
28  
29  
30

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
32

33 SECTION 1. DO NOT CODIFY. Title.

34 This act shall be known and may be cited as the "Tax Reform and Relief  
35 Act of 2019".  
36

DRAFT

11/16/2018 3:05:27 PM JLL071

1 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

2 (a) The General Assembly finds that:

3 (1) The Arkansas Tax Reform and Relief Legislative Task Force  
4 was charged with:

5 (A) Examining and identifying areas of potential tax  
6 reform within the tax laws; and

7 (B) Recommending legislation to the General Assembly to:

8 (i) Modernize and simplify the Arkansas tax code;

9 (ii) Make Arkansas's tax laws competitive with tax  
10 laws in other states;

11 (iii) Create jobs; and

12 (iv) Ensure fairness to all taxpayers;

13 (2) The state's income tax laws and sales tax laws should be  
14 amended to modernize and simplify the tax code and ensure fairness to all  
15 taxpayers;

16 (3) The inability to effectively collect any Arkansas sales or  
17 use tax from remote sellers who deliver tangible personal property, other  
18 property subject to Arkansas sales and use tax, or services directly into the  
19 state is seriously eroding the sales and use tax base of this state, causing  
20 revenue losses and imminent harm to the state through the loss of critical  
21 funding for state and local services;

22 (4) The harm from the loss of revenue is especially serious in  
23 Arkansas because sales and use tax revenue is essential in funding state and  
24 local services;

25 (5) Despite the fact that a use tax is owed on tangible personal  
26 property, certain other property, or services delivered for use in this  
27 state, many remote sellers actively market sales as tax-free or as  
28 transactions not subject to sales and use tax;

29 (6) The structural advantages of remote sellers, including the  
30 absence of point-of-sale tax collection and the general growth of online  
31 retail, make clear that further erosion of this state's sales and use tax  
32 base is likely to occur in the near future;

33 (7) Remote sellers that make a substantial number of deliveries  
34 into Arkansas or collect large gross revenues from Arkansas benefit  
35 extensively from this state's market, economy, and infrastructure;

36 (8) In contrast with the increasing harm caused to the state by

1 the exemption of remote sellers from sales and use tax collection duties, the  
 2 costs of such collection have decreased because advanced computing and  
 3 software options have made it neither difficult nor burdensome for remote  
 4 sellers to collect and remit sales and use taxes associated with sales of  
 5 goods and services to residents of this state;

6 (9) The United States Supreme Court recently upheld the ability  
 7 of states to compel out-of-state sellers with no physical presence in the  
 8 state to collect state sales and use taxes; and

9 (10) Any savings realized by the state through income tax and  
 10 sales tax reforms should be dedicated to reducing the tax burden for Arkansas  
 11 taxpayers.

12 (b) It is the intent of the General Assembly to:

13 (1) Reform Arkansas tax laws to modernize and simplify the tax  
 14 code, increase the state's competitiveness, and ensure fairness to all  
 15 taxpayers;

16 (2) Offset any revenue savings realized through tax reform with  
 17 corresponding changes to reduce the tax burden for Arkansas taxpayers;

18 (3) Gradually reduce the tax burden on Arkansas taxpayers in a  
 19 fiscally responsible manner; and

20 (4) Recognize the right of any future General Assembly to adjust  
 21 the tax reductions provided for in this act as necessary based on the state's  
 22 economic health.

23  
 24 SECTION 3. Arkansas Code § 26-51-201(a)(11), concerning the income tax  
 25 imposed on individuals, trusts, and estates, is amended to read as follows:

26 (11) For tax years beginning on or after January 1, 2020, every  
 27 resident, individual, trust, or estate having net income less than or equal  
 28 to eighty thousand dollars (\$80,000) shall determine the amount of income tax  
 29 due under this subsection in accordance with the table set forth below:

<u>From</u>	<u>Less Than or Equal To</u>	<u>Rate</u>
<u>\$0</u>	<u>\$4,299</u>	<u>0%</u>
<u>\$4,300</u>	<u>\$8,399</u>	<u>2%</u>
<u>\$8,400</u>	<u>\$12,599</u>	<u>3%</u>
<u>\$12,600</u>	<u>\$20,999</u>	<u>3.4%</u>
<u>\$21,000</u>	<u>\$35,099</u>	<u>5%</u>
<u>\$35,100</u>	<u>\$80,000</u>	<u>6%</u>

1           (12) For tax years beginning on or after January 1, 2020, every  
 2 resident, individual, trust, or estate having net income of more than eighty  
 3 thousand dollars (\$80,000), shall determine the amount of income tax due  
 4 under this subsection in accordance with the table set forth below:

<u>From</u>	<u>Less Than or Equal To</u>	<u>Rate</u>
6 <u>\$0</u>	<u>\$4,299</u>	<u>0%</u>
7 <u>\$4,300</u>	<u>\$8,399</u>	<u>2%</u>
8 <u>\$8,400</u>	<u>\$12,599</u>	<u>3%</u>
9 <u>\$12,600</u>	<u>\$20,999</u>	<u>3.4%</u>
10 <u>\$21,000</u>	<u>\$35,099</u>	<u>5%</u>
11 <u>\$35,100</u>	<u>\$80,000</u>	<u>6%</u>
12 <u>\$80,001 and above</u>		<u>6.9%</u>

13           (13)(A) If the determinations of the Director of the Department  
 14 of Finance and Administration under subdivision (a)(13)(B)(i) of this section  
 15 are all in the affirmative for the year, beginning January 1 of the year  
 16 following the director's most recent determinations under subdivision  
 17 (a)(13)(B)(i) of this section, every resident, individual, trust, or estate  
 18 shall determine the amount of income tax due under this subsection in  
 19 accordance with the table set forth below:

<u>From</u>	<u>Less Than or Equal To</u>	<u>Rate</u>
20 <u>\$0</u>	<u>\$4,299</u>	<u>0%</u>
21 <u>\$4,300</u>	<u>\$8,399</u>	<u>2%</u>
22 <u>\$8,400</u>	<u>\$12,599</u>	<u>3%</u>
23 <u>\$12,600</u>	<u>\$20,999</u>	<u>3.4%</u>
24 <u>\$21,000</u>	<u>\$35,099</u>	<u>5%</u>
25 <u>\$35,100</u>	<u>\$80,000</u>	<u>6%</u>
26 <u>\$80,001 and above</u>		<u>6.5%</u>

27           (B) By October 1, 2021, and by October 1 of each following  
 28 year, the director shall:

29                   (i) Determine whether:

30                           (a) The amount of personal income tax  
 31 collections for the fiscal year ending the immediately preceding June 30  
 32 exceeds the amount of personal income tax collections for fiscal year 2019 by  
 33 at least the percentage that is the product of:

34                                   (1) The difference in the number of  
 35 years between the immediately preceding fiscal year and fiscal year 2019; and  
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(2) Two percent (2%);

(b) The net available for distribution for the fiscal year ending the immediately preceding June 30 exceeds the net available for distribution for fiscal year 2019 by at least the percentage that is the product of:

(1) The difference in the number of years between the immediately preceding fiscal year and fiscal year 2019; and

(2) Two percent (2%); and

(c) The balance of the Long Term Reserve Fund for the most recently completed fiscal year is at least equal to the balance of the fund for the fiscal year immediately preceding the most recently completed fiscal year; and

(ii) Report on his or her determinations under subdivision (a)(13)(B)(i) of this section to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(14) The tables set forth in subdivisions ~~(a)(1)-(10)~~ (a)(1)-(13) of this section shall be adjusted annually in accordance with the method set forth in subsection (d) of this section.

SECTION 4. Arkansas Code § 26-51-201(e), concerning the income tax imposed on individuals, trusts, and estates, is repealed.

~~(e) If the director determines that federal law authorizes the state to collect sales and use tax from sellers that do not have a physical presence in the state, then after the first twelve (12) months of collecting sales and use tax from sellers that do not have a physical presence in the state, the director shall:~~

~~(1) After making the deductions required under § 19-5-202(b)(2)(B)(i), certify to the Governor and the Office of Economic and Tax Policy the amount of available net general revenues attributable to the collection of sales and use tax from sellers that do not have a physical presence in the state during the first twelve (12) months of collections;~~

~~(2) Use any amount under subdivision (e)(1) of this section that exceeds seventy million dollars (\$70,000,000) to reduce the rate of four and five tenths percent (4.5%) in the table contained in subdivision (a)(7) of this section equally for all taxpayers subject to the rate of four and five tenths percent (4.5%);~~

1           ~~(3) Certify the amount of the reduction of the income tax rate~~  
2 ~~under this subsection to the Governor and the Office of Economic and Tax~~  
3 ~~Policy; and~~

4           ~~(4) Incorporate the reduced income tax rate into the table~~  
5 ~~prescribed under subsection (d) of this section, which shall be applicable~~  
6 ~~for each tax year thereafter.~~

7  
8           SECTION 5. Arkansas Code § 26-52-110 is repealed.

9           ~~26-52-110. Sellers and affiliated persons — Referral agreements —~~  
10 ~~Notice required — Definitions.~~

11           ~~(a) As used in this section:~~

12           ~~(1) "Affiliated person" means:~~

13           ~~(A) A person that is a member of the same controlled group~~  
14 ~~of corporations as the seller; or~~

15           ~~(B) Another entity that, notwithstanding its form of~~  
16 ~~organization, bears the same ownership relationship to the seller as a~~  
17 ~~corporation that is a member of the same controlled group of corporations;~~  
18 ~~and~~

19           ~~(2) "Controlled group of corporations" means the same as in 26~~  
20 ~~U.S.C. § 1563(a), as it existed on January 1, 2011.~~

21           ~~(b) A seller is presumed to be engaged in the business of selling~~  
22 ~~tangible personal property, specified digital products, a digital code, or~~  
23 ~~taxable services for use in the state if an affiliated person is subject to~~  
24 ~~the sales and use tax jurisdiction of the state and the:~~

25           ~~(1) Seller sells a similar line of products as the affiliated~~  
26 ~~person and sells the products under the same business name or a similar~~  
27 ~~business name;~~

28           ~~(2) Affiliated person uses his, her, or its in-state employees~~  
29 ~~or in-state facilities to advertise, promote, or facilitate sales by the~~  
30 ~~seller to consumers;~~

31           ~~(3) Affiliated person maintains an office, distribution~~  
32 ~~facility, warehouse or storage place, or similar place of business to~~  
33 ~~facilitate the delivery of property, specified digital products, a digital~~  
34 ~~code, or services sold by the seller to the seller's business;~~

35           ~~(4) Affiliated person uses trademarks, service marks, or trade~~  
36 ~~names in the state that are the same or substantially similar to those used~~

1 by the seller; or

2 ~~(5) Affiliated person delivers, installs, assembles, or performs~~  
3 ~~maintenance services for the seller's purchasers within the state.~~

4 ~~(c) The presumption in subsection (b) of this section may be rebutted~~  
5 ~~by demonstrating that the affiliated person's activities in the state are not~~  
6 ~~significantly associated with the seller's ability to establish or maintain a~~  
7 ~~market in the state for the seller's sales.~~

8 ~~(d)(1) If there is not an affiliated person with respect to a seller~~  
9 ~~in the state, the seller is presumed to be engaged in the business of selling~~  
10 ~~tangible personal property, specified digital products, a digital code, or~~  
11 ~~taxable services for use in the state if the seller enters into an agreement~~  
12 ~~with one (1) or more residents of the state under which the residents, for a~~  
13 ~~commission or other consideration, directly or indirectly refer potential~~  
14 ~~purchasers, whether by a link on an Internet website or otherwise, to the~~  
15 ~~seller.~~

16 ~~(2) However, subdivision (d)(1) of this section applies only if~~  
17 ~~the cumulative gross receipts from sales by the seller to purchasers in the~~  
18 ~~state who are referred to the seller by all residents according to the type~~  
19 ~~of agreement described in subdivision (d)(1) of this section exceed ten~~  
20 ~~thousand dollars (\$10,000) during the preceding twelve (12) months.~~

21 ~~(e)(1) The presumption in subsection (d) of this section may be~~  
22 ~~rebutted by submitting proof that the residents with whom the seller has an~~  
23 ~~agreement did not engage in any activity within the state that was~~  
24 ~~significantly associated with the seller's ability to establish or maintain~~  
25 ~~the seller's market in the state during the preceding twelve (12) months.~~

26 ~~(2) Proof provided under subdivision (e)(1) of this section may~~  
27 ~~consist of written statements from all of the residents with whom the seller~~  
28 ~~has an agreement stating that they did not engage in any solicitation in the~~  
29 ~~state on behalf of the seller during the preceding twelve (12) months if the~~  
30 ~~statements were provided and obtained in good faith.~~

31 ~~(f) The Director of the Department of Finance and Administration shall~~  
32 ~~promulgate rules to implement this section.~~

33  
34 SECTION 6. Arkansas Code Title 26, Chapter 52, Subchapter 1, is  
35 amended to add an additional section to read as follows:

36 26-52-111. Collection by remote sellers.

1       (a) A seller selling tangible personal property, other property  
2 subject to Arkansas sales and use tax, or services for delivery into Arkansas  
3 that does not have a physical presence in this state:

4               (1) Is subject to the provisions of this chapter and the  
5 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.; and

6               (2) Shall remit the sales and use tax and follow all applicable  
7 procedures and requirements of law as if the seller had a physical presence  
8 in the state if the seller meets either of the following criteria for the  
9 previous calendar year or the current calendar year:

10              (A) The seller's gross revenue from the sale of tangible  
11 personal property, other property subject to Arkansas sales and use tax, and  
12 services for delivery into Arkansas exceeds one hundred thousand dollars  
13 (\$100,000); or

14              (B) The seller sold tangible personal property, other  
15 property subject to Arkansas sales and use tax, services, or any combination  
16 of tangible personal property, other property subject to Arkansas sales and  
17 use tax, and services for delivery into Arkansas in at least two hundred  
18 (200) separate transactions.

