1	State of Arkansas	As Engrossed: S3/20/19	
2	92nd General Assembly	A Bill	
3	Regular Session, 2019		SENATE BILL 576
4			
5	By: Senators Hester, J. Hene	dren, J. Dismang, B. Ballinger, A. Clark, L. Eads,	J. English, Irvin, B.
6	Johnson, M. Pitsch, D. Wall	ace	
7	By: Representative D. Doug	las	
8			
9		For An Act To Be Entitled	
10	AN ACT TO	D REFORM THE TAX LAWS OF THE STATE; T	O AMEND
11	THE ARKAN	NSAS GROSS RECEIPTS ACT OF 1941; TO R	EQUIRE
12	THE COLLI	ECTION OF SALES AND USE TAX BY CERTAI	N REMOTE
13	SELLERS A	AND MARKETPLACE FACILITATORS; TO AMEN	D THE
14	MULTISTA	TE TAX COMPACT; TO AMEND THE UNIFORM	DIVISION
15	OF INCOM	E FOR TAX PURPOSES ACT; TO PROVIDE FO	R A
16	SINGLE SA	ALES FACTOR APPORTIONMENT FORMULA FOR	
17	BUSINESS	INCOME; TO AMEND THE LAWS CONCERNING	THE
18	APPORTION	MENT AND ALLOCATION OF THE NET INCOM	E OF
19	FINANCIAI	L INSTITUTIONS; TO PHASE IN AN EXTENS	ION OF
20	THE NET (OPERATING LOSS CARRY-FORWARD PERIOD F	OR
21	COMPUTING	G ARKANSAS INCOME TAX; TO REDUCE CORP	ORATE
22	INCOME TA	AX RATES; TO AMEND THE SALES TAX EXEM	PTION
23	FOR CERTA	AIN CAR WASHES; TO EXEMPT CERTAIN PRO	DUCTS
24	AND SERVE	ICES RELATED TO CAR WASHES FROM SALES	AND USE
25	TAX; TO I	LEVY A FEE ON CERTAIN CAR WASH OPERAT	ORS IN
26	LIEU OF 1	THE SALES AND USE TAX; TO DECLARE AN	
27	EMERGENCY	I; AND FOR OTHER PURPOSES.	
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30		Subtitle	
31	ТО	REFORM THE TAX LAWS CONCERNING THE	
32	LEV	Y AND COLLECTION OF SALES AND USE TAX	7
33	THE	APPORTIONMENT AND ALLOCATION OF	
34	INC	OME FOR TAX PURPOSES, CORPORATE INCOM	ſE
35	TAX	RATES, AND NET OPERATING LOSSES; AND)
36	ТО	DECLARE AN EMERGENCY.	



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3	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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5	SECTION 1. DO NOT CODIFY. Legislative findings and intent.
6	(a) The General Assembly finds that:
7	(1) The Arkansas Tax Reform and Relief Legislative Task Force
8	was charged with:
9	(A) Examining and identifying areas of potential tax
10	reform within the tax laws; and
11	(B) Recommending legislation to the General Assembly to:
12	(i) Modernize and simplify the Arkansas tax code;
13	(ii) Make Arkansas's tax laws competitive with tax
14	laws in other states;
15	(iii) Create jobs; and
16	(iv) Ensure fairness to all taxpayers;
17	(2) The state's income tax laws should be amended to modernize
18	and simplify the tax code, increase Arkansas's competitiveness, create jobs,
19	and ensure fairness to all taxpayers;
20	(3) The inability to effectively collect any Arkansas sales or
21	use tax from remote sellers who deliver tangible personal property, other
22	property subject to Arkansas sales and use tax, or services directly into the
23	state is seriously eroding the sales and use tax base of this state, causing
24	revenue losses and imminent harm to the state through the loss of critical
25	funding for state and local services;
26	(4) The harm from the loss of revenue is especially serious in
27	Arkansas because sales and use tax revenue is essential in funding state and
28	local services;
29	(5) Despite the fact that a use tax is owed on tangible personal
30	property, certain other property, or services delivered for use in this
31	state, many remote sellers actively market sales as tax-free or as
32	transactions not subject to sales and use tax;
33	(6) The structural advantages of remote sellers, including the
34	absence of point-of-sale tax collection and the general growth of online
35	retail, make clear that further erosion of this state's sales and use tax
36	base is likely to occur in the near future;

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1	(7) Remote sellers that make a substantial number of deliveries
2	into Arkansas or collect large gross revenues from Arkansas benefit
3	extensively from this state's market, economy, and infrastructure;
4	(8) In contrast with the increasing harm caused to the state by
5	the exemption of remote sellers from sales and use tax collection duties, the
6	costs of such collection have decreased because advanced computing and
7	software options have made it neither difficult nor burdensome for remote
8	sellers to collect and remit sales and use taxes associated with sales of
9	goods and services to residents of this state;
10	(9) The United States Supreme Court recently upheld the ability
11	of states to compel out-of-state sellers with no physical presence in the
12	state to collect state sales and use taxes; and
13	(10) Any savings realized by the state through tax reforms
14	should 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) Act on the recommendation of the Arkansas Tax Reform and
24	<u>Relief Legislative Task Force to repeal the throwback rule for business</u>
25	income when the state's budget would allow for that change to be enacted in a
26	fiscally responsible manner.
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28	SECTION 2. Arkansas Code § 26-5-101, Article IV, paragraphs 9-15,
29	concerning the division of income under the Multistate Tax Compact, are
30	amended to read as follows:
31	9. All For the tax year beginning January 1, 2021, all business
32	income shall be apportioned to this state by multiplying the income by a
33	fraction, the numerator of which is the property factor plus the payroll
34	factor plus double the sales factor, total sales of the taxpayer in this
35	state during the tax period and the denominator of which is four (4) the
36	total sales of the taxpayer everywhere during the tax period.

