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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

7 **For An Act To Be Entitled**

8 AN ACT TO REQUIRE REPORTING OF CERTAIN INFORMATION
9 RELATED TO TAXES; TO REQUIRE BIENNIAL REPORTS OF THE
10 EFFECT OF EXEMPTIONS, DISCOUNTS, EXCLUSIONS, CREDITS,
11 DEDUCTIONS, SPECIAL ACCOUNTING TREATMENTS, AND
12 SPECIAL RATES RELATING TO INCOME TAX AND SALES AND
13 USE TAX; AND FOR OTHER PURPOSES.
14

15 **Subtitle**

16 TO REQUIRE BIENNIAL REPORTS OF THE EFFECT
17 OF EXEMPTIONS, DISCOUNTS, EXCLUSIONS,
18 CREDITS, DEDUCTIONS, SPECIAL ACCOUNTING
19 TREATMENTS, AND SPECIAL RATES RELATING TO
20 INCOME TAX AND SALES AND USE TAX.
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23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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

28 26-50-103. Biennial report on certain state taxes.

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

34 (b)(1) In preparing the report required under subsection (a) of this
35 section, if actual data is not available, the director shall use available
36 statistical data to estimate the effect of each exemption, discount,

1 exclusion, credit, deduction, special accounting treatment, or special rate.

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

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

7 (1) Shall include:

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

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

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

17 (B) For an exemption, discount, exclusion, credit,
18 deduction, special accounting treatment, or special rate that reduces revenue
19 by more than one percent (1%) of the total revenue for the relevant tax, the
20 effect of the exemption, discount, exclusion, credit, deduction, special
21 accounting treatment, or special rate on:

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

23 (a) Income class; and

24 (b) Industry or business class; and

25 (ii) Total income by income class; and

26 (2) May include:

27 (A) An assessment of the intended purpose of each
28 exemption, discount, exclusion, credit, deduction, special accounting
29 treatment, and special rate and whether the exemption, discount, exclusion,
30 credit, deduction, special accounting treatment, or special rate is achieving
31 that purpose; and

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

35 (d)(1) The director may request from any state officer or state agency
36 information necessary to complete the report required under subsection (a) of

1 this section.

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

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For An Act To Be Entitled

8 AN ACT TO AMEND SALES TAX EXEMPTIONS; TO REPEAL
9 CERTAIN SALES TAX EXEMPTIONS FOR NAMED ENTITIES; TO
10 CREATE SALES TAX EXEMPTIONS FOR VARIOUS TYPES OF
11 ORGANIZATIONS; AND FOR OTHER PURPOSES.
12
13

Subtitle

14 TO AMEND SALES TAX EXEMPTIONS; TO REPEAL
15 CERTAIN SALES TAX EXEMPTIONS FOR NAMED
16 ENTITIES; AND TO CREATE SALES TAX
17 EXEMPTIONS FOR VARIOUS TYPES OF
18 ORGANIZATIONS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 26-52-401(8)-(10), concerning various
25 products and services that are exempt from sales tax, are amended to read as
26 follows:

27 (8) Gross receipts or gross proceeds derived from sales of
28 tangible personal property, specified digital products, a digital code, or
29 services to ~~the Boys & Girls Club of America~~ a nonprofit patriotic society
30 for youth, including without limitation a youth group listed in Title 36 of
31 the United States Code, as it existed on January 1, 2019;

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~~ a nonprofit organization
35 dedicated to the study or performance, or both, of the arts, including
36 without limitation poetry, theatre, dance, art, and music;

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1 ~~(10) Gross receipts or gross proceeds derived from sales of~~
2 ~~tangible personal property, specified digital products, a digital code, or~~
3 ~~services to 4-H clubs and FFA clubs in this state, to the Arkansas 4-H~~
4 ~~Foundation, the Arkansas Future Farmers of America Foundation, and the~~
5 ~~Arkansas Future Farmers of America Association;~~

6
7 SECTION 2. Arkansas Code § 26-52-401(31), concerning various products
8 and services that are exempt from sales tax, is amended to read as follows:

9 (31) Gross receipts or gross proceeds derived from sales of
10 tangible personal property, specified digital products, a digital code, or
11 services to Habitat for Humanity an international nonprofit organization
12 dedicated to providing for or increasing access to property and services that
13 address basic needs, including without limitation housing, food, and potable
14 water;

15
16 SECTION 3. Arkansas Code § 26-52-401(33) and (34), concerning various
17 products and services that are exempt from sales tax, are repealed.