19       (b) The obligation to remit the sales and use tax required under this  
20 section shall not be applied retroactively.

21       (c) A taxpayer complying with this section may seek a recovery of  
22 taxes, penalties, or interest only by following the procedures established in  
23 the Arkansas Tax Procedure Act, § 26-18-101 et seq.

24       (d) This section does not limit the ability of a taxpayer to obtain a  
25 refund for any other reason, including without limitation a mistake of fact  
26 or a mathematical miscalculation of the applicable tax.

27       (e) A seller that remits sales and use tax under this section is not  
28 liable to a purchaser if the seller was not required to collect sales and use  
29 tax because a provision of this section is later deemed unlawful.

30       (f) This section does not affect the obligation of a purchaser from  
31 this state to remit use tax on any applicable transaction in which the seller  
32 does not collect and remit sales and use tax.

33       (g) This section does not affect or impair the:

34              (1) Obligation of a seller, when the seller is transacting  
35 business in the state and a point-of-sale tax is collected on the  
36 transaction, to remit all state and local taxes on any applicable transaction

1 in which the seller provides goods or furnishes services within the state; or  
2 (2) Ability of a state entity to immediately collect the taxes  
3 described in subdivision (g)(1) of this section.

4  
5 SECTION 7. Arkansas Code § 26-52-401(14), concerning various products  
6 and services that are exempt from sales and use tax, is repealed.

7 ~~(14) Gross receipts or gross proceeds derived from sales of~~  
8 ~~publications sold through regular subscription, regardless of the type or~~  
9 ~~content of the publication or the place printed or published;~~

10  
11 SECTION 8. EFFECTIVE DATE. Sections 4-7 of this act are effective on  
12 the first day of the calendar quarter following the effective date of this  
13 act.



Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

DRAFT JLL/JLL  
SENATE BILL

5 By: Senator <NA>  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE TAX REFORM AND RELIEF ACT OF  
9 2019; TO REFORM ARKANSAS TAX LAWS TO PROVIDE TAX  
10 RELIEF FOR ARKANSAS TAXPAYERS; TO AMEND THE INCOME  
11 TAX IMPOSED ON INDIVIDUALS, TRUSTS, AND ESTATES; TO  
12 SIMPLIFY THE INCOME TAX IMPOSED ON INDIVIDUALS,  
13 TRUSTS, AND ESTATES; TO GRADUALLY REDUCE THE INCOME  
14 TAX RATES APPLICABLE TO INDIVIDUALS, TRUSTS, AND  
15 ESTATES; TO AMEND THE ARKANSAS GROSS RECEIPTS ACT OF  
16 1941; TO REQUIRE THE COLLECTION OF SALES AND USE TAX  
17 BY REMOTE SELLERS; TO REPEAL THE SALES AND USE TAX  
18 EXEMPTION FOR PUBLICATIONS SOLD THROUGH A  
19 SUBSCRIPTION; AND FOR OTHER PURPOSES.  
20

## Subtitle

21  
22 TO CREATE THE TAX REFORM AND RELIEF ACT  
23 OF 2019; TO REFORM ARKANSAS TAX LAWS TO  
24 PROVIDE TAX RELIEF FOR ARKANSAS  
25 TAXPAYERS; TO GRADUALLY REDUCE INCOME TAX  
26 RATES; AND TO REQUIRE THE COLLECTION OF  
27 SALES AND USE TAX BY REMOTE SELLERS.  
28  
29  
30

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
32

33 SECTION 1. DO NOT CODIFY. Title.

34 This act shall be known and may be cited as the "Tax Reform and Relief  
35 Act of 2019".  
36

DRAFT

11/16/2018 3:03:17 PM JLL076

1 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

2 (a) The General Assembly finds that:

3 (1) The Arkansas Tax Reform and Relief Legislative Task Force  
4 was charged with:

5 (A) Examining and identifying areas of potential tax  
6 reform within the tax laws; and

7 (B) Recommending legislation to the General Assembly to:

8 (i) Modernize and simplify the Arkansas tax code;

9 (ii) Make Arkansas's tax laws competitive with tax  
10 laws in other states;

11 (iii) Create jobs; and

12 (iv) Ensure fairness to all taxpayers;

13 (2) The state's income tax laws and sales tax laws should be  
14 amended to modernize and simplify the tax code and ensure fairness to all  
15 taxpayers;

16 (3) The inability to effectively collect any Arkansas sales or  
17 use tax from remote sellers who deliver tangible personal property, other  
18 property subject to Arkansas sales and use tax, or services directly into the  
19 state is seriously eroding the sales and use tax base of this state, causing  
20 revenue losses and imminent harm to the state through the loss of critical  
21 funding for state and local services;

22 (4) The harm from the loss of revenue is especially serious in  
23 Arkansas because sales and use tax revenue is essential in funding state and  
24 local services;

25 (5) Despite the fact that a use tax is owed on tangible personal  
26 property, certain other property, or services delivered for use in this  
27 state, many remote sellers actively market sales as tax-free or as  
28 transactions not subject to sales and use tax;

29 (6) The structural advantages of remote sellers, including the  
30 absence of point-of-sale tax collection and the general growth of online  
31 retail, make clear that further erosion of this state's sales and use tax  
32 base is likely to occur in the near future;

33 (7) Remote sellers that make a substantial number of deliveries  
34 into Arkansas or collect large gross revenues from Arkansas benefit  
35 extensively from this state's market, economy, and infrastructure;

36 (8) In contrast with the increasing harm caused to the state by

1 the exemption of remote sellers from sales and use tax collection duties, the  
 2 costs of such collection have decreased because advanced computing and  
 3 software options have made it neither difficult nor burdensome for remote  
 4 sellers to collect and remit sales and use taxes associated with sales of  
 5 goods and services to residents of this state;

6 (9) The United States Supreme Court recently upheld the ability  
 7 of states to compel out-of-state sellers with no physical presence in the  
 8 state to collect state sales and use taxes; and

9 (10) Any savings realized by the state through income tax and  
 10 sales tax reforms should be dedicated to reducing the tax burden for Arkansas  
 11 taxpayers.

12 (b) It is the intent of the General Assembly to:

13 (1) Reform Arkansas tax laws to modernize and simplify the tax  
 14 code, increase the state's competitiveness, and ensure fairness to all  
 15 taxpayers;

16 (2) Offset any revenue savings realized through tax reform with  
 17 corresponding changes to reduce the tax burden for Arkansas taxpayers;

18 (3) Gradually reduce the tax burden on Arkansas taxpayers in a  
 19 fiscally responsible manner; and

20 (4) Recognize the right of any future General Assembly to adjust  
 21 the tax reductions provided for in this act as necessary based on the state's  
 22 economic health.

23  
 24 SECTION 3. Arkansas Code § 26-51-201(a)(11), concerning the income tax  
 25 imposed on individuals, trusts, and estates, is amended to read as follows:

26 (11) For tax years beginning on or after January 1, 2020, every  
 27 resident, individual, trust, or estate having net income of more than  
 28 seventy-five thousand dollars (\$75,000) shall determine the amount of income  
 29 tax due under this subsection in accordance with the table set forth below:

<u>From</u>	<u>Less Than or Equal To</u>	<u>Rate</u>
31 <u>\$0</u>	<u>\$4,299</u>	<u>0.9%</u>
32 <u>\$4,300</u>	<u>\$8,399</u>	<u>2.5%</u>
33 <u>\$8,400</u>	<u>\$12,599</u>	<u>3.5%</u>
34 <u>\$12,600</u>	<u>\$20,999</u>	<u>4.5%</u>
35 <u>\$21,000</u>	<u>\$35,099</u>	<u>6%</u>
36 <u>\$35,100 and above</u>		<u>6.5%</u>

1           (12)(A) If the determinations of the Director of the Department  
 2 of Finance and Administration under subdivision (a)(12)(B)(i) of this section  
 3 are all in the affirmative for the year, beginning January 1 of the year  
 4 following the director's most recent determinations under subdivision  
 5 (a)(12)(B)(i) of this section, every resident, individual, trust, or estate  
 6 shall determine the amount of income tax due under this subsection in  
 7 accordance with the table set forth below:

<u>From</u>	<u>Less Than or Equal To</u>	<u>Rate</u>
9 <u>\$0</u>	<u>\$4,299</u>	<u>0%</u>
10 <u>\$4,300</u>	<u>\$8,399</u>	<u>2%</u>
11 <u>\$8,400</u>	<u>\$12,599</u>	<u>3%</u>
12 <u>\$12,600</u>	<u>\$20,999</u>	<u>3.4%</u>
13 <u>\$21,000</u>	<u>\$35,099</u>	<u>5%</u>
14 <u>\$35,100</u>	<u>\$80,000</u>	<u>6%</u>
15 <u>\$80,001 and above</u>		<u>6.5%</u>

16           (B) By October 1 of each year, the director shall:

17                   (i) Determine whether:

18                           (a) The amount of personal income tax  
 19 collections for the fiscal year ending the immediately preceding June 30  
 20 exceeds the amount of personal income tax collections for fiscal year 2019 by  
 21 at least the percentage that is the product of:

22                                   (1) The difference in the number of  
 23 years between the immediately preceding fiscal year and fiscal year 2019; and

24   (2) Two percent (2%);

25                           (b) The net available for distribution for the  
 26 fiscal year ending the immediately preceding June 30 exceeds the net  
 27 available for distribution for fiscal year 2019 by at least the percentage  
 28 that is the product of:

29                                   (1) The difference in the number of  
 30 years between the immediately preceding fiscal year and fiscal year 2019; and

31   (2) Two percent (2%); and

32                           (c) The balance of the Long Term Reserve Fund  
 33 for the most recently completed fiscal year is at least equal to the balance  
 34 of the fund for the fiscal year immediately preceding the most recently  
 35 completed fiscal year; and

36                           (ii) Report on his or her determinations under

1 subdivision (a)(12)(B)(i) of this section to the Legislative Council or, if  
 2 the General Assembly is in session, the Joint Budget Committee.

3 (13) The tables set forth in subdivisions ~~(a)(1)-(10)~~ (a)(1)-  
 4 (12) of this section shall be adjusted annually in accordance with the method  
 5 set forth in subsection (d) of this section.

6  
 7 SECTION 4. Arkansas Code § 26-51-201(e), concerning the income tax  
 8 imposed on individuals, trusts, and estates, is repealed.

9 ~~(e) If the director determines that federal law authorizes the state~~  
 10 ~~to collect sales and use tax from sellers that do not have a physical~~  
 11 ~~presence in the state, then after the first twelve (12) months of collecting~~  
 12 ~~sales and use tax from sellers that do not have a physical presence in the~~  
 13 ~~state, the director shall:~~

14 ~~(1) After making the deductions required under § 19-5-~~  
 15 ~~202(b)(2)(B)(i), certify to the Governor and the Office of Economic and Tax~~  
 16 ~~Policy the amount of available net general revenues attributable to the~~  
 17 ~~collection of sales and use tax from sellers that do not have a physical~~  
 18 ~~presence in the state during the first twelve (12) months of collections;~~

19 ~~(2) Use any amount under subdivision (e)(1) of this section that~~  
 20 ~~exceeds seventy million dollars (\$70,000,000) to reduce the rate of four and~~  
 21 ~~five tenths percent (4.5%) in the table contained in subdivision (a)(7) of~~  
 22 ~~this section equally for all taxpayers subject to the rate of four and five-~~  
 23 ~~tenths percent (4.5%);~~

24 ~~(3) Certify the amount of the reduction of the income tax rate~~  
 25 ~~under this subsection to the Governor and the Office of Economic and Tax~~  
 26 ~~Policy; and~~

27 ~~(4) Incorporate the reduced income tax rate into the table~~  
 28 ~~prescribed under subsection (d) of this section, which shall be applicable~~  
 29 ~~for each tax year thereafter.~~

30  
 31 SECTION 5. Arkansas Code § 26-52-110 is repealed.

32 ~~26-52-110. Sellers and affiliated persons — Referral agreements —~~  
 33 ~~Notice required — Definitions.~~

34 ~~(a) As used in this section:~~

35 ~~(1) "Affiliated person" means:~~

36 ~~(A) A person that is a member of the same controlled group~~

1 ~~of corporations as the seller; or~~

2 ~~(B) Another entity that, notwithstanding its form of~~  
3 ~~organization, bears the same ownership relationship to the seller as a~~  
4 ~~corporation that is a member of the same controlled group of corporations;~~  
5 ~~and~~

6 ~~(2) "Controlled group of corporations" means the same as in 26~~  
7 ~~U.S.C. § 1563(a), as it existed on January 1, 2011.~~

8 ~~(b) A seller is presumed to be engaged in the business of selling~~  
9 ~~tangible personal property, specified digital products, a digital code, or~~  
10 ~~taxable services for use in the state if an affiliated person is subject to~~  
11 ~~the sales and use tax jurisdiction of the state and the:~~

12 ~~(1) Seller sells a similar line of products as the affiliated~~  
13 ~~person and sells the products under the same business name or a similar~~  
14 ~~business name;~~

15 ~~(2) Affiliated person uses his, her, or its in-state employees~~  
16 ~~or in-state facilities to advertise, promote, or facilitate sales by the~~  
17 ~~seller to consumers;~~

18 ~~(3) Affiliated person maintains an office, distribution~~  
19 ~~facility, warehouse or storage place, or similar place of business to~~  
20 ~~facilitate the delivery of property, specified digital products, a digital~~  
21 ~~code, or services sold by the seller to the seller's business;~~

22 ~~(4) Affiliated person uses trademarks, service marks, or trade~~  
23 ~~names in the state that are the same or substantially similar to those used~~  
24 ~~by the seller; or~~

25 ~~(5) Affiliated person delivers, installs, assembles, or performs~~  
26 ~~maintenance services for the seller's purchasers within the state.~~

27 ~~(c) The presumption in subsection (b) of this section may be rebutted~~  
28 ~~by demonstrating that the affiliated person's activities in the state are not~~  
29 ~~significantly associated with the seller's ability to establish or maintain a~~  
30 ~~market in the state for the seller's sales.~~

31 ~~(d)(1) If there is not an affiliated person with respect to a seller~~  
32 ~~in the state, the seller is presumed to be engaged in the business of selling~~  
33 ~~tangible personal property, specified digital products, a digital code, or~~  
34 ~~taxable services for use in the state if the seller enters into an agreement~~  
35 ~~with one (1) or more residents of the state under which the residents, for a~~  
36 ~~commission or other consideration, directly or indirectly refer potential~~

1 purchasers, whether by a link on an Internet website or otherwise, to the  
2 seller.