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1 2 10. The property factor is a fraction, the numerator of which is 3 the average value of the taxpayer's real and tangible personal property owned 4 or rented and used in this state during the tax period and the denominator of 5 which is the average value of all the taxpayer's real and tangible personal 6 property owned or rented and used during the tax period. 7 11. Property owned by the taxpayer is valued at its original 8 cost. Property rented by the taxpayer is valued at eight (8) times the net 9 annual rental rate. Net annual rental rate is the annual rental rate paid by 10 the taxpayer less any annual rental rate received by the taxpayer from sub-11 rentals. 12 12. The average value of property shall be determined by 13 averaging the values at the beginning and ending of the tax period, but the 14 tax administrator may require the averaging of monthly values during the tax 15 period if reasonably required to reflect properly the average value of the 16 taxpayer's property. 17 13. The payroll factor is a fraction, the numerator of which is 18 the total amount paid in this state during the tax period by the taxpayer for 19 compensation and the denominator of which is the total compensation paid 20 everywhere during the tax period. 21 14. Compensation is paid in this state if: 22 (a) The individual's service is performed entirely within 23 the state; (b) The individual's service is performed both within and 24 25 without the state, but the service performed without the state is incidental 26 to the individual's service within the state; or 27 (c) Some of the service is performed in the state and (1) 28 the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base 29 of operations or the place from which the service is directed or controlled 30 is not in any state in which some part of the service is performed, but the 31 32 individual's residence is in this state. 33 15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the 34 35 denominator of which is the total sales of the taxpayer everywhere during the 36 tax period.

1 2 SECTION 3. Arkansas Code § 26-51-205(a) and (b), concerning the income 3 tax levied on corporations, are amended to read as follows: 4 (a)(1) Every corporation organized under the laws of this state shall 5 pay annually an income tax with respect to carrying on or doing business on 6 the entire net income of the corporation, as now defined by the laws of the 7 State of Arkansas, received by such the corporation during the income year, 8 on the following basis: 9 (1) (A) On the first \$3,000 three thousand dollars 10 (\$3,000) of net income or any part thereof $\frac{1}{3}$, one percent (1%); 11 (B) On the second \$3,000 three thousand dollars (\$3,000) 12 of net income or any part thereof $\frac{2}{2}$, two percent (2%); 13 (C) On the next $\frac{55,000}{100}$ five thousand dollars (55,000) of 14 net income or any part thereof 3 %, three percent (3%); 15 (D) On the next \$14,000 fourteen thousand dollars 16 (\$14,000) of net income or any part thereof $\frac{5}{5}$, five percent (5%); 17 (E) On the next \$75,000 seventy-five thousand dollars 18 (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % 19 one hundred thousand dollars (\$100,000), six percent (6%); and 20 (2) (F) On net income exceeding one hundred thousand 21 dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be applied to the entire net income six and five-tenths percent (6.5%). 22 23 (2) For the tax year beginning January 1, 2021, every corporation organized under the laws of this state shall pay annually an 24 25 income tax with respect to carrying on or doing business on the entire net income of the corporation, as now defined by the laws of this state, received 26 27 by the corporation during the income year, on the following basis: (A) On the first three thousand dollars (\$3,000) of net 28 29 income or any part thereof, one percent (1%); 30 (B) On the next three thousand dollars (\$3,000) of net income or any part thereof, two percent (2%); 31 32 (C) On the next five thousand dollars (\$5,000) of net income or any part thereof, three percent (3%); 33 34 (D) On the next fourteen thousand dollars (\$14,000) of net 35 income or any part thereof, five percent (5%); 36 (E) On the next seventy-five thousand dollars (\$75,000) of