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

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

24
25 SECTION 4. Arkansas Code § 26-52-401(37), concerning various products
26 and services that are exempt from sales tax, is repealed.

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

30
31 SECTION 5. Arkansas Code § 26-52-401(39), concerning various products
32 and services that are exempt from sales tax, is amended to read as follows:

33 (39) Gross receipts or gross proceeds derived from sales of
34 tangible personal property, specified digital products, a digital code, or
35 services to the Arkansas Black Hall of Fame Foundation, Inc. a nonprofit hall
36 of fame established to honor current and former Arkansas residents.

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SECTION 6. Arkansas Code § 26-52-424 is amended to read as follows:

26-52-424. Sales to ~~Community Service Clearinghouse, Inc., of Fort Smith~~ nonprofits providing comprehensive services for persons in need.

The gross receipts or gross proceeds derived from sales to ~~the Community Service Clearinghouse, Inc., of Fort Smith~~ a nonprofit organization that partners with local agencies and other nonprofit organizations to provide comprehensive assistance to individuals and families in need are hereafter exempt from:

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

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

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

SECTION 7. Arkansas Code § 26-52-443 is amended to read as follows:

26-52-443. Exemption for ~~American Search Dog Association, Inc.~~ nonprofits that assist law enforcement and emergency personnel.

The gross receipts or gross proceeds from the sale of tangible personal property, specified digital products, a digital code, or a service to ~~the Arkansas Search Dog Association, Inc.,~~ a nonprofit organization that is dedicated to assisting law enforcement and emergency personnel in their official duties are exempt from the gross receipts tax levied by this chapter and the compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

SECTION 8. EFFECTIVE DATE. Sections 1 through 7 of this act are effective on and after July 1, 2019.

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

A Bill

DRAFT JLL/JLL
SENATE BILL

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5 By: Senator <NA>
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For An Act To Be Entitled

7
8 AN ACT TO REDUCE THE INCOME TAX RATES FOR
9 CORPORATIONS; AND FOR OTHER PURPOSES.
10

Subtitle

11
12
13 TO REDUCE THE INCOME TAX RATES FOR
14 CORPORATIONS.
15

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

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

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

26 ~~(1)~~ (A) On the first ~~\$3,000~~ three thousand dollars
27 (\$3,000) of net income or any part thereof ~~1%~~, one percent (1%);

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

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

32 (D) On the next ~~\$14,000~~ fourteen thousand dollars
33 (\$14,000) of net income or any part thereof ~~5%~~, five percent (5%);

34 (E) On the next ~~\$75,000~~ seventy-five thousand dollars
35 (\$75,000) of net income or any part thereof, but not exceeding ~~\$100,000~~ 6%
36 one hundred thousand dollars (\$100,000), six percent (6%); and

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

4 (2) For tax years beginning on or after January 1, 2019, every
 5 corporation organized under the laws of this state shall pay annually an
 6 income tax with respect to carrying on or doing business on the entire net
 7 income of the corporation, as now defined by the laws of the State of
 8 Arkansas, received by the corporation during the income year, on the
 9 following basis:

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

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

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

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

18 (E) On the next seventy-five thousand dollars (\$75,000) of
 19 net income or any part thereof, five and nine-tenths percent (5.9%); and

20 (F) On net income exceeding one hundred thousand dollars
 21 (\$100,000), six and five-tenths percent (6.5%).

22 (3) The tax rate in subdivision (a)(2)(F) of this section shall
 23 be decreased [based on a plan determined by the Arkansas Tax Reform and
 24 Relief Legislative Task Force] until the rate is five and nine-tenths percent
 25 (5.9%).