3 ~~(2) However, subdivision (d)(1) of this section applies only if~~  
4 ~~the cumulative gross receipts from sales by the seller to purchasers in the~~  
5 ~~state who are referred to the seller by all residents according to the type~~  
6 ~~of agreement described in subdivision (d)(1) of this section exceed ten~~  
7 ~~thousand dollars (\$10,000) during the preceding twelve (12) months.~~

8 ~~(e)(1) The presumption in subsection (d) of this section may be~~  
9 ~~rebutted by submitting proof that the residents with whom the seller has an~~  
10 ~~agreement did not engage in any activity within the state that was~~  
11 ~~significantly associated with the seller's ability to establish or maintain~~  
12 ~~the seller's market in the state during the preceding twelve (12) months.~~

13 ~~(2) Proof provided under subdivision (e)(1) of this section may~~  
14 ~~consist of written statements from all of the residents with whom the seller~~  
15 ~~has an agreement stating that they did not engage in any solicitation in the~~  
16 ~~state on behalf of the seller during the preceding twelve (12) months if the~~  
17 ~~statements were provided and obtained in good faith.~~

18 ~~(f) The Director of the Department of Finance and Administration shall~~  
19 ~~promulgate rules to implement this section.~~

20  
21 SECTION 6. Arkansas Code Title 26, Chapter 52, Subchapter 1, is  
22 amended to add an additional section to read as follows:

23 26-52-111. Collection by remote sellers.

24 (a) A seller selling tangible personal property, other property  
25 subject to Arkansas sales and use tax, or services for delivery into Arkansas  
26 that does not have a physical presence in this state:

27 (1) Is subject to the provisions of this chapter and the  
28 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.; and

29 (2) Shall remit the sales and use tax and follow all applicable  
30 procedures and requirements of law as if the seller had a physical presence  
31 in the state if the seller meets either of the following criteria for the  
32 previous calendar year or the current calendar year:

33 (A) The seller's gross revenue from the sale of tangible  
34 personal property, other property subject to Arkansas sales and use tax, and  
35 services for delivery into Arkansas exceeds one hundred thousand dollars  
36 (\$100,000); or

1           (B) The seller sold tangible personal property, other  
2 property subject to Arkansas sales and use tax, services, or any combination  
3 of tangible personal property, other property subject to Arkansas sales and  
4 use tax, and services for delivery into Arkansas in at least two hundred  
5 (200) separate transactions.

6           (b) The obligation to remit the sales and use tax required under this  
7 section shall not be applied retroactively.

8           (c) A taxpayer complying with this section may seek a recovery of  
9 taxes, penalties, or interest only by following the procedures established in  
10 the Arkansas Tax Procedure Act, § 26-18-101 et seq.

11           (d) This section does not limit the ability of a taxpayer to obtain a  
12 refund for any other reason, including without limitation a mistake of fact  
13 or a mathematical miscalculation of the applicable tax.

14           (e) A seller that remits sales and use tax under this section is not  
15 liable to a purchaser if the seller was not required to collect sales and use  
16 tax because a provision of this section is later deemed unlawful.

17           (f) This section does not affect the obligation of a purchaser from  
18 this state to remit use tax on any applicable transaction in which the seller  
19 does not collect and remit sales and use tax.

20           (g) This section does not affect or impair the:

21           (1) Obligation of a seller, when the seller is transacting  
22 business in the state and a point-of-sale tax is collected on the  
23 transaction, to remit all state and local taxes on any applicable transaction  
24 in which the seller provides goods or furnishes services within the state; or

25           (2) Ability of a state entity to immediately collect the taxes  
26 described in subdivision (g)(1) of this section.

27  
28           SECTION 7. Arkansas Code § 26-52-401(14), concerning various products  
29 and services that are exempt from sales and use tax, is repealed.

30           ~~(14) Gross receipts or gross proceeds derived from sales of~~  
31 ~~publications sold through regular subscription, regardless of the type or~~  
32 ~~content of the publication or the place printed or published;~~

33  
34           SECTION 8. EFFECTIVE DATE. Sections 4-7 of this act are effective on  
35 the first day of the calendar quarter following the effective date of this  
36 act.

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

DRAFT JLL/JLL  
SENATE BILL

5 By: Senator <NA>  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE TAX REFORM AND RELIEF ACT OF  
9 2019; TO AMEND THE INCOME TAX IMPOSED ON INDIVIDUALS,  
10 TRUSTS, AND ESTATES; TO SIMPLIFY THE INCOME TAX  
11 IMPOSED ON INDIVIDUALS, TRUSTS, AND ESTATES; TO  
12 INCREASE THE STANDARD DEDUCTION FOR INCOME TAX  
13 PURPOSES; TO REPEAL THE LAW PROVIDING FOR AN INCOME  
14 TAX CREDIT FOR CERTAIN POLITICAL CONTRIBUTIONS THAT  
15 RESULTED FROM INITIATED MEASURE 1 OF 1996; TO AMEND  
16 THE ARKANSAS GROSS RECEIPTS ACT OF 1941; TO REQUIRE  
17 THE COLLECTION OF SALES AND USE TAX BY REMOTE  
18 SELLERS; TO REPEAL THE SALES AND USE TAX EXEMPTION  
19 FOR PUBLICATIONS SOLD THROUGH A SUBSCRIPTION; TO  
20 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
21

## Subtitle

22  
23 TO CREATE THE TAX REFORM AND RELIEF ACT  
24 OF 2019; TO SIMPLIFY THE INCOME TAX  
25 IMPOSED ON INDIVIDUALS, TRUSTS, AND  
26 ESTATES; TO INCREASE THE STANDARD  
27 DEDUCTION; AND TO REQUIRE THE COLLECTION  
28 OF SALES AND USE TAX BY REMOTE SELLERS.  
29  
30

31  
32 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
33

34 SECTION 1. DO NOT CODIFY. Title.

35 This act shall be known and may be cited as the "Tax Reform and Relief  
36 Act of 2019".

DRAFT

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1  
2 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

3 (a) The General Assembly finds that:

4 (1) The Arkansas Tax Reform and Relief Legislative Task Force  
5 was charged with:

6 (A) Examining and identifying areas of potential tax  
7 reform within the tax laws; and

8 (B) Recommending legislation to the General Assembly to:

9 (i) Modernize and simplify the Arkansas tax code;

10 (ii) Make Arkansas's tax laws competitive with tax  
11 laws in other states;

12 (iii) Create jobs; and

13 (iv) Ensure fairness to all taxpayers;

14 (2) The state's income tax laws and sales tax laws should be  
15 amended to modernize and simplify the tax code and ensure fairness to all  
16 taxpayers;

17 (3) The inability to effectively collect any Arkansas sales or  
18 use tax from remote sellers who deliver tangible personal property, other  
19 property subject to Arkansas sales and use tax, or services directly into the  
20 state is seriously eroding the sales and use tax base of this state, causing  
21 revenue losses and imminent harm to the state through the loss of critical  
22 funding for state and local services;

23 (4) The harm from the loss of revenue is especially serious in  
24 Arkansas because sales and use tax revenues are essential in funding state  
25 and local services;

26 (5) Despite the fact that a use tax is owed on tangible personal  
27 property, certain other property, or services delivered for use in this  
28 state, many remote sellers actively market sales as tax-free or as  
29 transactions not subject to sales and use tax;

30 (6) The structural advantages of remote sellers, including the  
31 absence of point-of-sale tax collection and the general growth of online  
32 retail, make clear that further erosion of this state's sales and use tax  
33 base is likely to occur in the near future;

34 (7) Remote sellers that make a substantial number of deliveries  
35 into Arkansas or collect large gross revenues from Arkansas benefit  
36 extensively from this state's market, economy, and infrastructure;

1           (8) In contrast with the increasing harm caused to the state by  
 2 the exemption of remote sellers from sales and use tax collection duties, the  
 3 costs of such collection have decreased because advanced computing and  
 4 software options have made it neither difficult nor burdensome for remote  
 5 sellers to collect and remit sales and use taxes associated with sales of  
 6 goods and services to residents of this state;

7           (9) The United States Supreme Court recently upheld the ability  
 8 of states to compel out-of-state sellers with no physical presence in the  
 9 state to collect state sales and use taxes; and

10           (10) Any savings realized by the state through income tax and  
 11 sales tax reforms should be dedicated to reducing the tax burden for Arkansas  
 12 taxpayers.

13           (b) It is the intent of the General Assembly to:

14           (1) Reform Arkansas tax laws to modernize and simplify the tax  
 15 code, increase the state's competitiveness, and ensure fairness to all  
 16 taxpayers;

17           (2) Offset any revenue savings realized through tax reform with  
 18 corresponding changes to reduce the tax burden for Arkansas taxpayers;

19           (3) Gradually reduce the tax burden on Arkansas taxpayers in a  
 20 fiscally responsible manner; and

21           (4) Recognize the right of future General Assemblies to adjust  
 22 the tax reductions provided for in this act as necessary based on the state's  
 23 economic health.

24  
 25           SECTION 3. Arkansas Code § 7-6-222 is repealed.

26           ~~7-6-222. Tax credits for certain individual political contributions.~~

27           ~~(a) Pursuant to regulations to be adopted by the Department of Finance~~  
 28 ~~and Administration, a credit against individual Arkansas income taxes shall~~  
 29 ~~be allowed for money contributions made by the taxpayer in a taxable year to~~  
 30 ~~one (1) or more of the following:~~

31           ~~(1) A candidate seeking nomination or election to a public~~  
 32 ~~office at an election or to the candidate's campaign committee;~~

33           ~~(2) An approved political action committee as defined in § 7-6-~~  
 34 ~~201; or~~

35           ~~(3) An organized political party as defined in § 7-1-101.~~

36           ~~(b) The credit allowed by subsection (a) of this section shall be the~~

~~aggregate contributions, not to exceed fifty dollars (\$50.00), on an individual tax return, or the aggregate contributions, not to exceed one hundred dollars (\$100), on a joint return.~~

~~(c) Credits for contributions qualifying under this section and made prior to April 15 in a calendar year may be applied to the return filed for the previous taxable year.~~

SECTION 4. Arkansas Code § 26-51-201(a)(11), concerning the income tax imposed on individuals, trusts, and estates, is amended to read as follows:

(11) For tax years beginning on or after January 1, 2020, every resident, individual, trust, or estate shall determine the amount of income tax due under this subsection in accordance with the table set forth below:

<u>From</u>	<u>Less Than or Equal To</u>	<u>Rate</u>
<u>\$0</u>	<u>\$8,000</u>	<u>2%</u>
<u>\$8,001</u>	<u>\$18,000</u>	<u>4%</u>
<u>\$18,001</u>	<u>\$65,000</u>	<u>5.9%</u>
<u>\$65,001 and above</u>		<u>6.5%</u>

(12)(A) If the determinations of the Director of the Department of Finance and Administration under subdivision (a)(12)(B)(i) of this section are all in the affirmative for the year, beginning January 1 of the year following the director's most recent determinations under subdivision (a)(12)(B)(i) of this section, every resident, individual, trust, or estate shall determine the amount of income tax due under this subsection in accordance with the table set forth below:

<u>From</u>	<u>Less Than or Equal To</u>	<u>Rate</u>
<u>\$0</u>	<u>\$8,000</u>	<u>2%</u>
<u>\$8,001</u>	<u>\$18,000</u>	<u>4%</u>
<u>\$18,001 and above</u>		<u>5.9%</u>

(B) By October 1 of each year, the director shall:

(i) Determine whether:

(a) The amount of personal income tax collections for the fiscal year ending the immediately preceding June 30 exceeds the amount of personal income tax collections for fiscal year 2019 by at least the percentage that is the product of:

(1) The difference in number of years between the immediately preceding fiscal year and fiscal year 2019; and



1 ~~under this subsection to the Governor and the Office of Economic and Tax~~  
 2 ~~Policy; and~~

3 ~~(4) Incorporate the reduced income tax rate into the table~~  
 4 ~~prescribed under subsection (d) of this section, which shall be applicable~~  
 5 ~~for each tax year thereafter.~~

6  
 7 SECTION 6. Arkansas Code § 26-51-430(b), concerning the standard  
 8 deduction for income tax purposes, is amended to read as follows:

9 (b)(1) The standard deduction shall be:

10 (A) For the tax year beginning January 1, 2014, two  
 11 thousand dollars (\$2,000) per taxpayer; ~~and~~

12 (B) For tax years beginning on and after January 1, 2015,  
 13 two thousand two hundred dollars (\$2,200) per taxpayer; and

14 (C) For tax years beginning on and after January 1, 2019,  
 15 six thousand eight hundred dollars (\$6,800).