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2 (F) On net income exceeding one hundred thousand dollars 3 (\$100,000), six and two-tenths percent (6.22). 4 (3) For tax years beginning on or after January 1, 2022, 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 this state, received 8 by the corporation during the income year, on the following basis: 9 (A) On the first three thousand dollars (\$3,000) of net 10 income or any part thereof, one percent (12): 11 (B) On the next three thousand dollars (\$3,000) of net 11 (B) On the next five thousand dollars (\$14,000) of net 12 income or any part thereof, three percent (32): 13 (C) On the next fourteen thousand dollars (\$14,000) of net 14 income or any part thereof, three percent (52): and 17 (B) On net income exceeding twenty-five thousand dollars 18 (\$25,000), five and nine-tenths percent (52):. 19 (b)(1) Every foreign corporation doing business within the 20 jurisdiction of this state shall pay annually an income tax laws of Arkanasa 14: (A) On the f	1	net income or any part thereof, six percent (6%); and
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 (C) On the next five thousand dollars (\$5,000) of net income or any part thereof, three percent (3%); (D) On the next fourteen thousand dollars (\$14,000) of net income or any part thereof, five percent (5%); and (E) On net income exceeding twenty-five thousand dollars (\$25,000), five and nine-tenths percent (5.9%). (b)(1) Every foreign corporation doing business within the jurisdiction of this state shall pay annually an income tax laws of Arkaness this state, on the following basis: (\$3,000) of net income or any part thereof 1%, one percent (1%); (B) On the first \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 2.%, two percent (2%); (C) On the next \$5,000 five thousand dollars (\$5,000) of net income or any part thereof 3.%, three percent (3%); (£) On the next \$14,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5.%, five percent (5%); (£) On the next \$75,000 seventy-five thousand dollars (\$14,000) of net income or any part thereof 5.%, five percent (5%); (£) On the next \$75,000 seventy-five thousand dollars (\$14,000) of net income or any part thereof 5.%, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$14,000) of net income or any part thereof, but not exceeding \$100,000. (\$14,000) of net income or any part thereof, but not exceeding \$100,000. (\$14,000) of net income or any part thereof, but not exceeding \$100,000. 	11	(B) On the next three thousand dollars (\$3,000) of net
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16income or any part thereof, five percent (5%); and17(E) On net income exceeding twenty-five thousand dollars18(\$25,000), five and nine-tenths percent (5.9%).19(b)(1) Every foreign corporation doing business within the20jurisdiction of this state shall pay annually an income tax on the proportion21of its entire net income as now determined by the income tax laws of Arkansas22this state, on the following basis:23(1) (A) On the first \$3,000 three thousand dollars24(\$3,000) of net income or any part thereof 1%, one percent (1%);25(B) On the second \$3,000 three thousand dollars (\$3,000)26of net income or any part thereof 2~%, two percent (2%);27(C) On the next \$5,000 five thousand dollars (\$5,000) of28net income or any part thereof 3~%, three percent (3%);29(D) On the next \$14,000 fourteen thousand dollars30(\$14,000) of net income or any part thereof 5~%, five percent (5%);31(E) On the next \$75,000 seventy-five thousand dollars32(\$75,000) of net income or any part thereof, but not exceeding \$100,000 6-%33one hundred thousand dollars (\$100,000), six percent (6%); and34(2) (F) On net income exceeding one hundred thousand35dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be	14	income or any part thereof, three percent (3%);
 (E) On net income exceeding twenty-five thousand dollars (\$25,000), five and nine-tenths percent (5.9%). (b)(1) Every foreign corporation doing business within the jurisdiction of this state shall pay annually an income tax on the proportion of its entire net income as now determined by the income tax laws of Arkansas this state, on the following basis: (f) (A) On the first \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 1%, one percent (1%); (B) On the second \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 2.%, two percent (2%); (C) On the next \$5,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5.%, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6.% one hundred thousand dollars (\$100,000), six percent (6%); and (2) (F) On net income exceeding one hundred thousand dollars (\$100,000), a flat rate of six and one half percent (6 ½ %) shall be 	15	(D) On the next fourteen thousand dollars (\$14,000) of net
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 (b)(1) Every foreign corporation doing business within the jurisdiction of this state shall pay annually an income tax on the proportion of its entire net income as now determined by the income tax laws of Arkansas this state, on the following basis: (1) (A) On the first \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 1%, one percent (1%); (B) On the second \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 2-%, two percent (2%); (C) On the next \$5,000 five thousand dollars (\$5,000) of net income or any part thereof 3-%, three percent (3%); (D) On the next \$14,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5-%, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % one hundred thousand dollars (\$100,000), six percent (6%); and (2) (F) On net income exceeding one hundred thousand dollars (\$100,000), a flat rate of six and one half percent (6 ½ %) shall be 	17	(E) On net income exceeding twenty-five thousand dollars
jurisdiction of this state shall pay annually an income tax on the proportion of its entire net income as now determined by the income tax laws of Arkansas this state, on the following basis: (1) (A) On the first \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 1%, one percent (1%); (B) On the second \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 2 %, two percent (2%); (C) On the next \$5,000 five thousand dollars (\$5,000) of net income or any part thereof 3 %, three percent (3%); (D) On the next \$14,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5 %, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$14,000) of net income or any part thereof, but not exceeding \$100,000 6 % one hundred thousand dollars (\$100,000), six percent (6%); and (2) (F) On net income exceeding one hundred thousand dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be	18	(\$25,000), five and nine-tenths percent (5.9%).
of its entire net income as now determined by the income tax laws of Arkansas this state, on the following basis: (1) (A) On the first \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 1%, one percent (1%); (B) On the second \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 2 %, two percent (2%); (C) On the next \$5,000 five thousand dollars (\$5,000) of net income or any part thereof 3 %, three percent (3%); (D) On the next \$14,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5 %, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$14,000) of net income or any part thereof, but not exceeding \$100,000 6 % one hundred thousand dollars (\$100,000), six percent (6%); and (2) (F) On net income exceeding one hundred thousand dollars (\$100,000), a flat rate of six and one half percent (6 ½ %) shall be	19	(b)(1) Every foreign corporation doing business within the
this state, on the following basis: (1) (A) On the first \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 1%, one percent (1%); (B) On the second \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 2 %, two percent (2%); (C) On the next \$5,000 five thousand dollars (\$5,000) of net income or any part thereof 3 %, three percent (3%); (D) On the next \$14,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5 %, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % one hundred thousand dollars (\$100,000), six percent (6%); and dollars (\$100,000), a flat rate of six and one half percent (6 ½ %) shall be	20	jurisdiction of this state shall pay annually an income tax on the proportion
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(\$3,000) of net income or any part thereof 1%, one percent (1%); (B) On the second \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 2%, two percent (2%); (C) On the next \$5,000 five thousand dollars (\$5,000) of net income or any part thereof 3%, three percent (3%); (D) On the next \$14,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5%, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % one hundred thousand dollars (\$100,000), six percent (6%); and dollars (\$100,000), a flat rate of six and one half percent (6 ½%) shall be	22	this state, on the following basis:
 (B) On the second \$3,000 three thousand dollars (\$3,000) of net income or any part thereof 2 %, two percent (2%); (C) On the next \$5,000 five thousand dollars (\$5,000) of net income or any part thereof 3 %, three percent (3%); (D) On the next \$14,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5 %, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % one hundred thousand dollars (\$100,000), six percent (6%); and (2) (F) On net income exceeding one hundred thousand dollars (\$100,000), a flat rate of six and one half percent (6 ½ %) shall be 	23	(1) (A) On the first \$3,000 three thousand dollars
 of net income or any part thereof 2 %, two percent (2%); (C) On the next \$5,000 five thousand dollars (\$5,000) of net income or any part thereof 3 %, three percent (3%); (D) On the next \$14,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5 %, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % one hundred thousand dollars (\$100,000), six percent (6%); and (2) (F) On net income exceeding one hundred thousand dollars (\$100,000), a flat rate of six and one half percent (6 ½ %) shall be 	24	(\$3,000) of net income or any part thereof 1%, one percent (1%);
 (C) On the next \$5,000 five thousand dollars (\$5,000) of net income or any part thereof 3 %, three percent (3%); (D) On the next \$14,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5 %, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % one hundred thousand dollars (\$100,000), six percent (6%); and (2) (F) On net income exceeding one hundred thousand dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be 	25	(B) On the second \$3,000 three thousand dollars (\$3,000)
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 (D) On the next \$14,000 fourteen thousand dollars (\$14,000) of net income or any part thereof 5 %, five percent (5%); (E) On the next \$75,000 seventy-five thousand dollars (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % one hundred thousand dollars (\$100,000), six percent (6%); and (2) (F) On net income exceeding one hundred thousand dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be 	27	<u>(C)</u> On the next \$5,000 five thousand dollars (\$5,000) of
 30 (\$14,000) of net income or any part thereof 5 %, five percent (5%); 31 (E) On the next \$75,000 seventy-five thousand dollars 32 (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % 33 one hundred thousand dollars (\$100,000), six percent (6%); and 34 (2) (F) On net income exceeding one hundred thousand 35 dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be 	28	net income or any part thereof 3 %, three percent (3%);
 31 (E) On the next \$75,000 seventy-five thousand dollars 32 (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % 33 one hundred thousand dollars (\$100,000), six percent (6%); and 34 (2) (F) On net income exceeding one hundred thousand 35 dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be 	29	(D) On the next \$14,000 fourteen thousand dollars
32 (\$75,000) of net income or any part thereof, but not exceeding \$100,000 6 % 33 one hundred thousand dollars (\$100,000), six percent (6%); and 34 (2) (F) On net income exceeding one hundred thousand 35 dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be	30	<u>(\$14,000)</u> of net income or any part thereof 5 %, five percent (5%);
 33 <u>one hundred thousand dollars (\$100,000), six percent (6%); and</u> 34 (2) (F) On net income exceeding one hundred thousand 35 dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be 	31	(E) On the next \$75,000 seventy-five thousand dollars
 34 (2) (F) On net income exceeding one hundred thousand 35 dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be 	32	<u>(\$75,000)</u> of net income or any part thereof, but not exceeding \$100,000 6 %
35 dollars (\$100,000), a flat rate of six and one-half percent (6 $\frac{1}{2}$ %) shall be	33	one hundred thousand dollars (\$100,000), six percent (6%); and
	34	(2) (F) On net income exceeding one hundred thousand
36 applied to the entire net income city and five tenths percent (6.5%)	35	dollars (\$100,000), a flat rate of six and one-half percent (6 ½ %) shall be
$\frac{applied}{applied}$ to the entire net income six and live-tenths percent (0.5%) .	36	applied to the entire net income six and five-tenths percent (6.5%).