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

30 ~~(1) (A)~~ On the first \$3,000 three thousand dollars
 31 (\$3,000) of net income or any part thereof 1%, one percent (1%);

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

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

36 (D) On the next \$14,000 fourteen thousand dollars

1 (\$14,000) of net income or any part thereof 5%, five percent (5%);

2 (E) On the next \$75,000 seventy-five thousand dollars
3 (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6%
4 one hundred thousand dollars (\$100,000), six percent (6%); and

5 ~~(2) (F) On net income exceeding one hundred thousand~~
6 ~~dollars (\$100,000), a flat rate of six and one half percent (6 1/2 %) shall be~~
7 ~~applied to the entire net income six and five-tenths percent (6.5%).~~

8 (2) For tax years beginning on or after January 1, 2019, every
9 foreign corporation doing business within the jurisdiction of this state
10 shall pay annually an income tax on the proportion of its entire net income
11 as now determined by the income tax laws of Arkansas, on the following basis:

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

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

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

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

20 (E) On the next seventy-five thousand dollars (\$75,000) of
21 net income or any part thereof, five and nine-tenths percent (5.9%); and

22 (F) On net income exceeding one hundred thousand dollars
23 (\$100,000), six and five-tenths percent (6.5%).

24 (3) The tax rate in subdivision (b)(2)(F) of this section shall
25 be decreased [based on a plan determined by the Arkansas Tax Reform and
26 Relief Legislative Task Force] until the rate is five and nine-tenths percent
27 (5.9%).

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A Bill

DRAFT JLL/JLL
SENATE BILL

5 By: Senator <NA>
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For An Act To Be Entitled

8 AN ACT TO PROVIDE FOR GUIDELINES AND PENALTIES
9 RELATED TO ASSESSMENTS FOR PURPOSES OF PROPERTY
10 TAXES; TO REQUIRE THE ASSESSMENT COORDINATION
11 DEPARTMENT TO ESTABLISH MANDATORY GUIDELINES FOR
12 COUNTIES RELATED TO THE ASSESSMENT OF BUSINESS
13 INVENTORY AND PROPERTY THAT IS EXEMPT FROM AD VALOREM
14 TAX; TO PROVIDE FOR PENALTIES FOR NONCOMPLIANCE WITH
15 THE GUIDELINES ESTABLISHED BY THE ASSESSMENT
16 COORDINATION DEPARTMENT; AND FOR OTHER PURPOSES.
17

Subtitle

18
19 TO PROVIDE FOR GUIDELINES AND PENALTIES
20 RELATED TO ASSESSMENTS FOR PURPOSES OF
21 PROPERTY TAXES; AND TO REQUIRE THE
22 ASSESSMENT COORDINATION DEPARTMENT TO
23 ESTABLISH MANDATORY GUIDELINES FOR
24 COUNTIES RELATED TO THE ASSESSMENT.
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27

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

30 SECTION 1. Arkansas Code Title 26, Chapter 26, Subchapter 11, is
31 amended to add an additional section to read as follows:

32 26-26-1125. Guidelines for assessing property – Noncompliance.

33 (a) The Assessment Coordination Department shall:

34 (1) Establish mandatory guidelines for county assessors to
35 follow in:

36 (A) Identifying property that is exempt from ad valorem

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1 taxation; and

2 (B) Assessing business inventory;

3 (2) Adopt rules necessary for:

4 (A) The general guidance and assistance of county
5 assessors in identifying exempt property and assessing business inventory;
6 and

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

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

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

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

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

20 (b) A county assessor shall:

21 (1) Assess property in accordance with the rules adopted by the
22 department; and

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

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

31
32 SECTION 2. DO NOT CODIFY. Rules.

33 (a) When adopting the initial rules required under this act, the final
34 rules shall be filed with the Secretary of State for adoption under § 25-15-
35 204(f):

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

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(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 Assessment Coordination Department 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.

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2 92nd General Assembly
3 Regular Session, 2019

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DRAFT JLL/JLL
SENATE BILL

4
5 By: Senator <NA>
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE ARKANSAS CORPORATE FRANCHISE TAX
9 ACT OF 1979; TO TRANSFER THE ADMINISTRATION AND
10 COLLECTION OF THE FRANCHISE TAX TO THE DEPARTMENT OF
11 FINANCE AND ADMINISTRATION; TO ELIMINATE THE
12 FRANCHISE TAX PENALTY ON CLOSED BUSINESSES; AND FOR
13 OTHER PURPOSES.
14

Subtitle

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16
17 TO TRANSFER THE ADMINISTRATION AND
18 COLLECTION OF THE FRANCHISE TAX TO THE
19 DEPARTMENT OF FINANCE AND ADMINISTRATION;
20 AND TO ELIMINATE THE FRANCHISE TAX
21 PENALTY ON CLOSED BUSINESSES.
22

23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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

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

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

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

36 (C) An application for incorporation pursuant to this

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1 section, signed for the corporation by its president or vice president and
2 its secretary or assistant secretary, and acknowledged by one (1) of the
3 signing officers, setting forth the requirements of § 4-27-202;

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

6 (E) A certificate by the Secretary of State or other
7 proper officer of the jurisdiction in which the corporation is incorporated,
8 reciting that the corporation has taken all action required under the laws of
9 the jurisdiction to become a corporation incorporated under the laws of this
10 state.