16 (2) In the case of a married couple, each spouse shall be  
 17 entitled to claim a standard deduction of:

18 (A) For the tax year beginning January 1, 2014, two  
 19 thousand dollars (\$2,000); ~~and~~

20 (B) For tax years beginning on and after January 1, 2015,  
 21 two thousand two hundred dollars (\$2,200); and

22 (C) For tax years beginning on and after January 1,  
 23 2019, six thousand eight hundred dollars (\$6,800) .

24  
 25 SECTION 7. Arkansas Code § 26-52-110 is repealed.

26 ~~26-52-110. Sellers and affiliated persons — Referral agreements —~~  
 27 ~~Notice required — Definitions.~~

28 ~~(a) As used in this section:~~

29 ~~(1) “Affiliated person” means:~~

30 ~~(A) A person that is a member of the same controlled group~~  
 31 ~~of corporations as the seller; or~~

32 ~~(B) Another entity that, notwithstanding its form of~~  
 33 ~~organization, bears the same ownership relationship to the seller as a~~  
 34 ~~corporation that is a member of the same controlled group of corporations;~~  
 35 ~~and~~

36 ~~(2) “Controlled group of corporations” means the same as in 26~~

1 U.S.C. § 1563(a), as it existed on January 1, 2011.

2 ~~(b) A seller is presumed to be engaged in the business of selling~~  
3 ~~tangible personal property, specified digital products, a digital code, or~~  
4 ~~taxable services for use in the state if an affiliated person is subject to~~  
5 ~~the sales and use tax jurisdiction of the state and the:~~

6 ~~(1) Seller sells a similar line of products as the affiliated~~  
7 ~~person and sells the products under the same business name or a similar~~  
8 ~~business name;~~

9 ~~(2) Affiliated person uses his, her, or its in-state employees~~  
10 ~~or in-state facilities to advertise, promote, or facilitate sales by the~~  
11 ~~seller to consumers;~~

12 ~~(3) Affiliated person maintains an office, distribution~~  
13 ~~facility, warehouse or storage place, or similar place of business to~~  
14 ~~facilitate the delivery of property, specified digital products, a digital~~  
15 ~~code, or services sold by the seller to the seller's business;~~

16 ~~(4) Affiliated person uses trademarks, service marks, or trade~~  
17 ~~names in the state that are the same or substantially similar to those used~~  
18 ~~by the seller; or~~

19 ~~(5) Affiliated person delivers, installs, assembles, or performs~~  
20 ~~maintenance services for the seller's purchasers within the state.~~

21 ~~(c) The presumption in subsection (b) of this section may be rebutted~~  
22 ~~by demonstrating that the affiliated person's activities in the state are not~~  
23 ~~significantly associated with the seller's ability to establish or maintain a~~  
24 ~~market in the state for the seller's sales.~~

25 ~~(d)(1) If there is not an affiliated person with respect to a seller~~  
26 ~~in the state, the seller is presumed to be engaged in the business of selling~~  
27 ~~tangible personal property, specified digital products, a digital code, or~~  
28 ~~taxable services for use in the state if the seller enters into an agreement~~  
29 ~~with one (1) or more residents of the state under which the residents, for a~~  
30 ~~commission or other consideration, directly or indirectly refer potential~~  
31 ~~purchasers, whether by a link on an Internet website or otherwise, to the~~  
32 ~~seller.~~

33 ~~(2) However, subdivision (d)(1) of this section applies only if~~  
34 ~~the cumulative gross receipts from sales by the seller to purchasers in the~~  
35 ~~state who are referred to the seller by all residents according to the type~~  
36 ~~of agreement described in subdivision (d)(1) of this section exceed ten~~

1 ~~thousand dollars (\$10,000) during the preceding twelve (12) months.~~

2 ~~(c)(1) The presumption in subsection (d) of this section may be~~  
3 ~~rebutted by submitting proof that the residents with whom the seller has an~~  
4 ~~agreement did not engage in any activity within the state that was~~  
5 ~~significantly associated with the seller's ability to establish or maintain~~  
6 ~~the seller's market in the state during the preceding twelve (12) months.~~

7 ~~(2) Proof provided under subdivision (c)(1) of this section may~~  
8 ~~consist of written statements from all of the residents with whom the seller~~  
9 ~~has an agreement stating that they did not engage in any solicitation in the~~  
10 ~~state on behalf of the seller during the preceding twelve (12) months if the~~  
11 ~~statements were provided and obtained in good faith.~~

12 ~~(f) The Director of the Department of Finance and Administration shall~~  
13 ~~promulgate rules to implement this section.~~

14  
15 SECTION 8. Arkansas Code Title 26, Chapter 52, Subchapter 1, is  
16 amended to add an additional section to read as follows:

17 26-52-111. Collection by remote sellers.

18 (a) A seller selling tangible personal property, other property  
19 subject to Arkansas sales and use tax, or services for delivery into Arkansas  
20 that does not have a physical presence in this state:

21 (1) Is subject to the provisions of this chapter and the  
22 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.; and

23 (2) Shall remit the sales and use tax and follow all applicable  
24 procedures and requirements of law as if the seller had a physical presence  
25 in the state if the seller meets either of the following criteria for the  
26 previous calendar year or the current calendar year:

27 (A) The seller's gross revenue from the sale of tangible  
28 personal property, other property subject to Arkansas sales and use tax, and  
29 services for delivery into Arkansas exceeds one hundred thousand dollars  
30 (\$100,000); or

31 (B) The seller sold tangible personal property, other  
32 property subject to Arkansas sales and use tax, services, or any combination  
33 of tangible personal property, other property subject to Arkansas sales and  
34 use tax, and services for delivery into Arkansas in at least two hundred  
35 (200) separate transactions.

36 (b) The obligation to remit the sales and use tax required under this

1 section shall not be applied retroactively.

2 (c) A taxpayer complying with this section may seek a recovery of  
 3 taxes, penalties, or interest only by following the procedures established in  
 4 the Arkansas Tax Procedure Act, § 26-18-101 et seq.

5 (d) This section does not limit the ability of a taxpayer to obtain a  
 6 refund for any other reason, including without limitation a mistake of fact  
 7 or a mathematical miscalculation of the applicable tax.

8 (e) A seller that remits sales and use tax under this section is not  
 9 liable to a purchaser if the seller was not required to collect sales and use  
 10 tax because a provision of this section is later deemed unlawful.

11 (f) This section does not affect the obligation of a purchaser from  
 12 this state to remit use tax on any applicable transaction in which the seller  
 13 does not collect and remit sales and use tax.

14 (g) This section does not affect or impair the:

15 (1) Obligation of a seller, when the seller is transacting  
 16 business in the state and a point-of-sale tax is collected on the  
 17 transaction, to remit all state and local taxes on any applicable transaction  
 18 in which the seller provides goods or furnishes services within the state; or

19 (2) Ability of a state entity to immediately collect the taxes  
 20 described in subdivision (g)(1) of this section.

21  
 22 SECTION 9. Arkansas Code § 26-52-401(14), concerning various products  
 23 and services that are exempt from sales and use tax, is repealed.

24 ~~(14) Gross receipts or gross proceeds derived from sales of~~  
 25 ~~publications sold through regular subscription, regardless of the type or~~  
 26 ~~content of the publication or the place printed or published;~~

27  
 28 SECTION 10. EFFECTIVE DATE. Sections 3 and 6 of this act are  
 29 effective for tax years beginning on or after January 1, 2020.

30  
 31 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the  
 32 General Assembly of the State of Arkansas that the income tax structure for  
 33 Arkansas residents is too complicated in comparison with the income tax  
 34 structure in surrounding states; that this complexity prevents Arkansas from  
 35 being competitive with surrounding states in the region; that increasing the  
 36 standard deduction will increase the state's ability to provide additional

tax relief to low-income and middle-class taxpayers without overburdening the state's resources; and that this act is immediately necessary because it is in the best interests of the state to increase Arkansas's ability to compete in the region by simplifying the tax laws and dedicating as much funding as is economically possible and prudent to relieve the income tax burden suffered by low-income and middle-class taxpayers in the state. Therefore, an emergency is declared to exist, and Sections 4, 5, and 7-9 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.

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Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

DRAFT JLL/JLL  
SENATE BILL

5 By: Senator <NA>  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE INCOME TAX LAWS; TO REDUCE THE  
9 INCOME TAX RATES FOR CORPORATIONS; TO AMEND THE  
10 UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT; TO  
11 REPEAL THE THROWBACK RULE FOR BUSINESS INCOME; TO  
12 PROVIDE FOR A SINGLE SALES FACTOR APPORTIONMENT  
13 FORMULA FOR BUSINESS INCOME; TO PHASE IN AN EXTENSION  
14 OF THE NET OPERATING LOSS CARRY-FORWARD PERIOD FOR  
15 COMPUTING ARKANSAS INCOME TAX; TO PHASE IN AN  
16 EXTENSION OF THE NET OPERATING LOSS CARRY-FORWARD  
17 PERIOD FOR COMPUTING ARKANSAS INCOME TAX FOR  
18 QUALIFIED MANUFACTURERS OF STEEL; TO CREATE AN INCOME  
19 TAX CREDIT FOR PROPERTY TAXES PAID ON BUSINESS  
20 INVENTORY; AND FOR OTHER PURPOSES.  
21

## Subtitle

22  
23 TO REDUCE CORPORATE INCOME TAX RATES; TO  
24 AMEND THE UNIFORM DIVISION OF INCOME FOR  
25 TAX PURPOSES ACT; TO EXTEND THE NET  
26 OPERATING LOSS CARRY-FORWARD PERIOD; AND  
27 TO CREATE A BUSINESS INVENTORY INCOME TAX  
28 CREDIT.  
29  
30  
31

32 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
33

34 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

35 (a) The General Assembly finds that:

36 (1) The Arkansas Tax Reform and Relief Legislative Task Force

DRAFT

11/16/2018 3:09:27 PM JLL073

1 was charged with:

2 (A) Examining and identifying areas of potential tax  
3 reform within the tax laws; and

4 (B) Recommending legislation to the General Assembly to:

5 (i) Modernize and simplify the Arkansas tax code;

6 (ii) Make Arkansas's tax laws competitive with tax  
7 laws in other states;

8 (iii) Create jobs; and

9 (iv) Ensure fairness to all taxpayers;

10 (2) The state's income tax laws should be amended to modernize  
11 and simplify the tax code, increase Arkansas's competitiveness, create jobs,  
12 and ensure fairness to all taxpayers; and

13 (3) Any savings realized by the state through tax reforms should  
14 be dedicated to reducing the tax burden for Arkansas taxpayers.

15 (b) It is the intent of the General Assembly to:

16 (1) Reform Arkansas tax laws to modernize and simplify the tax  
17 code, increase the state's competitiveness, create jobs, and ensure fairness  
18 to all taxpayers;

19 (2) Offset any revenue savings realized through tax reform with  
20 corresponding changes to reduce the tax burden for Arkansas taxpayers;

21 (3) Gradually reduce the tax burden on Arkansas taxpayers in a  
22 fiscally responsible manner; and

23 (4) Recognize the right of future General Assemblies to adjust  
24 the tax reductions provided for in this act as necessary based on the state's  
25 economic health.

26  
27 SECTION 2. Arkansas Code § 15-4-2404 is amended to read as follows:

28 15-4-2404. Net operating loss deduction – Carry forward.

29 (a) Taxpayers qualified for the benefits of this subchapter and  
30 entitled to a net operating loss deduction as provided in § 26-51-427 may  
31 carry forward that deduction to the next-succeeding taxable year following  
32 the year of the net operating loss and annually thereafter for a total period  
33 of ten (10) years or until the net operating loss has been exhausted,  
34 whichever is earlier, the total period set out in this subsection or until  
35 the net operating loss has been exhausted, whichever is earlier:

36 (1) For the tax year beginning January 1 of the year following

1 the date this section of the act is effective, eleven (11) years;

2 (2) For the tax year beginning January 1 of the second year  
3 following the date this section of the act is effective, fourteen (14) years;

4 (3) For the tax year beginning January 1 of the third year  
5 following the date this section of the act is effective, seventeen (17)  
6 years; and

7 (4) For tax years beginning on or after January 1 of the fourth  
8 year following the date this section of the act is effective, twenty (20)  
9 years.

10 (b) The net operating loss deduction must be carried forward in the  
11 order named in subsection (a) of this section.

12  
13 SECTION 3. Arkansas Code § 26-23-204 is amended to read as follows:  
14 26-23-204. Tax bill information.

15 (a) In order to assist property taxpayers to better understand their  
16 property tax bills, the following information shall be included on each tax  
17 bill sent by the county collector:

18 (1) The dollar amount of the taxpayer's total tax bill  
19 distributed to each taxing unit in the county where the taxpayer's property  
20 is taxed;

21 (2) The millage rate levied by each taxing unit used to  
22 determine the tax distribution to each taxing unit and the percentage of the  
23 full value of the taxpayer's property that each millage rate levy represents;

24 (3) The percentage of the full value of the taxpayer's property  
25 shall be calculated by multiplying the legal assessment level by the  
26 appropriate millage rate levy;

27 (4) The sum of the millage rates levied by each taxing unit, the  
28 percentage of the full value of the taxpayer's property that the sum of the  
29 millage rate levies represents, and the total dollar amount due and billed;  
30 and

31 (5) The internet address for the county's official website.

32 (b) To aid taxpayers in claiming the income tax credit allowed under §  
33 26-51-515, each property tax bill sent by a county collector shall identify  
34 the portion of property tax owed, if any, that is attributable to business  
35 inventory.