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1	(2) For the tay year beginning longery 1 2021 every foreign
	(2) For the tax year beginning January 1, 2021, every foreign
2	corporation doing business within the jurisdiction of this state shall pay
3	annually an income tax on the proportion of its entire net income as now
4	determined by the income tax laws of this state, on the following basis:
5	(A) On the first three thousand dollars (\$3,000) of net
6	income or any part thereof, one percent (1%);
7	(B) On the next three thousand dollars (\$3,000) of net
8	income or any part thereof, two percent (2%);
9	(C) On the next five thousand dollars (\$5,000) of net
10	income or any part thereof, three percent (3%);
11	(D) On the next fourteen thousand dollars (\$14,000) of net
12	income or any part thereof, five percent (5%);
13	(E) On the next seventy-five thousand dollars (\$75,000) of
14	net income or any part thereof, six percent (6%); and
15	(F) On net income exceeding one hundred thousand dollars
16	<u>(\$100,000), six and two-tenths percent (6.2%).</u>
17	(3) For tax years beginning on or after January 1, 2022, every
18	foreign corporation doing business within the jurisdiction of this state
19	shall pay annually an income tax on the proportion of its entire net income
20	as now determined by the income tax laws of this state, on the following
21	<u>basis:</u>
22	(A) On the first three thousand dollars (\$3,000) of net
23	income or any part thereof, one percent (1%);
24	(B) On the next three thousand dollars (\$3,000) of net
25	income or any part thereof, two percent (2%);
26	(C) On the next five thousand dollars (\$5,000) of net
27	income or any part thereof, three percent (3%);
28	(D) On the next fourteen thousand dollars (\$14,000) of net
29	income or any part thereof, five percent (5%); and
30	(E) On net income exceeding twenty-five thousand dollars
31	(\$25,000), five and nine-tenths percent (5.9%).
32	18. If the allocation and apportionment provisions of this
33	Article do not fairly represent the extent of the taxpayer's business
34	activity in this state, the taxpayer may petition for or the tax
35 26	administrator may require, in respect to all or any part of the taxpayer's
36	business activity, if reasonable:

1 (a) Separate accounting; 2 (b) The exclusion of any one (1) or more of the factors; 3 (c) The inclusion of one (1) or more additional factors 4 which will fairly represent the taxpayer's business activity in this state; 5 or 6 (d)(c) The employment of any other method to effectuate an 7 equitable allocation and apportionment of the taxpayer's income. 8 9 SECTION 4. Arkansas Code § 26-51-427 is amended to read as follows: 10 26-51-427. Deductions - Net operating loss carryover. 11 In addition to other deductions allowed by this chapter, there shall be 12 is allowed as a deduction from gross income a net operating loss carryover 13 under the following rules: 14 (1)(A) The net operating loss as hereinbelow defined for any 15 year ending on or after the passage of the Income Tax Act of 1929 and for any 16 succeeding taxable year may be carried over to the next-succeeding taxable 17 year and annually thereafter for a total period of three (3) years next 18 succeeding the year of the net operating loss or until the net operating loss 19 has been exhausted or absorbed by the taxable income of any succeeding year, 20 whichever is earlier, if the net operating loss occurred in an income year 21 beginning before January 1, 1987. The net operating loss deduction must shall 22 be carried forward in the order named above stated in this subdivision 23 (1)(A). 24 (B) The net operating loss as hereinbelow defined for any 25 year ending on or after the passage of the Income Tax Act of 1929, § 26-51-26 <u>101 et seq.</u>, and for any succeeding taxable year <u>before January 1, 2020</u>, may 27 be carried over to the next-succeeding taxable year and annually thereafter 28 for a total period of five (5) years next succeeding the year of the net 29 operating loss or until the net operating loss has been exhausted or absorbed 30 by the taxable income of any succeeding year, whichever is earlier, if the

31 <u>net operating</u> loss occurred in an income year beginning on or after January 32 1, 1987, and before January 1, 2020. The net operating loss deduction must 33 <u>shall</u> be carried forward in the order named above <u>stated in this subdivision</u> 34 (1)(B).

35 (C)(i) The net operating loss as hereinbelow defined which 36 resulted from farming operations, for income years beginning on or after

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2 section before being fully used, may be carried forward for an additional two 3 (2) years and any unused portions can be combined and either applied to tax 4 years 1987 and 1988, respectively, or to tax years 1989 and 1990. In order to 5 claim the additional two-year carry forward, taxpayers must attach copies of 6 both their federal tax returns and their state tax returns, showing the net operating losses for income years beginning on or after January 1, 1981, to 7 8 their state tax returns. As used in this subdivision (1)(C), "farming 9 operations" means that at least sixty-six and two-thirds percent (66 2/3%) of 10 the total gross income, from all sources for the taxable year, must come from 11 farming as defined by 26 U.S.C. § 464(e)(1) in effect on January 1, 1989. 12 For net operating losses occurring in taxable years beginning on or after 13 January 1, 2020, the net operating loss may be carried over to the next 14 succeeding taxable year and annually thereafter for the following number of 15 years next succeeding the tax year of the net operating loss or until the net operating loss has been exhausted or absorbed by the taxable income of a 16 17 succeeding year, whichever is earlier: 18 (a) For net operating losses occurring in the tax year beginning January 1, 2020, a total period of eight (8) years; and 19 20 (b) For net operating losses occurring in tax years beginning on or after January 1, 2021, a total period of ten (10) years 21 22 (ii) The net operating loss deduction shall be 23 carried forward in the order stated in this subdivision (1)(C). (D) As used in this section, "taxable income" or "net 24 25 income" shall be deemed to be means the net income computed without benefit 26 of the deduction for income taxes, personal exemptions, and credit for 27 dependents. The net income of the taxable period to which the net operating loss deduction, as adjusted, is carried, shall be is the net income before 28 29 the deduction of federal income taxes, personal exemption, and credit for 30 dependents. Such income The income taxes, exemptions, and credits described 31 in this subdivision (1)(D) shall not be used to increase the net operating 32 loss which that may be carried to any other taxable period. 33 (E)(i) As used in this section, "qualified medical 34 company" means a corporation engaged in: 35 (a) Research and development in the medical