11
12 SECTION 2. Arkansas Code § 4-27-120(i), concerning the filing
13 requirements under the Arkansas Business Corporation Act of 1987, is amended
14 to read as follows:

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

20
21 SECTION 3. Arkansas Code § 4-27-121(a), concerning the forms
22 prescribed and furnished under the Arkansas Business Corporation Act of 1987,
23 is amended to read as follows:

24 (a) The Secretary of State may prescribe and furnish on request forms
25 for: (1) an application for a certificate of existence, (2) a foreign
26 corporation's application for a certificate of authority to transact business
27 in this state, and (3) a foreign corporation's application for a certificate
28 of withdrawal, ~~and (4) the annual franchise tax report~~. If the Secretary of
29 State so requires, use of these forms is mandatory.

30
31 SECTION 4. Arkansas Code § 4-27-128(b), concerning certificates of
32 existence under the Arkansas Business Corporation Act of 1987, is amended to
33 read as follows:

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

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

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SECTION 6. Arkansas Code § 4-27-1530 is amended to read as follows:
4-27-1530. Grounds for revocation.

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

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

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

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

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

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

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

SECTION 7. Arkansas Code § 4-27-1601(e), concerning corporate records under the Arkansas Business Corporation Act of 1987, is amended to read as follows:

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

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

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

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

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

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

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

13 (7) its most recent annual franchise tax report delivered to the
14 ~~Secretary of State~~ Department of Finance and Administration under § 4-27-
15 1622.

16
17 SECTION 8. Arkansas Code § 4-27-1622 is amended to read as follows:

18 4-27-1622. Annual franchise tax report for ~~Secretary of State~~ the
19 Department of Finance and Administration.

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

24 (1) the name of the corporation;

25 (2) the jurisdiction under which the corporation is
26 incorporated;

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

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

29 (5) the names of its principal officers;

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

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

34 (8) such other information as the ~~Secretary of State~~ Director of
35 the Department of Finance and Administration may specify in a form
36 promulgated pursuant to ~~§ 4-27-121(a)~~ under the Arkansas Corporate Franchise

1 Tax Act of 1979, § 26-54-101 et seq.

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

5
6 SECTION 9. Arkansas Code § 4-33-120(i), concerning filing requirements
7 under the Arkansas Nonprofit Corporation Act of 1993, is amended to read as
8 follows:

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

14
15 SECTION 10. Arkansas Code § 17-19-202(c), concerning licensing
16 applications for bail bond companies, is amended to read as follows:

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

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

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

25 (2) A corporation shall file proof that its most recent annual
26 franchise tax has been paid to the ~~Secretary of State~~ Department of Finance
27 and Administration.

28
29 SECTION 11. Arkansas Code § 23-48-1009 is amended to read as follows:
30 23-48-1009. Grounds for revocation.

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

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

36 (2) The out-of-state bank does not pay within sixty (60) days

1 after they are due any franchise taxes or penalties imposed by this chapter
2 or other law;

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

5 (4) The out-of-state bank does not inform the commissioner under
6 § 23-48-1005 or § 23-48-1006 that its registered agent or registered office
7 has changed, that its registered agent has resigned, or that its registered
8 office has been discontinued within sixty (60) days of the change,
9 resignation, or discontinuance;

10 (5) The out-of-state bank or an officer, director, or employee
11 thereof is found to be violating federal banking laws or regulations,
12 violating the banking laws of this state or department regulations, violating
13 any regulatory agreement, or jeopardizing the safety and soundness of the
14 out-of-state bank;

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

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

23
24 SECTION 12. Arkansas Code § 26-54-105(a)-(c), concerning franchise tax
25 reports under the Arkansas Corporate Franchise Tax Act of 1979, is amended to
26 read as follows:

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

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

35 (b) Any corporation that fails to receive the report forms by March 20
36 of the reporting year shall make written request for them to the ~~Secretary of~~

1 ~~State~~ department on or before March 31.