36

1 SECTION 4. Arkansas Code § 26-51-205(a) and (b), concerning the income  
2 tax levied on corporations, is amended to read as follows:

3 (a)(1) Every corporation organized under the laws of this state shall  
4 pay annually an income tax with respect to carrying on or doing business on  
5 the entire net income of the corporation, as now defined by the laws of the  
6 State of Arkansas, received by ~~such~~ the corporation during the income year,  
7 on the following basis:

8 ~~(1)~~ (A) On the first \$3,000 three thousand dollars  
9 (\$3,000) of net income or any part thereof 1%, one percent (1%);

10 (B) On the second \$3,000 three thousand dollars (\$3,000)  
11 of net income or any part thereof 2%, two percent (2%);

12 (C) On the next \$5,000 five thousand dollars (\$5,000) of  
13 net income or any part thereof 3%, three percent (3%);

14 (D) On the next \$14,000 fourteen thousand dollars  
15 (\$14,000) of net income or any part thereof 5%, five percent (5%);

16 (E) On the next \$75,000 seventy-five thousand dollars  
17 (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6%  
18 one hundred thousand dollars (\$100,000), six percent (6%); and

19 ~~(2)~~ (F) On net income exceeding one hundred thousand  
20 dollars (\$100,000), ~~a flat rate of six and one-half percent (6 ½%) shall be~~  
21 ~~applied to the entire net income~~ six and five-tenths percent (6.5%).

22 (2) For tax years beginning on or after January 1 of the year  
23 following the date this section of the act is effective, every corporation  
24 organized under the laws of this state shall pay annually an income tax with  
25 respect to carrying on or doing business on the entire net income of the  
26 corporation, as defined by the laws of the State of Arkansas, received by the  
27 corporation during the income year, on the following basis:

28 (A) On the first three thousand dollars (\$3,000) of net  
29 income or any part thereof, one percent (1%);

30 (B) On the next three thousand dollars (\$3,000) of net  
31 income or any part thereof, two percent (2%);

32 (C) On the next five thousand dollars (\$5,000) of net  
33 income or any part thereof, three percent (3%);

34 (D) On the next fourteen thousand dollars (\$14,000) of net  
35 income or any part thereof, five percent (5%); and

36 (E) On net income exceeding twenty-five thousand dollars,

1 five and nine-tenths percent (5.9%).

2 (b)(1) Every foreign corporation doing business within the  
3 jurisdiction of this state shall pay annually an income tax on the proportion  
4 of its entire net income as now determined by the income tax laws of  
5 Arkansas, on the following basis:

6 (1) (A) On the first \$3,000 three thousand dollars  
7 (\$3,000) of net income or any part thereof 1%, one percent (1%);

8 (B) On the second \$3,000 three thousand dollars (\$3,000)  
9 of net income or any part thereof 2%, two percent (2%);

10 (C) On the next \$5,000 five thousand dollars (\$5,000) of  
11 net income or any part thereof 3%, three percent (3%);

12 (D) On the next \$14,000 fourteen thousand dollars  
13 (\$14,000) of net income or any part thereof 5%, five percent (5%);

14 (E) On the next \$75,000 seventy-five thousand dollars  
15 (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6%  
16 one hundred thousand dollars (\$100,000), six percent (6%); and

17 (2) (F) On net income exceeding one hundred thousand  
18 dollars (\$100,000), a flat rate of ~~six and one half percent (6 ½ %)~~ shall be  
19 applied to the entire net income six and five-tenths percent (6.5%).

20 (2) For tax years beginning on or after January 1 of the year  
21 following the date this section of the act is effective, every foreign  
22 corporation doing business within the jurisdiction of this state shall pay  
23 annually an income tax on the proportion of its entire net income as now  
24 determined by the income tax laws of Arkansas, on the following basis:

25 (A) On the first three thousand dollars (\$3,000) of net  
26 income or any part thereof, one percent (1%);

27 (B) On the next three thousand dollars (\$3,000) of net  
28 income or any part thereof, two percent (2%);

29 (C) On the next five thousand dollars (\$5,000) of net  
30 income or any part thereof, three percent (3%);

31 (D) On the next fourteen thousand dollars (\$14,000) of net  
32 income or any part thereof, five percent (5%); and

33 (E) On net income exceeding twenty-five thousand dollars,  
34 five and nine-tenths percent (5.9%).

35  
36 SECTION 5. Arkansas Code § 26-51-427 is amended to read as follows:

1           26-51-427. Deductions – Net operating loss carryover.

2           In addition to other deductions allowed by this chapter, there shall be  
3 is allowed as a deduction from gross income a net operating loss carryover  
4 under the following rules:

5           (1)(A) The net operating loss as ~~hereinbelow~~ defined for any  
6 year ending on or after the passage of the Income Tax Act of 1929 and for any  
7 succeeding taxable year may be carried over to the next-succeeding taxable  
8 year and annually thereafter for a total period of three (3) years next  
9 succeeding the year of the net operating loss or until the net operating loss  
10 has been exhausted or absorbed by the taxable income of any succeeding year,  
11 whichever is earlier, if the net operating loss occurred in an income year  
12 beginning before January 1, 1987. The net operating loss deduction ~~must~~ shall  
13 be carried forward in the order ~~named above~~ stated in this subdivision  
14 (1)(A).

15           (B) The net operating loss as ~~hereinbelow~~ defined for any  
16 year ending on or after the passage of the Income Tax Act of 1929, § 26-51-  
17 101 et seq., and for any succeeding taxable year before January 1 of the year  
18 following the date this section of the act is effective, may be carried over  
19 to the next-succeeding taxable year and annually thereafter for a total  
20 period of five (5) years next succeeding the year of the net operating loss  
21 or until the net operating loss has been exhausted or absorbed by the taxable  
22 income of any succeeding year, whichever is earlier, if the net operating  
23 loss occurred in an income year beginning on or after January 1, 1987, but  
24 before January 1 of the year following the date this section of the act is  
25 effective. The net operating loss deduction ~~must~~ shall be carried forward in  
26 the order ~~named above~~ stated in this subdivision (1)(B).

27           (C)(i) ~~The net operating loss as hereinbelow defined which~~  
28 ~~resulted from farming operations, for income years beginning on or after~~  
29 ~~January 1, 1981, and expired in accordance with subdivision (1)(A) of this~~  
30 ~~section before being fully used, may be carried forward for an additional two~~  
31 ~~(2) years and any unused portions can be combined and either applied to tax~~  
32 ~~years 1987 and 1988, respectively, or to tax years 1989 and 1990. In order to~~  
33 ~~claim the additional two year carry forward, taxpayers must attach copies of~~  
34 ~~both their federal tax returns and their state tax returns, showing the net~~  
35 ~~operating losses for income years beginning on or after January 1, 1981, to~~  
36 ~~their state tax returns. As used in this subdivision (1)(C), "farming~~

1 ~~operations” means that at least sixty six and two thirds percent (66 2/3%) of~~  
 2 ~~the total gross income, from all sources for the taxable year, must come from~~  
 3 ~~farming as defined by 26 U.S.C. § 464(e)(1) in effect on January 1, 1989.~~

4 The net operating loss for a taxable year may be carried over to the next  
 5 succeeding taxable year and annually thereafter for the following number of  
 6 years next succeeding the tax year of the net operating loss or until the net  
 7 operating loss has been exhausted or absorbed by the taxable income of a  
 8 succeeding year, whichever is earlier:

9 (a) For the tax year beginning January 1 of  
 10 the year following the date this section of the act is effective, a total  
 11 period of eight (8) years;

12 (b) For the tax year beginning January 1 of  
 13 the second year following the date this section of the act is effective, a  
 14 total period of eleven (11) years;

15 (c) For the tax year beginning January 1 of  
 16 the third year following the date this section of the act is effective, a  
 17 total period of fourteen (14) years;

18 (d) For the tax year beginning January 1 of  
 19 the fourth year following the date this section of the act is effective, a  
 20 total period of seventeen (17) years; and

21 (e) For tax years beginning on or after  
 22 January 1 of the fifth year following the date this section of the act is  
 23 effective, a total period of twenty (20) years.

24 (ii) The net operating loss deduction shall be  
 25 carried forward in the order stated in this subdivision (1)(C).

26 (D) As used in this section, “taxable income” or “net  
 27 income” ~~shall be deemed to be~~ means the net income computed without benefit  
 28 of the deduction for income taxes, personal exemptions, and credit for  
 29 dependents. The net income of the taxable period to which the net operating  
 30 loss deduction, as adjusted, is carried, ~~shall be~~ is the net income before  
 31 the deduction of federal income taxes, personal exemption, and credit for  
 32 dependents. ~~Such income~~ The income taxes, exemptions, and credits described  
 33 in this subdivision (1)(D) shall not be used to increase the net operating  
 34 loss ~~which that~~ that may be carried to any other taxable period.

35 (E)(i) As used in this section, “qualified medical  
 36 company” means a corporation engaged in:

1 (a) Research and development in the medical  
2 field; and

3 (b) ~~Manufacture~~ The manufacture and  
4 distribution of medical products, including therapeutic and diagnostic  
5 products.

6 (ii) In the case of a qualified medical ~~companies,~~  
7 ~~as defined herein,~~ company, a net operating loss for ~~any~~ a taxable year ~~shall~~  
8 ~~be~~ is a net operating loss carryover to each of the fifteen (15) taxable  
9 years following the taxable year of the loss.

10 (iii) If the qualified medical company is an "S"  
11 corporation, the pass-through provisions of § 26-51-409, as in effect for the  
12 taxable year of the net operating loss, ~~shall be~~ are applicable.

13 (iv) The net operating loss provisions ~~set forth~~  
14 ~~above~~ stated in this subdivision (1)(E), which resulted from the operation of  
15 a qualified medical company, ~~shall be~~ are effective for taxable years  
16 beginning on and after January 1, 1987;

17 (2) As used in this section, "net operating loss" ~~is defined as~~  
18 means the excess of allowable deductions over gross income for the taxable  
19 year, subject to the following adjustments:

20 (A) There shall be added to gross income all nontaxable  
21 income, not required by law to be reported as gross income, ~~as provided by~~  
22 ~~law~~, less any expenses properly and reasonably incurred in earning nontaxable  
23 income, which expenses would otherwise be nondeductible;

24 (B) In the case of a taxpayer other than a corporation,  
25 deductions, not including federal income taxes, not attributable to the  
26 operation of the trade or business ~~shall be~~ are eliminated from the  
27 deductions otherwise allowable for the taxable year to the extent that they  
28 exceed gross income not derived from trade or business. Personal exemptions  
29 and credit for dependents ~~shall not be~~ are not a deduction for the purpose of  
30 computing a net operating loss;

31 (C) ~~No~~ A net operating loss deduction shall not be  
32 allowed; and

33 (D) In the case of a taxpayer other than a "C  
34 corporation," as defined in 26 U.S.C. § 1361, as in effect on January 1,  
35 1985:

36 (i) ~~For income years beginning after December 31,~~

1 1986, ~~the~~ The amount deductible on account of losses from sales or exchanges  
 2 of capital assets shall not exceed the amount includable on account of gains  
 3 from sales or exchanges of capital assets; and

4 (ii) ~~For income years beginning after December 31,~~  
 5 1986, ~~the~~ The deduction for long-term capital gains provided by 26 U.S.C. §  
 6 1202 [repealed], as in effect on January 1, 1985, shall not be allowed; and

7 (3) In the case of the acquisition of assets of one (1)  
 8 corporation by another corporation, the acquiring corporation shall succeed  
 9 to and take into account any net operating loss carryover apportionable to  
 10 Arkansas, under the Uniform Division of Income for Tax Purposes Act, § 26-51-  
 11 701 et seq., that the acquired corporation could have claimed had it not been  
 12 acquired, subject to the following conditions:

13 (A) The net operating loss may not be carried forward to a  
 14 taxable year ~~which~~ that ends more than three (3) years after the taxable year  
 15 in which the net operating loss occurred if the net operating loss occurred  
 16 in an income year beginning before January 1, 1987;

17 (B) The net operating loss may not be carried forward to a  
 18 taxable year ~~which~~ that ends more than five (5) years after the taxable year  
 19 in which the net operating loss occurred if the net operating loss occurred  
 20 in an income year beginning on or after January 1, 1987, but before January 1  
 21 of the year following the date this section of the act is effective; and

22 (C) The net operating loss may not be carried forward to a  
 23 taxable year that ends more than the number of years stated in subdivisions  
 24 (1)(B) and (C) of this section after the taxable year in which the net  
 25 operating loss occurred if the net operating loss occurred in an income year  
 26 beginning on or after January 1 of the year following the date this section  
 27 of the act is effective; and

28 ~~(C)~~ (D) The net operating loss may be claimed only when  
 29 the ownership of both the acquired and acquiring corporations is  
 30 substantially the same, ~~that is, where~~ in that not less than eighty percent  
 31 (80%) of the voting stock of each corporation is owned by the same person or,  
 32 ~~where prior to~~ before the acquisition, the acquiring corporation owned at  
 33 least eighty percent (80%) of the voting stock of the acquired corporation.  
 34 The carryover losses will be allowed only in those cases ~~where~~ in which the  
 35 assets of the corporation going out of existence earn sufficient profits  
 36 apportionable to Arkansas under the Uniform Division of Income for Tax

1 Purposes Act, § 26-51-701 et seq., in the post-merger period to absorb the  
2 carryover losses claimed by the surviving corporation.

3  
4 SECTION 6. Arkansas Code Title 26, Chapter 51, Subchapter 5, is  
5 amended to add an additional section to read as follows:

6 26-51-515. Credit for property tax paid on inventory.

7 (a) As used in this section:

8 (1)(A) "Inventory" means the tangible personal property of a  
9 merchant or manufacturer assessed as business inventory for ad valorem tax  
10 purposes under §§ 26-26-1201, 26-26-1203, 26-16-1205, or 26-26-1207,  
11 including without limitation the following:

12 (i) For a merchant, tangible personal property  
13 purchased with a view to the tangible personal property being sold at a  
14 profit or held by consignment for sale; and

15 (ii) For a manufacturer, tangible personal property  
16 held for the purpose of adding to the value of the tangible personal property  
17 by process of manufacturing, refining, or rectifying, or by combination of  
18 different materials, with a view of making a gain or profit by so doing,  
19 including without limitation a raw material, work-in-progress, or finished  
20 good of a manufacturer.