January 1, 1981, and expired in accordance with subdivision (1)(A) of this

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36 field; and
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1 (b) Manufacture The manufacture and 2 distribution of medical products, including therapeutic and diagnostic 3 products. 4 (ii) In the case of a qualified medical companies, 5 as defined herein, company, a net operating loss for any taxable year shall 6 be a net operating loss carryover to each of the fifteen (15) taxable years 7 following the taxable year of the loss. 8 (iii) If the qualified medical company is an "S" 9 corporation, the pass-through provisions of § 26-51-409, as in effect for the 10 taxable year of the net operating loss, shall be are applicable. 11 (iv) The net operating loss provisions set forth 12 above stated in this subdivision (1)(E), which resulted from the operation of 13 a qualified medical company, shall be are effective for taxable years 14 beginning on and after January 1, 1987; 15 (2) As used in this section, "net operating loss" is defined as 16 means the excess of allowable deductions over gross income for the taxable 17 year, subject to the following adjustments: 18 (A) There shall be added to gross income all nontaxable 19 income, not required by law to be reported as gross income, as provided by 20 law, less any expenses properly and reasonably incurred in earning nontaxable 21 income, which expenses would otherwise be nondeductible; 22 (B) In the case of a taxpayer other than a corporation, 23 deductions, not including federal income taxes, not attributable to the 24 operation of the trade or business, shall be are eliminated from the 25 deductions otherwise allowable for the taxable year to the extent that they 26 exceed gross income not derived from trade or business. Personal exemptions 27 and credit for dependents shall not be are not a deduction for the purpose of 28 computing a net operating loss; 29 (C) No <u>A</u> net operating loss deduction shall <u>not</u> be 30 allowed; and 31 (D) In the case of a taxpayer other than a "C 32 corporation," as defined in 26 U.S.C. § 1361, as in effect on January 1, 33 1985: 34 For income years beginning after December 31, (i) 35 1986, the The amount deductible on account of losses from sales or exchanges 36 of capital assets shall not exceed the amount includable on account of gains

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1 from sales or exchanges of capital assets; and 2 (ii) For income years beginning after December 31, 3 1986, the The deduction for long-term capital gains provided by 26 U.S.C. § 4 1202 [repealed], as in effect on January 1, 1985, shall not be allowed; and 5 (3) In the case of the acquisition of assets of one (1) 6 corporation by another corporation, the acquiring corporation shall succeed 7 to and take into account any net operating loss carryover apportionable to 8 Arkansas, under the Uniform Division of Income for Tax Purposes Act, § 26-51-9 701 et seq., that the acquired corporation could have claimed had it not been 10 acquired, subject to the following conditions: 11 (A) The net operating loss may not be carried forward to a 12 taxable year which that ends more than three (3) years after the taxable year 13 in which the net operating loss occurred if the net operating loss occurred 14 in an income year beginning before January 1, 1987; 15 (B) The net operating loss may not be carried forward to a 16 taxable year which that ends more than five (5) years after the taxable year 17 in which the net operating loss occurred if the net operating loss occurred 18 in an income year beginning on or after January 1, 1987, and before January 19 1, 2020; and 20 (C) The net operating loss may not be carried forward to a 21 taxable year that ends more than the number of years stated in subdivision 22 (1)(C) of this section after the taxable year in which the net operating loss 23 occurred if the net operating loss occurred in an income year beginning on or after January 1, 2020; and 24 25 (G) (D) The net operating loss may be claimed only when the ownership of both the acquired and acquiring corporations is substantially 26 27 the same, that is, where in that not less than eighty percent (80%) of the 28 voting stock of each corporation is owned by the same person or, where prior 29 to before the acquisition, the acquiring corporation owned at least eighty percent (80%) of the voting stock of the acquired corporation. The carryover 30 31 losses will be are allowed only in those cases where in which the assets of the corporation going out of existence earn sufficient profits apportionable 32 to Arkansas under the Uniform Division of Income for Tax Purposes Act, § 26-33 51-701 et seq., in the post-merger period to absorb the carryover losses 34 35 claimed by the surviving corporation. 36

1	SECTION 5. DO NOT CODIFY. The Arkansas Code Revision Commission shall
2	direct the publisher of the Arkansas Code to change the title of Title 26,
3	Chapter 51, Subchapter 7, to the "Division of Income for Tax Purposes Act".
4	
5	SECTION 6. Arkansas Code § 26-51-709 is amended to read as follows:
6	26-51-709. Business income.
7	All For the tax year beginning January 1, 2021, all business income
8	shall be apportioned to this state by multiplying the income by a fraction,
9	the numerator of which is the property factor plus the payroll factor plus
10	double the sales factor, total sales of the taxpayer in this state during the
11	tax period and the denominator of which is four the total sales of the
12	taxpayer everywhere during the tax period.
13	
14	SECTION 7. Arkansas Code §§ 26-51-710 — 26-51-715 are repealed.
15	26-51-710. Real and tangible personal property — Factor.
16	The property factor is a fraction, the numerator of which is the
17	average value of the taxpayer's real and tangible personal property owned or
18	rented and used in this state during the tax period and the denominator of
19	which is the average value of all the taxpayer's real and tangible personal
20	property owned or rented and used during the tax period.
21	
22	26-51-711. Original cost of property — Annual rental rate.
23	Property owned by the taxpayer is valued at its original cost. Property
24	rented by the taxpayer is valued at eight times the net annual rental rate.
25	Net annual rental rate is the annual rental rate paid by the taxpayer less
26	any annual rental rate received by the taxpayer from sub-rentals.
27	
28	26-51-712. Average value of property.
29	The average value of property shall be determined by averaging the
30	values at the beginning and ending of the tax period, but the Director of the
31	Department of Finance and Administration may require the averaging of monthly
32	values during the tax period if reasonably required to reflect properly the
33	average value of the taxpayer's property.
34	
35	26-51-713. Payroll factor.
36	The payroll factor is a fraction, the numerator of which is the total