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

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

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

14
15 SECTION 13. Arkansas Code § 26-54-107 is amended to read as follows:
16 26-54-107. Computation of tax - Penalty - Relief.

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

21 (b)(1)(A) If the taxpayer fails to comply with the filing and
22 remittance requirements under § 26-54-105(c) ~~by May 1~~, the ~~Secretary of State~~
23 director shall assess the corporation a penalty of twenty-five dollars
24 (\$25.00) plus interest on the tax and penalty from the date due until paid at
25 the rate of ten percent (10%) per year.

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

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

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

- 35 (1) Disputes the proposed amount; or
36 (2) Is insolvent or bankrupt.

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

4 (A) The taxpayer is reasonably mistaken about the
5 application of this chapter or the computation of the franchise tax to the
6 corporation; or

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

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

11 (3) If a taxpayer demonstrates that a corporation was not doing
12 business in the state for the period for which penalties and interest are
13 owed under this section, the director shall waive the amount due under this
14 section if the taxpayer demonstrates that the taxpayer intends to dissolve
15 the corporation.

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

20 (f) The ~~Secretary of State~~ director shall develop guidelines to assist
21 a taxpayer in resolving a corporate franchise tax dispute.

22
23 SECTION 14. Arkansas Code §§ 26-54-109–26-54-112 are amended to read
24 as follows:

25 26-54-109. Lists of corporations to be prepared.

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

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

33 (A) The name and address of each new corporation organized
34 or qualified;

35 (B) The authorized and outstanding capital stock;

36 (C) The name changes, mergers, charter forfeitures,

1 dissolutions, or withdrawals; and

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

4 (b) Upon request of the ~~Secretary of State~~ Director of the Department
5 of Finance and Administration, each official or agency shall prepare and
6 certify to the ~~Secretary of State~~ director a complete list of the names and
7 addresses of all corporations which have organized or qualified through their
8 respective office or agency and which are subject to the provisions of this
9 chapter.

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

14 (d) Any corporation filing instruments providing for the organization
15 of any common law or statutory trust or similar organization with any county
16 clerk, or other clerk of the various counties of this state, shall file them
17 in duplicate. The clerk receiving the documents for filing or recordation
18 shall file mark them and forward the file-marked duplicate to the Secretary
19 of State.

20 (e) The ~~Director of the Department of Finance and Administration~~
21 director shall provide the Secretary of State a list of corporations doing
22 business in this state and filing franchise tax reports with the ~~Department~~
23 ~~of Finance and Administration~~ department. However, the director shall not
24 include any information deemed confidential by any other law.

25
26 26-54-110. Dissolution or withdrawal by corporations.

27 Applications for dissolution or withdrawal by a corporation,
28 association, or organization cannot be accepted by the authority which
29 initially authorized or granted an authority to the corporation to do
30 business in Arkansas until receipt of a statement verified by the ~~Secretary~~
31 ~~of State~~ Director of the Department of Finance and Administration that the
32 franchise tax due has been paid.

33
34 26-54-111. Charter forfeiture for failure to pay tax – Procedure.

35 (a) On or before January 31 of each year, the Secretary of State shall
36 proclaim as forfeited the corporate charters or authorities, as the case may

1 be, of all corporations, both domestic and foreign that according to the
2 ~~Secretary of State's Department of Finance and Administration's~~ records are
3 delinquent in the payment of the annual franchise tax for a prior year.

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

9
10 26-54-112. Reinstatement of corporations.

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

15 (ii) Reinstatement shall be retroactive to the time
16 that the corporation's authority to do business in the state was declared
17 forfeited.

18 (B) The reinstatement shall be made after the filing of
19 all delinquent franchise tax reports satisfactory to the ~~Secretary of State~~
20 Department of Finance and Administration and the payment of all taxes and
21 penalties due for each year of delinquency.

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

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

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

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

1

2 SECTION 15. Arkansas Code § 26-54-114 is amended to read as follows:

3 26-54-114. Nonpayment of franchise taxes.

4 (a) No corporation or limited liability company shall be allowed to
5 file any forms or documentation related to that corporation or limited
6 liability company if the corporation or limited liability company owes past-
7 due franchise taxes to the ~~Secretary of State~~ Department of Finance and
8 Administration.