21 (B) "Inventory" includes without limitation livestock and  
22 harvested crops.

23 (C) "Inventory" does not include:

24 (i) The supplies of a merchant that are not held for  
25 sale;

26 (ii) The supplies of a manufacturer that are not  
27 consumed and are not raw materials;

28 (iii) Tangible personal property of a public carrier  
29 or utility that is assessed under § 26-26-1601 et seq.; or

30 (iv) An item that is otherwise exempt from ad  
31 valorem taxation;

32 (2) "Manufacturer" means a person that purchases, receives, or  
33 holds personal property of any description for the purpose of adding to the  
34 value of the personal property by process of manufacturing, refining,  
35 rectifying, or by combination of different materials, with a view of making a  
36 gain or profit by so doing; and

1           (3) "Merchant" means a person owning or having in his or her  
 2 possession or under his or her control, within this state, with authority to  
 3 sell it, personal property purchased with a view to the personal property  
 4 being sold at a profit, or which has been consigned to the person from any  
 5 place out of this state, to be sold within this state.

6           (b) There is allowed an income tax credit against the income tax  
 7 imposed by this chapter in an amount equal to the personal property tax paid  
 8 by a taxpayer on inventory.

9           (c) To be eligible to claim the income tax credit allowed under this  
 10 section, a taxpayer shall provide proof of the amount of personal property  
 11 tax paid on inventory during the tax year.

12           (d) The amount of the income tax credit under this section that may be  
 13 claimed by the taxpayer in a tax year shall not exceed the amount of income  
 14 tax due by the taxpayer.

15           (e) Any unused income tax credit under this section may be carried  
 16 forward for ten (10) consecutive tax years following the tax year in which  
 17 the income tax credit was earned.

18           (f) A taxpayer that claims a deduction for taxes paid on inventory  
 19 under § 26-51-416 is not eligible for the income tax credit allowed under  
 20 this section.

21  
 22           SECTION 7. DO NOT CODIFY. The Arkansas Code Revision Commission shall  
 23 direct the publisher of the Arkansas Code to change the title of Title 26,  
 24 Chapter 51, Subchapter 7, to the "Division of Income for Tax Purposes Act".

25  
 26           SECTION 8. Arkansas Code § 26-51-709 is amended to read as follows:

27           26-51-709. Business income.

28           All business income shall be apportioned to this state by multiplying  
 29 the income by a fraction, the numerator of which is the ~~property factor plus~~  
 30 ~~the payroll factor plus double the sales factor,~~ total sales of the taxpayer  
 31 in this state during the tax period and the denominator of which is ~~four~~ the  
 32 total sales of the taxpayer everywhere during the tax period.

33  
 34           SECTION 9. Arkansas Code §§ 26-51-710 – 26-51-715 are repealed.

35           ~~26-51-710. Real and tangible personal property Factor.~~

36           ~~The property factor is a fraction, the numerator of which is the~~

1 ~~average value of the taxpayer's real and tangible personal property owned or~~  
2 ~~rented and used in this state during the tax period and the denominator of~~  
3 ~~which is the average value of all the taxpayer's real and tangible personal~~  
4 ~~property owned or rented and used during the tax period.~~

5  
6 ~~26-51-711. Original cost of property — Annual rental rate.~~

7 ~~Property owned by the taxpayer is valued at its original cost. Property~~  
8 ~~rented by the taxpayer is valued at eight times the net annual rental rate.~~  
9 ~~Net annual rental rate is the annual rental rate paid by the taxpayer less~~  
10 ~~any annual rental rate received by the taxpayer from sub-rentals.~~

11  
12 ~~26-51-712. Average value of property.~~

13 ~~The average value of property shall be determined by averaging the~~  
14 ~~values at the beginning and ending of the tax period, but the Director of the~~  
15 ~~Department of Finance and Administration may require the averaging of monthly~~  
16 ~~values during the tax period if reasonably required to reflect properly the~~  
17 ~~average value of the taxpayer's property.~~

18  
19 ~~26-51-713. Payroll factor.~~

20 ~~The payroll factor is a fraction, the numerator of which is the total~~  
21 ~~amount paid in this state during the tax period by the taxpayer for~~  
22 ~~compensation, and the denominator of which is the total compensation paid~~  
23 ~~everywhere during the tax period.~~

24  
25 ~~26-51-714. Compensation for service — Determination of payment in~~  
26 ~~state.~~

27 ~~Compensation is paid in this state if:~~

28 ~~(a) the individual's service is performed entirely within the~~  
29 ~~state; or~~

30 ~~(b) the individual's service is performed both within and~~  
31 ~~without the state, but the service performed without the state is incidental~~  
32 ~~to the individual's service within the state; or~~

33 ~~(c) some of the service is performed in the state and (1) the~~  
34 ~~base of operations or, if there is no base of operations, the place from~~  
35 ~~which the service is directed or controlled is in the state, or (2) the base~~  
36 ~~of operations or the place from which the service is directed or controlled~~

1 ~~is not in any state in which some part of the service is performed, but the~~  
 2 ~~individual's residence is in this state.~~

3  
 4 ~~26-51-715. Sales factor.~~

5 ~~The sales factor is a fraction, the numerator of which is the total~~  
 6 ~~sales of the taxpayer in this state during the tax period, and the~~  
 7 ~~denominator of which is the total sales of the taxpayer everywhere during the~~  
 8 ~~tax period.~~

9  
 10 SECTION 10. Arkansas Code § 26-51-716 is amended to read as follows:

11 26-51-716. Sales of tangible personal property.

12 Sales of tangible personal property are in this state if:

13 (a) the property is delivered or shipped to a purchaser, other  
 14 than the United States ~~government~~ Government, within this state regardless of  
 15 the f.o.b. point or other conditions of the sale; ~~or~~

16 (b) ~~the property is shipped from an office, store, warehouse,~~  
 17 ~~factory, or other place of storage in this state and (1) the purchaser is the~~  
 18 ~~United States government or (2) the taxpayer is not taxable in the state of~~  
 19 ~~the purchaser.~~

20  
 21 SECTION 11. Arkansas Code § 26-51-718 is amended to read as follows:

22 26-51-718. Procedure when allocation does not fairly represent  
 23 taxpayer's business activity.

24 If the allocation and apportionment provisions of this Act do not  
 25 fairly represent the extent of the taxpayer's business activity in this  
 26 state, the taxpayer may petition for or the Director of the Department of  
 27 Finance and Administration may require, in respect to all or any part of the  
 28 taxpayer's business activity, if reasonable:

29 (a) separate accounting;

30 (b) ~~the exclusion of any one or more of the factors;~~

31 (c) the inclusion of one or more additional factors which will  
 32 fairly represent the taxpayer's business activity in this state; or

33 (d) ~~(c)~~ the employment of any other method to effectuate an  
 34 equitable allocation and apportionment of the taxpayer's income.

35  
 36 SECTION 12. Arkansas Code § 26-51-1403(n), concerning the

1 apportionment and allocation of net income of financial institutions, is  
2 amended to read as follows:

3 (n) All Other Receipts. The numerator of the receipts factor includes  
4 all other receipts ~~pursuant to~~ under the rules set ~~forth out~~ in §§ ~~26-51-715~~  
5 ~~- 26-51-716 and 26-51-717.~~

6  
7 SECTION 13. DO NOT CODIFY. Contingencies.

8 (a) As used in this section:

9 (1) "Phase 1 of tax reform" means the tax reductions provided  
10 for in the Tax Reform and Relief Act of 2019;

11 (2) "Phase 2 of tax reform" means that:

12 (A) Phase 1 of tax reform is fully effective;

13 (B) Arkansas does not use the throwback rule in computing  
14 corporate income tax; and

15 (C) Arkansas uses a single sales factor apportionment  
16 formula for computing corporate income tax;

17 (3) "Phase 3 of tax reform" means that:

18 (A) Phase 2 of tax reform is fully effective;

19 (B) Corporate income exceeding twenty-five thousand  
20 dollars (\$25,000) is taxed at a rate that does not exceed five and nine-  
21 tenths percent (5.9%); and

22 (C) Net operating losses under §§ 15-4-2404 and 26-51-427  
23 may be carried forward for at least twenty (20) years; and

24 (4) "Tax reform determinations" means determinations made by the  
25 Director of the Department of Finance and Administration as of October 1 of  
26 each year regarding whether:

27 (A) The amount of personal income tax collections for the  
28 fiscal year ending the immediately preceding June 30 exceeds the amount of  
29 personal income tax collections for fiscal year 2019 by at least the  
30 percentage that is the product of:

31 (i) The difference in the number of years between  
32 the immediately preceding fiscal year and fiscal year 2019; and

33 (ii) Two percent (2%);

34 (B) The net available for distribution for the fiscal year  
35 ending the immediately preceding June 30 exceeds the net available for  
36 distribution for fiscal year 2019 by at least the percentage that is the

1 product of:

2 (i) The difference in the number of years between  
3 the immediately preceding fiscal year and fiscal year 2019; and

4 (ii) Two percent (2%); and

5 (C) The balance of the Long Term Reserve Fund for the most  
6 recently completed fiscal year is at least equal to the balance of the fund  
7 for the fiscal year immediately preceding the most recently completed fiscal  
8 year.

9 (b) By October 1 of each year, the director shall:

10 (1) Complete his or her tax reform determinations; and

11 (2) Report his or her tax reform determinations to the  
12 Legislative Council.

13 (c) The sections of this act are effective as follows:

14 (1) If the director's tax reform determinations for the year are  
15 all in the affirmative and phase 1 of tax reform is complete, beginning  
16 January 1 of the year following the director's most recent tax reform  
17 determinations, Sections 7-12 of this act are effective;

18 (2) If the director's tax reform determinations for the year are  
19 all in the affirmative and phase 2 of tax reform is complete, beginning  
20 January 1 of the year following the director's most recent tax reform  
21 determinations, Sections 2, 4, and 5 of this act are effective; and

22 (3) If the director's tax reform determinations for the year are  
23 all in the affirmative and phase 3 of tax reform is complete, beginning  
24 January 1 of the year following the director's most recent tax reform  
25 determinations, Sections 3 and 6 of this act are effective.

26  
27 SECTION 14. DO NOT CODIFY. Notice.

28 The Director of the Department of Finance and Administration shall  
29 notify the Arkansas Code Revision Commission and the Director of the Bureau  
30 of Legislative Research when any section of this act becomes effective under  
31 Section 13 of this act.



Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

DRAFT JLL/JLL  
SENATE BILL

5 By: Senator <NA>  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE INCOME TAX LAWS; TO REDUCE THE  
9 INCOME TAX RATES FOR CORPORATIONS; TO AMEND THE  
10 UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT; TO  
11 REPEAL THE THROWBACK RULE FOR BUSINESS INCOME; TO  
12 PROVIDE FOR A SINGLE SALES FACTOR APPORTIONMENT  
13 FORMULA FOR BUSINESS INCOME; TO PHASE IN AN EXTENSION  
14 OF THE NET OPERATING LOSS CARRY-FORWARD PERIOD FOR  
15 COMPUTING ARKANSAS INCOME TAX; TO PHASE IN AN  
16 EXTENSION OF THE NET OPERATING LOSS CARRY-FORWARD  
17 PERIOD FOR COMPUTING ARKANSAS INCOME TAX FOR  
18 QUALIFIED MANUFACTURERS OF STEEL; TO CREATE AN INCOME  
19 TAX CREDIT FOR PROPERTY TAXES PAID ON BUSINESS  
20 INVENTORY; AND FOR OTHER PURPOSES.  
21  
22

## Subtitle

23 TO REDUCE CORPORATE INCOME TAX RATES; TO  
24 AMEND THE UNIFORM DIVISION OF INCOME FOR  
25 TAX PURPOSES ACT; TO EXTEND THE NET  
26 OPERATING LOSS CARRY-FORWARD PERIOD; AND  
27 TO CREATE A BUSINESS INVENTORY INCOME TAX  
28 CREDIT.  
29  
30  
31

32 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
33

34 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

35 (a) The General Assembly finds that:

36 (1) The Arkansas Tax Reform and Relief Legislative Task Force

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1 was charged with:

2 (A) Examining and identifying areas of potential tax  
3 reform within the tax laws; and

4 (B) Recommending legislation to the General Assembly to:  
5 (i) Modernize and simplify the Arkansas tax code;  
6 (ii) Make Arkansas's tax laws competitive with tax  
7 laws in other states;

8 (iii) Create jobs; and  
9 (iv) Ensure fairness to all taxpayers;

10 (2) The state's income tax laws should be amended to modernize  
11 and simplify the tax code, increase Arkansas's competitiveness, create jobs,  
12 and ensure fairness to all taxpayers; and

13 (3) Any savings realized by the state through tax reforms should  
14 be dedicated to reducing the tax burden for Arkansas taxpayers.

15 (b) It is the intent of the General Assembly to:

16 (1) Reform Arkansas tax laws to modernize and simplify the tax  
17 code, increase the state's competitiveness, create jobs, and ensure fairness  
18 to all taxpayers;

19 (2) Offset any revenue savings realized through tax reform with  
20 corresponding changes to reduce the tax burden for Arkansas taxpayers;

21 (3) Gradually reduce the tax burden on Arkansas taxpayers in a  
22 fiscally responsible manner; and

23 (4) Recognize the right of any future General Assembly to adjust  
24 the tax reductions provided for in this act as necessary based on the state's  
25 economic health.