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1	amount paid in this state during the tax period by the taxpayer for
2	compensation, and the denominator of which is the total compensation paid
3	everywhere during the tax period.
4	
5	26-51-714. Compensation for service - Determination of payment in
6	state.
7	Compensation is paid in this state if:
8	(a) the individual's service is performed entirely within the
9	state; or
10	(b) the individual's service is performed both within and
11	without the state, but the service performed without the state is incidental
12	to the individual's service within the state; or
13	(c) some of the service is performed in the state and (1) the
14	base of operations or, if there is no base of operations, the place from
15	which the service is directed or controlled is in the state, or (2) the base
16	of operations or the place from which the service is directed or controlled
17	is not in any state in which some part of the service is performed, but the
18	individual's residence is in this state.
19	
20	26-51-715. Sales factor.
21	The sales factor is a fraction, the numerator of which is the total
22	sales of the taxpayer in this state during the tax period, and the
23	denominator of which is the total sales of the taxpayer everywhere during the
24	tax period.
25	
26	SECTION 8. Arkansas Code § 26-51-718 is amended to read as follows:
27	26-51-718. Procedure when allocation does not fairly represent
28	taxpayer's business activity.
29	If the allocation and apportionment provisions of this Act do not
30	fairly represent the extent of the taxpayer's business activity in this
31	state, the taxpayer may petition for or the Director of the Department of
32	Finance and Administration may require, in respect to all or any part of the
33	taxpayer's business activity, if reasonable:
34	(a) separate accounting;
35	(b) the exclusion of any one or more of the factors;
36	(c) the inclusion of one or more additional factors which will

13

1 fairly represent the taxpayer's business activity in this state; or

2 (d) (c) the employment of any other method to effectuate an
 3 equitable allocation and apportionment of the taxpayer's income.

- 4
- 5 6

SECTION 9. Arkansas Code § 26-51-1401 is amended to read as follows: 26-51-1401. Apportionment and allocation.

7 (a) Except as otherwise specifically provided, a financial institution 8 whose business activity is taxable both within and without this state shall 9 allocate and apportion its net income as provided in this subchapter. All 10 items of nonbusiness income, income which that is not includable in the 11 apportionable income tax base, shall be allocated pursuant to the provisions 12 of under §§ 26-51-704 - 26-51-708. A financial institution organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or a 13 14 territory or possession of the United States whose effectively connected 15 income, as defined under the Internal Revenue Code, 26 U.S.C. § 1 et seq., as 16 in effect January 1, 1995, is taxable both within this state and within 17 another state, other than the state in which it is organized, shall allocate 18 and apportion its net income as provided in this subchapter.

19 (b)(1) All business income, income which is includable in the 20 apportionable income tax base, shall be apportioned to this state by 21 multiplying such income by the apportionment percentage.

22 (2) The apportionment percentage is determined by adding the 23 taxpayer's receipts factor as described in § 26-51-1403, property factor as 24 described in § 26-51-1404, and payroll factor as described in § 26-51-1405 25 together and dividing the sum by three (3). If one (1) of the factors is 26 missing, the two (2) remaining factors are added and the sum is divided by 27 two (2). If two (2) of the factors are missing, the remaining factor is the 28 apportionment percentage. A factor is missing if both its numerator and 29 denominator are zero, but it is not missing merely because its numerator is 30 zero.

31 (c) Each The taxpayer's receipts factor shall be computed according to 32 the method of accounting, cash or accrual basis, used by the taxpayer for the 33 taxable year.

(d) If the allocation and apportionment provisions of this subchapter
do not fairly represent the extent of the taxpayer's business activity in
this state, the taxpayer may petition for, or the Director of the Department

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1 of Finance and Administration may require, in respect to all or any part of 2 the taxpayer's business activity, if reasonable: 3 (1) Separate accounting; 4 The exclusion of any one (1) or more of the factors; (2) 5 (3) The inclusion of one (1) or more additional factors which 6 will fairly represent the taxpayer's business activity in this state; or 7 (4) (3) The employment of any other method to effectuate an 8 equitable allocation and apportionment of the taxpayer's income. 9 10 SECTION 10. Arkansas Code § 26-51-1402(4), concerning the definitions 11 used in relation to the apportionment and allocation of the net income of 12 financial institutions, is repealed. 13 (4) "Compensation" means wages, salaries, commissions, and any 14 other form of remuneration paid to employees for personal services that are 15 included in such employee's gross income under the Internal Revenue Code, 26 16 U.S.C. § 1 et seq., as in effect January 1, 1995. In the case of employees 17 not subject to the Internal Revenue Code, 26 U.S.C. § 1 et seq., as in effect 18 January 1, 1995, e.g., those employed in foreign countries, the determination 19 of whether such payments would constitute gross income to such employees under the Internal Revenue Code, 26 U.S.C. § 1 et seq., as in effect January 20 1, 1995, shall be made as though such employees were subject to the Internal 21 22 Revenue Code, 26 U.S.C. § 1 et seq., as in effect January 1, 1995; 23 24 SECTION 11. Arkansas Code § 26-51-1402(9), concerning the definitions 25 used in relation to the apportionment and allocation of the net income of 26 financial institutions, is repealed. 27 (9)(A) "Gross rents" means the actual sum of money or other 28 consideration payable for the use or possession of property. (B) "Gross rents" shall include, but not be limited to: 29 30 (i) Any amount payable for the use or possession of real property or tangible property whether designated as a fixed sum of money 31 32 or as a percentage of receipts, profits, or otherwise; 33 (ii) Any amount payable as additional rent or in 34 lieu of rent, such as interest, taxes, insurance, repairs, or any other 35 amount required to be paid by the terms of a lease or other arrangement; and 36 (iii) A proportionate part of the cost of any