9 (b) No person shall be allowed to file any initial forms or
10 documentation with the Secretary of State to create any legal entity in the
11 State of Arkansas or to obtain authority to do business in the State of
12 Arkansas if that person is substantially connected to any corporation or
13 limited liability company that owes past-due franchise taxes to the ~~Secretary~~
14 ~~of State~~ department.

15 (c) As used in this section:

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

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

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

23

24 SECTION 16. Arkansas Code Title 26, Chapter 54, Subchapter 1, is
25 amended to add an additional section to read as follows:

26 26-54-115. Rules.

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

29

30 SECTION 17. DO NOT CODIFY. Rules.

31 (a) When adopting the initial rules required under this act, the final
32 rules shall be filed with the Secretary of State for adoption under § 25-15-
33 204(f):

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

35 (2) If approval under § 10-3-309 has not occurred by January 1,
36 2020, as soon as practicable after approval under § 10-3-309.

1 (b) The Director of the Department of Finance and Administration shall
2 file the proposed rules with the Legislative Council under § 10-3-309(c)
3 sufficiently in advance of January 1, 2020, so that the Legislative Council
4 may consider the rules for approval before January 1, 2020.

5

6 SECTION 18. EFFECTIVE DATE. Sections 1 through 16 of this act are
7 effective for tax years beginning on or after January 1, 2020.

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

23 26-55-251. Indexing of motor fuel taxes.

24 (a) The taxes levied in §§ 26-55-205, 26-55-1002, 26-55-1006, 26-55-
25 1201, and 26-56-601 shall be increased on January 1, 2020, and again on
26 January 1 of each subsequent year in accordance with subsection (b) of this
27 section.

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

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

34 (ii) As used in this subsection, "Consumer Price
35 Index" means the Consumer Price Index for All Urban Consumers published
36 monthly by the Bureau of Labor Statistics of the United States Department of

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1 Labor; and

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

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

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

11 (B) The percentage growth in the Consumer Price Index
12 announced under subdivision (b)(1)(A) of this section.

13 (3) If there is a decline in growth or no growth in the Consumer
14 Price Index, the total motor fuel tax rate shall remain unchanged for that
15 year.

16
17 SECTION 2. Arkansas Code Title 26, Chapter 56, Subchapter 2, is
18 amended to add an additional section to read as follows:

19 26-56-233. Indexing of distillate special fuel taxes.

20 (a) The taxes levied in §§ 26-55-1201, 26-56-201, 26-56-502, 26-56-
21 601, and 26-56-802 shall be increased on January 1, 2020, and again on
22 January 1 of each subsequent year in accordance with subsection (b) of this
23 section.

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

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

30 (ii) As used in this subsection, "Consumer Price
31 Index" means the Consumer Price Index for All Urban Consumers published
32 monthly by the Bureau of Labor Statistics of the United States Department of
33 Labor; and

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

1 (2) On January 1 of each year, the total distillate special fuel
2 tax rate under §§ 26-55-1201, 26-56-201, 26-56-502, 26-56-601, and 26-56-802
3 shall be increased by the amount, rounded to the nearest one-tenth cent
4 (0.1¢), that equals the product of multiplying:

5 (A) The total distillate special fuel tax rate in effect
6 on the date of the director’s announcement under subdivision (b)(1)(B) of
7 this section; and

8 (B) The percentage growth in the Consumer Price Index
9 announced under subdivision (b)(1)(A) of this section.

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

13

14 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
15 General Assembly of the State of Arkansas that the highways, roads, streets,
16 and bridges of this state are in dire need of construction, reconstruction,
17 and maintenance; that well-maintained highways, roads, streets, and bridges
18 are necessary for economic development in this state; that providing for an
19 indexed tax on motor fuel and distillate special fuel is necessary to help
20 pay for the construction, reconstruction, and maintenance of the highways,
21 roads, streets, and bridges of this state; and that the additional revenues
22 generated under this act will enable the state to maintain its roadways,
23 which is essential to the economic wellbeing of the state and the public
24 health, safety, and welfare of its citizens. Therefore, an emergency is
25 declared to exist, and this act being necessary for the preservation of the
26 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 IMPOSE AN ADDITIONAL REGISTRATION FEE ON
9 ELECTRIC VEHICLES AND HYBRID VEHICLES; TO DISTRIBUTE
10 THE REVENUES COLLECTED FROM THE FEE ON ELECTRIC
11 VEHICLES AND HYBRID VEHICLES UNDER THE ARKANSAS
12 HIGHWAY REVENUE DISTRIBUTION LAW; AND FOR OTHER
13 PURPOSES.
14