26  
27 SECTION 2. Arkansas Code § 15-4-2404 is amended to read as follows:

28 15-4-2404. Net operating loss deduction – Carry forward.

29 (a) Taxpayers qualified for the benefits of this subchapter and  
30 entitled to a net operating loss deduction as provided in § 26-51-427 may  
31 carry forward that deduction to the next-succeeding taxable year following  
32 the year of the net operating loss and annually thereafter for ~~a total period~~  
33 ~~of ten (10) years or until the net operating loss has been exhausted,~~  
34 ~~whichever is earlier.~~ the total period set out in this subsection or until  
35 the net operating loss has been exhausted, whichever is earlier:

36 (1) For the tax year beginning January 1 of the year following

1 the date this section of the act is effective, eleven (11) years;

2 (2) For the tax year beginning January 1 of the second year  
 3 following the date this section of the act is effective, fourteen (14) years;

4 (3) For the tax year beginning January 1 of the third year  
 5 following the date this section of the act is effective, seventeen (17)  
 6 years; and

7 (4) For tax years beginning on or after January 1 of the fourth  
 8 year following the date this section of the act is effective, twenty (20)  
 9 years.

10 (b) The net operating loss deduction must be carried forward in the  
 11 order named in subsection (a) of this section.

12  
 13 SECTION 3. Arkansas Code § 26-23-204 is amended to read as follows:  
 14 26-23-204. Tax bill information.

15 (a) In order to assist property taxpayers to better understand their  
 16 property tax bills, the following information shall be included on each tax  
 17 bill sent by the county collector:

18 (1) The dollar amount of the taxpayer's total tax bill  
 19 distributed to each taxing unit in the county where the taxpayer's property  
 20 is taxed;

21 (2) The millage rate levied by each taxing unit used to  
 22 determine the tax distribution to each taxing unit and the percentage of the  
 23 full value of the taxpayer's property that each millage rate levy represents;

24 (3) The percentage of the full value of the taxpayer's property  
 25 shall be calculated by multiplying the legal assessment level by the  
 26 appropriate millage rate levy;

27 (4) The sum of the millage rates levied by each taxing unit, the  
 28 percentage of the full value of the taxpayer's property that the sum of the  
 29 millage rate levies represents, and the total dollar amount due and billed;  
 30 and

31 (5) The internet address for the county's official website.

32 (b) To aid taxpayers in claiming the income tax credit allowed under §  
 33 26-51-515, each property tax bill sent by a county collector shall identify  
 34 the portion of property tax owed, if any, that is attributable to business  
 35 inventory.

36

1 SECTION 4. Arkansas Code § 26-51-205(a) and (b), concerning the income  
2 tax levied on corporations, is amended to read as follows:

3 (a)(1) Every corporation organized under the laws of this state shall  
4 pay annually an income tax with respect to carrying on or doing business on  
5 the entire net income of the corporation, as now defined by the laws of the  
6 State of Arkansas, received by ~~such~~ the corporation during the income year,  
7 on the following basis:

8 ~~(1)~~ (A) On the first ~~\$3,000~~ three thousand dollars  
9 (\$3,000) of net income or any part thereof ~~1%, one percent (1%);~~

10 (B) On the second ~~\$3,000~~ three thousand dollars (\$3,000)  
11 of net income or any part thereof ~~2%, two percent (2%);~~

12 (C) On the next ~~\$5,000~~ five thousand dollars (\$5,000) of  
13 net income or any part thereof ~~3%, three percent (3%);~~

14 (D) On the next ~~\$14,000~~ fourteen thousand dollars  
15 (\$14,000) of net income or any part thereof ~~5%, five percent (5%);~~

16 (E) On the next ~~\$75,000~~ seventy-five thousand dollars  
17 (\$75,000) of net income or any part thereof, but not exceeding ~~\$100,000~~ 6%  
18 one hundred thousand dollars (\$100,000), six percent (6%); and

19 ~~(2)~~ (F) On net income exceeding one hundred thousand  
20 dollars (\$100,000), ~~a flat rate of six and one-half percent (6 ½ %) shall be~~  
21 ~~applied to the entire net income~~ six and five-tenths percent (6.5%).

22 (2) For tax years beginning on or after January 1 of the year  
23 following the date this section of the act is effective, every corporation  
24 organized under the laws of this state shall pay annually an income tax with  
25 respect to carrying on or doing business on the entire net income of the  
26 corporation, as defined by the laws of the State of Arkansas, received by the  
27 corporation during the income year, on the following basis:

28 (A) On the first three thousand dollars (\$3,000) of net  
29 income or any part thereof, one percent (1%);

30 (B) On the next three thousand dollars (\$3,000) of net  
31 income or any part thereof, two percent (2%);

32 (C) On the next five thousand dollars (\$5,000) of net  
33 income or any part thereof, three percent (3%);

34 (D) On the next fourteen thousand dollars (\$14,000) of net  
35 income or any part thereof, five percent (5%); and

36 (E) On net income exceeding twenty-five thousand dollars,

1 five and nine-tenths percent (5.9%).

2 (b)(1) Every foreign corporation doing business within the  
3 jurisdiction of this state shall pay annually an income tax on the proportion  
4 of its entire net income as now determined by the income tax laws of  
5 Arkansas, on the following basis:

6 ~~(1)~~ (A) On the first \$3,000 three thousand dollars  
7 (\$3,000) of net income or any part thereof 1%, one percent (1%);

8 (B) On the second \$3,000 three thousand dollars (\$3,000)  
9 of net income or any part thereof 2%, two percent (2%);

10 (C) On the next \$5,000 five thousand dollars (\$5,000) of  
11 net income or any part thereof 3%, three percent (3%);

12 (D) On the next \$14,000 fourteen thousand dollars  
13 (\$14,000) of net income or any part thereof 5%, five percent (5%);

14 (E) On the next \$75,000 seventy-five thousand dollars  
15 (\$75,000) of net income or any part thereof, but not exceeding \$100,000 ~~6%~~  
16 one hundred thousand dollars (\$100,000), six percent (6%); and

17 ~~(2)~~ (F) On net income exceeding one hundred thousand  
18 dollars (\$100,000), ~~a flat rate of six and one half percent (6 ½%) shall be~~  
19 ~~applied to the entire net income~~ six and five-tenths percent (6.5%).

20 (2) For tax years beginning on or after January 1 of the year  
21 following the date this section of the act is effective, every foreign  
22 corporation doing business within the jurisdiction of this state shall pay  
23 annually an income tax on the proportion of its entire net income as now  
24 determined by the income tax laws of Arkansas, on the following basis:

25 (A) On the first three thousand dollars (\$3,000) of net  
26 income or any part thereof, one percent (1%);

27 (B) On the next three thousand dollars (\$3,000) of net  
28 income or any part thereof, two percent (2%);

29 (C) On the next five thousand dollars (\$5,000) of net  
30 income or any part thereof, three percent (3%);

31 (D) On the next fourteen thousand dollars (\$14,000) of net  
32 income or any part thereof, five percent (5%); and

33 (E) On net income exceeding twenty-five thousand dollars,  
34 five and nine-tenths percent (5.9%).

35  
36 SECTION 5. Arkansas Code § 26-51-427 is amended to read as follows:

1           26-51-427. Deductions – Net operating loss carryover.

2           In addition to other deductions allowed by this chapter, there ~~shall be~~  
3 is allowed as a deduction from gross income a net operating loss carryover  
4 under the following rules:

5           (1)(A) The net operating loss ~~as hereinbelow defined~~ for any  
6 ~~year ending on or after the passage of the Income Tax Act of 1929 and for any~~  
7 ~~succeeding~~ taxable year may be carried over to the next-succeeding taxable  
8 year and annually thereafter for a total period of three (3) years next  
9 succeeding the year of the net operating loss or until the net operating loss  
10 has been exhausted or absorbed by the taxable income of any succeeding year,  
11 whichever is earlier, if the net operating loss occurred in an income year  
12 beginning before January 1, 1987. The net operating loss deduction ~~must~~ shall  
13 be carried forward in the order ~~named above~~ stated in this subdivision  
14 (1)(A).

15           (B) The net operating loss ~~as hereinbelow defined~~ for any  
16 year ending on or after the passage of the Income Tax Act of 1929, § 26-51-  
17 101 et seq., and for any succeeding taxable year before January 1 of the year  
18 following the date this section of the act is effective, may be carried over  
19 to the next-succeeding taxable year and annually thereafter for a total  
20 period of five (5) years next succeeding the year of the net operating loss  
21 or until the net operating loss has been exhausted or absorbed by the taxable  
22 income of any succeeding year, whichever is earlier, if the net operating  
23 loss occurred in an income year beginning on or after January 1, 1987, but  
24 before January 1 of the year following the date this section of the act is  
25 effective. The net operating loss deduction ~~must~~ shall be carried forward in  
26 the order ~~named above~~ stated in this subdivision (1)(B).

27           (C)(i) ~~The net operating loss as hereinbelow defined which~~  
28 ~~resulted from farming operations, for income years beginning on or after~~  
29 ~~January 1, 1981, and expired in accordance with subdivision (1)(A) of this~~  
30 ~~section before being fully used, may be carried forward for an additional two~~  
31 ~~(2) years and any unused portions can be combined and either applied to tax~~  
32 ~~years 1987 and 1988, respectively, or to tax years 1989 and 1990. In order to~~  
33 ~~claim the additional two year carry forward, taxpayers must attach copies of~~  
34 ~~both their federal tax returns and their state tax returns, showing the net~~  
35 ~~operating losses for income years beginning on or after January 1, 1981, to~~  
36 ~~their state tax returns. As used in this subdivision (1)(C), "farming~~

1 operations” means ~~that at least sixty six and two thirds percent (66 2/3%) of~~  
 2 ~~the total gross income, from all sources for the taxable year, must come from~~  
 3 ~~farming as defined by 26 U.S.C. § 464(c)(1) in effect on January 1, 1989.~~

4 The net operating loss for a taxable year may be carried over to the next  
 5 succeeding taxable year and annually thereafter for the following number of  
 6 years next succeeding the tax year of the net operating loss or until the net  
 7 operating loss has been exhausted or absorbed by the taxable income of a  
 8 succeeding year, whichever is earlier:

9 (a) For the tax year beginning January 1 of  
 10 the year following the date this section of the act is effective, a total  
 11 period of eight (8) years;

12 (b) For the tax year beginning January 1 of  
 13 the second year following the date this section of the act is effective, a  
 14 total period of eleven (11) years;

15 (c) For the tax year beginning January 1 of  
 16 the third year following the date this section of the act is effective, a  
 17 total period of fourteen (14) years;

18 (d) For the tax year beginning January 1 of  
 19 the fourth year following the date this section of the act is effective, a  
 20 total period of seventeen (17) years; and

21 (e) For tax years beginning on or after  
 22 January 1 of the fifth year following the date this section of the act is  
 23 effective, a total period of twenty (20) years.

24 (ii) The net operating loss deduction shall be  
 25 carried forward in the order stated in this subdivision (1)(C).

26 (D) As used in this section, “taxable income” or “net  
 27 income” ~~shall be deemed to be~~ means the net income computed without benefit  
 28 of the deduction for income taxes, personal exemptions, and credit for  
 29 dependents. The net income of the taxable period to which the net operating  
 30 loss deduction, as adjusted, is carried, ~~shall be~~ is the net income before  
 31 the deduction of federal income taxes, personal exemption, and credit for  
 32 dependents. ~~Such income~~ The income taxes, exemptions, and credits described  
 33 in this subdivision (1)(D) shall not be used to increase the net operating  
 34 loss ~~which that~~ that may be carried to any other taxable period.

35 (E)(i) As used in this section, “qualified medical  
 36 company” means a corporation engaged in:

1 (a) Research and development in the medical  
2 field; and

3 (b) ~~Manufacture~~ The manufacture and  
4 distribution of medical products, including therapeutic and diagnostic  
5 products.

6 (ii) In the case of a qualified medical ~~companies,~~  
7 ~~as defined herein,~~ company, a net operating loss for ~~any a~~ taxable year ~~shall~~  
8 ~~be~~ is a net operating loss carryover to each of the fifteen (15) taxable  
9 years following the taxable year of the loss.

10 (iii) If the qualified medical company is an "S"  
11 corporation, the pass-through provisions of § 26-51-409, as in effect for the  
12 taxable year of the net operating loss, ~~shall be~~ are applicable.