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1	improvement to real property made by or on behalf of the taxpayer which
2	reverts to the owner or lessor upon termination of a lease or other
3	arrangement. The amount to be included in gross rents is the amount of
4	amortization or depreciation allowed in computing the taxable income base for
5	the taxable year. However, where a building is erected on leased land by or
6	on behalf of the taxpayer, the value of the land is determined by multiplying
7	the gross rent by eight (8) and the value of the building is determined in
8	the same manner as if owned by the taxpayer.
9	(C) "Gross rents" does not include:
10	(i) Reasonable amounts payable as separate charges
11	for water and electric service furnished by the lessor;
12	(ii) Reasonable amounts payable as service charges
13	for janitorial services furnished by the lessor;
14	(iii) Reasonable amounts payable for storage,
15	provided such amounts are payable for space not designated and not under the
16	control of the taxpayer; and
17	(D) That portion of any rental payment which is applicable
18	to the space subleased from the taxpayer and not used by it;
19	
20	SECTION 12. Arkansas Code § 26-51-1403(a)(1)(A), concerning the
20 21	SECTION 12. Arkansas Code § 26-51-1403(a)(1)(A), concerning the apportionment and allocation of net income of financial institutions, is
21	apportionment and allocation of net income of financial institutions, is
21 22	apportionment and allocation of net income of financial institutions, is amended to read as follows:
21 22 23	<pre>apportionment and allocation of net income of financial institutions, is amended to read as follows:</pre>
21 22 23 24	apportionment and allocation of net income of financial institutions, is amended to read as follows: (1)(A) The receipts factor is a fraction, the numerator of which is the <u>total</u> receipts of the taxpayer in this state during the taxable year
21 22 23 24 25	apportionment and allocation of net income of financial institutions, is amended to read as follows: (1)(A) The receipts factor is a fraction, the numerator of which is the <u>total</u> receipts of the taxpayer in this state during the taxable year and the denominator of which is the <u>total</u> receipts of the taxpayer within and
21 22 23 24 25 26	apportionment and allocation of net income of financial institutions, is amended to read as follows: (1)(A) The receipts factor is a fraction, the numerator of which is the <u>total</u> receipts of the taxpayer in this state during the taxable year and the denominator of which is the <u>total</u> receipts of the taxpayer within and without this state during the taxable year. SECTION 13. Arkansas Code § 26-51-1403(n), concerning the
21 22 23 24 25 26 27 28 29	<pre>apportionment and allocation of net income of financial institutions, is amended to read as follows:</pre>
21 22 23 24 25 26 27 28	apportionment and allocation of net income of financial institutions, is amended to read as follows: (1)(A) The receipts factor is a fraction, the numerator of which is the <u>total</u> receipts of the taxpayer in this state during the taxable year and the denominator of which is the <u>total</u> receipts of the taxpayer within and without this state during the taxable year. SECTION 13. Arkansas Code § 26-51-1403(n), concerning the
21 22 23 24 25 26 27 28 29	<pre>apportionment and allocation of net income of financial institutions, is amended to read as follows:</pre>
21 22 23 24 25 26 27 28 29 30 31 32	<pre>apportionment and allocation of net income of financial institutions, is amended to read as follows:</pre>
21 22 23 24 25 26 27 28 29 30 31 32 33	<pre>apportionment and allocation of net income of financial institutions, is amended to read as follows:</pre>
21 22 23 24 25 26 27 28 29 30 31 32 33 34	<pre>apportionment and allocation of net income of financial institutions, is amended to read as follows:</pre>
21 22 23 24 25 26 27 28 29 30 31 32 33	<pre>apportionment and allocation of net income of financial institutions, is amended to read as follows:</pre>

1 (a) Generally. The property factor is a fraction, the numerator of 2 which is the average value of real property and tangible personal property 3 rented to the taxpayer that is located or used within this state during the 4 taxable year, the average value of the taxpayer's real and tangible personal 5 property owned that is located or used within this state during the taxable 6 year, and the average value of the taxpayer's loans and credit card 7 receivables that are located within this state during the taxable year; and 8 the denominator of which is the average value of all such property located or 9 used within and without this state during the taxable year. 10 (b) Property Included. The property factor shall include only 11 property the income or expenses of which are included, or would have been 12 included if not fully depreciated or expensed, or depreciated or expensed to 13 a nominal amount, in the computation of the apportionable income base for the 14 taxable year. 15 (c) Value of Property Owned by the Taxpayer. 16 (1) The value of real property and tangible personal property 17 owned by the taxpayer is the original cost or other basis of such property 18 for federal income tax purposes without regard to depletion, depreciation, or 19 amortization. 20 (2)(A) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. 21 22 (B) If a loan is charged off, in whole or in part, for 23 federal income tax purposes, the portion of the loan charged off is not 24 outstanding. 25 (C) A specifically allocated reserve established pursuant 26 to regulatory or financial accounting guidelines which that is treated as 27 charged off for federal income tax purposes shall be treated as charged off 28 for purposes of this section. 29 (3)(A) Credit card receivables are valued at their outstanding 30 principal balance, without regard to any reserve for bad debts. 31 (B) If a credit card receivable is charged off, in whole 32 or in part, for federal income tax purposes, the portion of the receivable 33 charged off is not outstanding. (d) (b) Average Value of Property Owned by the Taxpayer. 34 35 (1) The average value of property owned by the taxpayer is 36 computed on an annual basis by adding the value of the property on the first

1 day of the taxable year and the value on the last day of the taxable year and 2 dividing the sum by two (2).

3 (2) If averaging on this basis does not properly reflect average
4 value, the Director of the Department of Finance and Administration may
5 require averaging on a more frequent basis.

6

(3) The taxpayer may elect to average on a more frequent basis.

7 (4) When averaging on a more frequent basis is required by the 8 Director of the Department of Finance and Administration or is elected by the 9 taxpayer, the same method of valuation <u>must shall</u> be used consistently by the 10 taxpayer with respect to property within and without this state and on all 11 subsequent returns unless the taxpayer receives prior permission from the 12 director or the director requires a different method of determining average 13 value.

14 (e) Average Value of Real Property and Tangible Personal Property
 15 Rented to the Taxpayer.

16 (1) The average value of real property and tangible personal 17 property that the taxpayer has rented from another, and which is not treated 18 as property owned by the taxpayer for federal income tax purposes, shall be 19 determined annually by multiplying the gross rents payable during the taxable 20 year by eight (8).

21 (2)(A) Where the use of the general method described in this
22 subsection results in inaccurate valuations of rented property, any other
23 method which properly reflects the value may be adopted by the director or by
24 the taxpayer when approved in writing by the director.

25 (B) Once approved, such other method of valuation must be
 26 used on all subsequent returns unless the taxpayer receives prior approval
 27 from the director or unless the director requires a different method of
 28 valuation.

29 (f) Location of Real Property and Tangible Personal Property Owned by 30 or Rented to the Taxpayer.