Subtitle

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16
17 TO IMPOSE AN ADDITIONAL REGISTRATION FEE
18 ON ELECTRIC VEHICLES AND HYBRID VEHICLES;
19 AND TO DEDICATE THE REVENUES COLLECTED
20 FROM THE ADDITIONAL REGISTRATION FEE TO
21 HIGHWAY FUNDING.
22

23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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

29 (263) Additional registration fees for electric vehicles and
30 hybrid vehicles, § 27-14-614.
31

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

34 27-14-614. Additional fee for electric vehicles and hybrid vehicles.

35 (a) As used in this section:

36 (1) "Electric vehicle" means a vehicle that:

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

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

4 (2) "Hybrid vehicle" means a vehicle that draws propulsion
5 energy from both an internal combustion engine and an energy storage device.

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

8 (1) One hundred dollars (\$100) for each electric vehicle
9 registered; and

10 (2) Fifty dollars (\$50.00) for each hybrid vehicle registered.

11 (c) The revenues collected under this section are special revenues and
12 shall be distributed under the Arkansas Highway Revenue Distribution Law, §
13 27-70-201 et seq.

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Proposal Category	Proposal Title	Draft Bill Code Section	Vote Threshold	Fiscal Impact	Running Total of Impact
Sales and Use	Regular Review of all S&U Exemptions		Simple Majority	N/A	N/A
	Designation of Revenue Generated		Simple Majority	N/A	N/A
	Local Sales Tax Caps	JLL028, § 8	Simple Majority	N/A	N/A
	Coin-Operated Car Washes	JLL028, §§ 4 & 7	Simple Majority	(\$1,801,000.00)	(\$1,801,000.00)
	Four-Wheelers/ATVs	JLL028, § 6	Simple Majority	N/A	(\$1,801,000.00)
	Named Entities		Simple Majority	N/A	(\$1,801,000.00)
	Magazine/ Publication Subscription	JLL028, § 5	Simple Majority	\$1,556,000.00	(\$245,000.00)
	Remote Sellers	JLL028, §§ 1-3	Simple Majority	\$35,374,000.00	\$35,129,000.00
Sales and Use Net				\$35,129,000.00	
Income	Review of all Ded., Exclu., & Credits		Simple Majority	N/A	\$35,129,000.00
	Repeal Throwback Rule	JLL029, § 4	Simple Majority	(within next line)	\$35,129,000.00
	Single Sales Factor Apportionment	JLL029, §§ 1-3, 5-6	Simple Majority	(\$57,221,479.00)	(\$22,092,479.00)
	Net Operating Loss	JLL030	Simple Majority	N/A til 2025	(\$22,092,479.00)
	Option A		Simple Majority	(\$276,437,336.00)	(\$298,529,815.00)
	Corporate Total Phase-In		Simple Majority	(\$38,700,000.00)	(\$337,229,815.00)
	Capital Gains	JLL031	Simple Majority	\$4,650,000.00	(\$332,579,815.00)
	Political Contributions	JLL032	2/3 each house	\$759,000.00	(\$331,820,815.00)
	Pass-Through Entity (admin cost only)		Simple Majority	(\$500,000.00)	(\$332,320,815.00)
Income Net				(\$367,449,815.00)	
Property	Business Inventory Credit	JLL 033	Simple Majority	(\$70,210,000.00)	(\$402,530,815.00)
	Franchise Tax Admin DFA		Simple Majority	(\$900,000.00)	(\$403,430,815.00)
	Guidelines on Exempt Property		Simple Majority	N/A	(\$403,430,815.00)
Property Net				(\$71,110,000.00)	
Excise/Misc	Index Fuel Taxes		3/4 Majority*	N/A	(\$403,430,815.00)
	Road User Fee (fiscal based on HB2241)		Simple Majority	\$1,082,634.00	(\$402,348,181.00)
Excise/Misc Net				\$1,082,634.00	
Grand Total				(\$402,348,181.00)	

*with caveats