13 (iv) The net operating loss provisions ~~set forth~~  
14 ~~above~~ stated in this subdivision (1)(E), which resulted from the operation of  
15 a qualified medical company, ~~shall be~~ are effective for taxable years  
16 beginning on and after January 1, 1987;

17 (2) As used in this section, "net operating loss" ~~is defined as~~  
18 means the excess of allowable deductions over gross income for the taxable  
19 year, subject to the following adjustments:

20 (A) There shall be added to gross income all nontaxable  
21 income, not required by law to be reported as gross income, ~~as provided by~~  
22 ~~law~~, less any expenses properly and reasonably incurred in earning nontaxable  
23 income, which expenses would otherwise be nondeductible;

24 (B) In the case of a taxpayer other than a corporation,  
25 deductions, not including federal income taxes, not attributable to the  
26 operation of the trade or business ~~shall be~~ are eliminated from the  
27 deductions otherwise allowable for the taxable year to the extent that they  
28 exceed gross income not derived from trade or business. Personal exemptions  
29 and credit for dependents ~~shall not be~~ are not a deduction for the purpose of  
30 computing a net operating loss;

31 (C) ~~No~~ A net operating loss deduction shall not be  
32 allowed; and

33 (D) In the case of a taxpayer other than a "C  
34 corporation," as defined in 26 U.S.C. § 1361, as in effect on January 1,  
35 1985:

36 (i) ~~For income years beginning after December 31,~~

1 ~~1986, the~~ The amount deductible on account of losses from sales or exchanges  
 2 of capital assets shall not exceed the amount includable on account of gains  
 3 from sales or exchanges of capital assets; and

4 (ii) ~~For income years beginning after December 31,~~  
 5 ~~1986, the~~ The deduction for long-term capital gains provided by 26 U.S.C. §  
 6 1202 [repealed], as in effect on January 1, 1985, shall not be allowed; and

7 (3) In the case of the acquisition of assets of one (1)  
 8 corporation by another corporation, the acquiring corporation shall succeed  
 9 to and take into account any net operating loss carryover apportionable to  
 10 Arkansas, under the Uniform Division of Income for Tax Purposes Act, § 26-51-  
 11 701 et seq., that the acquired corporation could have claimed had it not been  
 12 acquired, subject to the following conditions:

13 (A) The net operating loss may not be carried forward to a  
 14 taxable year ~~which~~ that ends more than three (3) years after the taxable year  
 15 in which the net operating loss occurred if the net operating loss occurred  
 16 in an income year beginning before January 1, 1987;

17 (B) The net operating loss may not be carried forward to a  
 18 taxable year ~~which~~ that ends more than five (5) years after the taxable year  
 19 in which the net operating loss occurred if the net operating loss occurred  
 20 in an income year beginning on or after January 1, 1987, but before January 1  
 21 of the year following the date this section of the act is effective; and

22 (C) The net operating loss may not be carried forward to a  
 23 taxable year that ends more than the number of years stated in subdivisions  
 24 (1)(B) and (C) of this section after the taxable year in which the net  
 25 operating loss occurred if the net operating loss occurred in an income year  
 26 beginning on or after January 1 of the year following the date this section  
 27 of the act is effective; and

28 ~~(D)~~ (D) The net operating loss may be claimed only when  
 29 the ownership of both the acquired and acquiring corporations is  
 30 substantially the same, ~~that is, where~~ in that not less than eighty percent  
 31 (80%) of the voting stock of each corporation is owned by the same person or,  
 32 ~~where prior to~~ before the acquisition, the acquiring corporation owned at  
 33 least eighty percent (80%) of the voting stock of the acquired corporation.  
 34 The carryover losses will be allowed only in those cases ~~where~~ in which the  
 35 assets of the corporation going out of existence earn sufficient profits  
 36 apportionable to Arkansas under the Uniform Division of Income for Tax

1 Purposes Act, § 26-51-701 et seq., in the post-merger period to absorb the  
2 carryover losses claimed by the surviving corporation.

3  
4 SECTION 6. Arkansas Code Title 26, Chapter 51, Subchapter 5, is  
5 amended to add an additional section to read as follows:

6 26-51-515. Credit for property tax paid on inventory.

7 (a) As used in this section:

8 (1)(A) "Inventory" means the tangible personal property of a  
9 merchant or manufacturer assessed as business inventory for ad valorem tax  
10 purposes under §§ 26-26-1201, 26-26-1203, 26-16-1205, or 26-26-1207,  
11 including without limitation the following:

12 (i) For a merchant, tangible personal property  
13 purchased with a view to the tangible personal property being sold at a  
14 profit or held by consignment for sale; and

15 (ii) For a manufacturer, tangible personal property  
16 held for the purpose of adding to the value of the tangible personal property  
17 by process of manufacturing, refining, or rectifying, or by combination of  
18 different materials, with a view of making a gain or profit by so doing,  
19 including without limitation a raw material, work-in-progress, or finished  
20 good of a manufacturer.

21 (B) "Inventory" includes without limitation livestock and  
22 harvested crops.

23 (C) "Inventory" does not include:

24 (i) The supplies of a merchant that are not held for  
25 sale;

26 (ii) The supplies of a manufacturer that are not  
27 consumed and are not raw materials;

28 (iii) Tangible personal property of a public carrier  
29 or utility that is assessed under § 26-26-1601 et seq.; or

30 (iv) An item that is otherwise exempt from ad  
31 valorem taxation;

32 (2) "Manufacturer" means a person that purchases, receives, or  
33 holds personal property of any description for the purpose of adding to the  
34 value of the personal property by process of manufacturing, refining,  
35 rectifying, or by combination of different materials, with a view of making a  
36 gain or profit by so doing; and

1           (3) "Merchant" means a person owning or having in his or her  
2 possession or under his or her control, within this state, with authority to  
3 sell it, personal property purchased with a view to the personal property  
4 being sold at a profit, or which has been consigned to the person from any  
5 place out of this state, to be sold within this state.

6           (b) There is allowed an income tax credit against the income tax  
7 imposed by this chapter in an amount equal to the personal property tax paid  
8 by a taxpayer on inventory.

9           (c) To be eligible to claim the income tax credit allowed under this  
10 section, a taxpayer shall provide proof of the amount of personal property  
11 tax paid on inventory during the tax year.

12           (d) The amount of the income tax credit under this section that may be  
13 claimed by the taxpayer in a tax year shall not exceed the amount of income  
14 tax due by the taxpayer.

15           (e) Any unused income tax credit under this section may be carried  
16 forward for ten (10) consecutive tax years following the tax year in which  
17 the income tax credit was earned.

18           (f) A taxpayer that claims a deduction for taxes paid on inventory  
19 under § 26-51-416 is not eligible for the income tax credit allowed under  
20 this section.

21  
22           SECTION 7. DO NOT CODIFY. The Arkansas Code Revision Commission shall  
23 direct the publisher of the Arkansas Code to change the title of Title 26,  
24 Chapter 51, Subchapter 7, to the "Division of Income for Tax Purposes Act".

25  
26           SECTION 8. Arkansas Code § 26-51-709 is amended to read as follows:  
27           26-51-709. Business income.

28           All business income shall be apportioned to this state by multiplying  
29 the income by a fraction, the numerator of which is the ~~property factor plus~~  
30 ~~the payroll factor plus double the sales factor,~~ total sales of the taxpayer  
31 in this state during the tax period and the denominator of which is ~~four~~ the  
32 total sales of the taxpayer everywhere during the tax period.

33  
34           SECTION 9. Arkansas Code §§ 26-51-710 – 26-51-715 are repealed.

35           ~~26-51-710. Real and tangible personal property — Factor.~~

36           ~~The property factor is a fraction, the numerator of which is the~~

1 ~~average value of the taxpayer's real and tangible personal property owned or~~  
2 ~~rented and used in this state during the tax period and the denominator of~~  
3 ~~which is the average value of all the taxpayer's real and tangible personal~~  
4 ~~property owned or rented and used during the tax period.~~

5  
6 ~~26-51-711. Original cost of property — Annual rental rate.~~

7 ~~Property owned by the taxpayer is valued at its original cost. Property~~  
8 ~~rented by the taxpayer is valued at eight times the net annual rental rate.~~  
9 ~~Net annual rental rate is the annual rental rate paid by the taxpayer less~~  
10 ~~any annual rental rate received by the taxpayer from sub-rentals.~~

11  
12 ~~26-51-712. Average value of property.~~

13 ~~The average value of property shall be determined by averaging the~~  
14 ~~values at the beginning and ending of the tax period, but the Director of the~~  
15 ~~Department of Finance and Administration may require the averaging of monthly~~  
16 ~~values during the tax period if reasonably required to reflect properly the~~  
17 ~~average value of the taxpayer's property.~~

18  
19 ~~26-51-713. Payroll factor.~~

20 ~~The payroll factor is a fraction, the numerator of which is the total~~  
21 ~~amount paid in this state during the tax period by the taxpayer for~~  
22 ~~compensation, and the denominator of which is the total compensation paid~~  
23 ~~everywhere during the tax period.~~

24  
25 ~~26-51-714. Compensation for service — Determination of payment in~~  
26 ~~state.~~

27 ~~Compensation is paid in this state if:~~

28 ~~(a) the individual's service is performed entirely within the~~  
29 ~~state; or~~

30 ~~(b) the individual's service is performed both within and~~  
31 ~~without the state, but the service performed without the state is incidental~~  
32 ~~to the individual's service within the state; or~~

33 ~~(c) some of the service is performed in the state and (1) the~~  
34 ~~base of operations or, if there is no base of operations, the place from~~  
35 ~~which the service is directed or controlled is in the state, or (2) the base~~  
36 ~~of operations or the place from which the service is directed or controlled~~

1 ~~is not in any state in which some part of the service is performed, but the~~  
2 ~~individual's residence is in this state.~~

3  
4 26-51-715. Sales factor.

5 The sales factor is a fraction, the numerator of which is the total  
6 sales of the taxpayer in this state during the tax period, and the  
7 denominator of which is the total sales of the taxpayer everywhere during the  
8 tax period.

9  
10 SECTION 10. Arkansas Code § 26-51-716 is amended to read as follows:

11 26-51-716. Sales of tangible personal property.

12 Sales of tangible personal property are in this state if:

13 (a) the property is delivered or shipped to a purchaser, other  
14 than the United States ~~government~~ Government, within this state regardless of  
15 the f.o.b. point or other conditions of the sale; ~~or~~

16 (b) ~~the property is shipped from an office, store, warehouse,~~  
17 ~~factory, or other place of storage in this state and (1) the purchaser is the~~  
18 ~~United States government or (2) the taxpayer is not taxable in the state of~~  
19 ~~the purchaser.~~

20  
21 SECTION 11. Arkansas Code § 26-51-718 is amended to read as follows:

22 26-51-718. Procedure when allocation does not fairly represent  
23 taxpayer's business activity.

24 If the allocation and apportionment provisions of this Act do not  
25 fairly represent the extent of the taxpayer's business activity in this  
26 state, the taxpayer may petition for or the Director of the Department of  
27 Finance and Administration may require, in respect to all or any part of the  
28 taxpayer's business activity, if reasonable:

29 (a) separate accounting;

30 (b) ~~the exclusion of any one or more of the factors;~~

31 (c) the inclusion of one or more additional factors which will  
32 fairly represent the taxpayer's business activity in this state; or

33 (d) (c) the employment of any other method to effectuate an  
34 equitable allocation and apportionment of the taxpayer's income.

35  
36 SECTION 12. Arkansas Code § 26-51-1403(n), concerning the

1 apportionment and allocation of net income of financial institutions, is  
2 amended to read as follows:

3 (n) All Other Receipts. The numerator of the receipts factor includes  
4 all other receipts ~~pursuant to~~ under the rules set ~~forth out~~ in §§ ~~26-51-715~~  
5 - 26-51-716 and 26-51-717.

6

7 SECTION 13. DO NOT CODIFY. Contingencies.

8 (a) As used in this section:

9 (1) "Phase 1 of tax reform" means the tax reductions provided  
10 for in the Tax Reform and Relief Act of 2019;

11 (2) "Phase 2 of tax reform" means that:

12 (A) Phase 1 of tax reform is fully effective;

13 (B) Arkansas does not use the throwback rule in computing  
14 corporate income tax; and

15 (C) Arkansas uses a single sales factor apportionment  
16 formula for computing corporate income tax;

17 (3) "Phase 3 of tax reform" means that:

18 (A) Phase 2 of tax reform is fully effective;

19 (B) Corporate income exceeding twenty-five thousand  
20 dollars (\$25,000) is taxed at a rate that does not exceed five and nine-  
21 tenths percent (5.9%); and

22 (C) Net operating losses under §§ 15-4-2404 and 26-51-427  
23 may be carried forward for at least twenty (20) years; and

24 (4) "Tax reform determinations" means determinations made by the  
25 Director of the Department of Finance and Administration as of October 1 of  
26 each year regarding whether:

27 (A) The amount of personal income tax collections for the  
28 fiscal year ending the immediately preceding June 30 exceeds the amount of  
29 personal income tax collections for fiscal year 2019 by at least the  
30 percentage that is the product of:

31 (i) The difference in the number of years between  
32 the immediately preceding fiscal year and fiscal year 2019; and

33 (ii) Two percent (2%);

34 (B) The net available for distribution for the fiscal year  
35 ending the immediately preceding June 30 exceeds the net available for  
36 distribution for fiscal year 2019 by at least the percentage that is the

1 product of:

2 (i) The difference in the number of years between  
3 the immediately preceding fiscal year and fiscal year 2019; and

4 (ii) Two percent (2%); and

5 (C) The balance of the Long Term Reserve Fund for the most  
6 recently completed fiscal year is at least equal to the balance of the fund  
7 for the fiscal year immediately preceding the most recently completed fiscal  
8 year.

9 (b) By October 1 of the year immediately following the year in which  
10 phase 1 of tax reform becomes fully effective and October 1 of each following  
11 year, the director shall:

12 (1) Complete his or her tax reform determinations; and

13 (2) Report his or her tax reform determinations to the  
14 Legislative Council or, if the General Assembly is in session, the Joint  
15 Budget Committee.

16 (c) The sections of this act are effective as follows:

17 (1) If the director's tax reform determinations for the year are  
18 all in the affirmative and phase 1 of tax reform is complete, beginning  
19 January 1 of the year following the director's most recent tax reform  
20 determinations, Sections 7-12 of this act are effective;

21 (2) If the director's tax reform determinations for the year are  
22 all in the affirmative and phase 2 of tax reform is complete, beginning  
23 January 1 of the year following the director's most recent tax reform  
24 determinations, Sections 2, 4, and 5 of this act are effective; and

25 (3) If the director's tax reform determinations for the year are  
26 all in the affirmative and phase 3 of tax reform is complete, beginning  
27 January 1 of the year following the director's most recent tax reform  
28 determinations, Sections 3 and 6 of this act are effective.

29  
30 SECTION 14. DO NOT CODIFY. Notice.

31 The Director of the Department of Finance and Administration shall  
32 notify the Arkansas Code Revision Commission and the Director of the Bureau  
33 of Legislative Research when any section of this act becomes effective under  
34 Section 13 of this act.