31 (1) Except as described in subdivision (f)(2) of this section, 32 real property and tangible personal property owned by or rented to the 33 taxpayer is considered to be located within this state if it is physically

34 located, situated, or used within this state.

35 (2)(A) Transportation property is included in the numerator of
 36 the property factor to the extent that the property is used in this state.

1	(B) The extent an aircraft will be deemed to be used in
2	this state and the amount of value that is to be included in the numerator of
3	this state's property factor is determined by multiplying the average value
4	of the aircraft by a fraction, the numerator of which is the number of
5	landings of the aircraft in this state and the denominator of which is the
6	total number of landings of the aircraft everywhere.
7	(C) If the extent of the use of any transportation
8	property within this state cannot be determined, then the property will be
9	deemed to be used wholly in the state in which the property has its principal
10	base of operations.
11	(D) A motor vehicle will be deemed to be used wholly in
12	the state in which it is registered.
13	(g) Location of Loans.
14	(1)(A) A loan is considered to be located within this state if
15	it is properly assigned to a regular place of business of the taxpayer within
16	this state.
17	(B) A loan is properly assigned to the regular place of
18	business with which it has a preponderance of substantive contacts.
19	(2)(A) A loan assigned by the taxpayer to a regular place of
20	business without the state shall be presumed to have been properly assigned
21	if:
22	(i) The taxpayer has assigned, in the regular course
23	of its business, such loan on its records to a regular place of business
24	consistent with federal or state regulatory requirements;
25	(ii) Such assignment on its records is based upon
26	substantive contacts of the loan to such regular place of business; and
27	(iii) The taxpayer uses said records reflecting
28	assignment of loans for the filing of all state and local tax returns for
29	which an assignment of loans to a regular place of business is required.
30	(B) The presumption of proper assignment of a loan
31	provided in subdivisions (g)(l)(B) and (g)(2)(A) of this section may be
32	rebutted upon a showing by the director, supported by a preponderance of the
33	evidence, that the preponderance of substantive contacts regarding such loan
34	did not occur at the regular place of business to which it was assigned on
35	the taxpayer's records.
36	(C) When such presumption has been rebutted, the loan

1 shall then be located within this state if: 2 (i) The taxpayer had a regular place of business 3 within this state at the time the loan was made; and 4 (ii) The taxpayer fails to show, by a preponderance 5 of the evidence, that the preponderance of substantive contacts regarding 6 such loan did not occur within this state. (3) In the case of a loan which is assigned by the taxpayer to a 7 8 place without this state which is not a regular place of business, it shall 9 be presumed, subject to rebuttal by the taxpayer on a showing supported by 10 the preponderance of evidence, that the preponderance of substantive contacts 11 regarding the loan occurred within this state, if, at the time the loan was 12 made, the taxpayer's commercial domicile, as defined by § 26-51-1402(3), was 13 within this state. 14 (4)(A) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and 15 16 circumstances regarding the loan at issue shall be reviewed on a case-by-case 17 basis, and consideration shall be given to such activities as the 18 solicitation, investigation, negotiation, approval, and administration of the loan. 19 (B) The terms "solicitation", "investigation", 20 21 "negotiation", "approval", and "administration" are defined as follows: 22 (i)(a) "Solicitation" is either active or passive. 23 (b) Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. Such 24 25 activity is located at the regular place of business which the taxpayer's 26 employee is regularly connected with or working out of, regardless of where 27 the services of such employee were actually performed. 28 (c) Passive solicitation occurs when the customer initiates the contact with the taxpayer. If the customer's initial 29 30 contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is 31 32 determined by the facts in each case; 33 (ii) "Investigation" is the procedure whereby 34 employees of the taxpayer determine the credit worthiness of the customer, as 35 well as the degree of risk involved in making a particular agreement. Such 36 activity is located at the regular place of business which the taxpayer's

1	employees are regularly connected with or working out of, regardless of where
2	the services of such employees were actually performed;
3	(iii) "Negotiation" is the procedure whereby
4	employees of the taxpayer and its customer determine the terms of the
5	agreement, for example, the amount, duration, interest rate, frequency of
6	repayment, currency denomination, and security required. Such activity is
7	located at the regular place of business which the taxpayer's employees are
8	regularly connected with or working out of, regardless of where the services
9	of such employees were actually performed;
10	(iv) "Approval" is the procedure whereby employees
11	or the board of directors of the taxpayer make the final determination
12	whether to enter into the agreement. Such activity is located at the regular
13	place of business which the taxpayer's employees are regularly connected with
14	or working out of, regardless of where the services of such employees were
15	actually performed. If the board of directors makes the final determination,
16	such activity is located at the commercial domicile of the taxpayer; and
17	(v) "Administration" is the process of managing the
18	account. This process includes bookkeeping, collecting the payments,
19	corresponding with the customer, reporting to management regarding the status
20	of the agreement, and proceeding against the borrower or the security
21	interest if the borrower is in default. Such activity is located at the
22	regular place of business which oversees this activity.
23	(h) Location of Credit Card Receivables. For purposes of determining
24	the location of credit card receivables, credit card receivables shall be
25	treated as loans and shall be subject to the provisions of subsection (g) of
26	this section.
27	(i) Period for Which Properly Assigned Loan Remains
28	Assigned. A loan that has been properly assigned to a state shall, absent
29	any change of material fact, remain assigned to said state for the length of
30	the original term of the loan. Thereafter, said loan may be properly assigned
31	to another state if said loan has a preponderance of substantive contact to a
32	regular place of business there.
33	
34	SECTION 15. Arkansas Code § 26-51-1405 is repealed.
35	26-51-1405. Payroll factor.
36	(a) Generally. The payroll factor is a fraction, the numerator of

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1	which is the total amount paid in this state during the taxable year by the
2	taxpayer for compensation and the denominator of which is the total
3	compensation paid both within and without this state during the taxable year.
4	The payroll factor shall include only that compensation which is included in
5	the computation of the apportionable income tax base for the taxable year.
6	(b) Compensation Relating to Nonbusiness Income and Independent
7	Contractors. The compensation of any employee for services or activities
8	which are connected with the production of nonbusiness income, which is
9	income that is not includable in the apportionable income base, and payments
10	made to any independent contractor or any other person not properly
11	classifiable as an employee shall be excluded from both the numerator and
12	denominator of the factor.
13	(c) When Compensation Paid in this State. Compensation is paid in
14	this state if any one (1) of the following tests, applied consecutively, is
15	met:
16	(1) The employee's services are performed entirely within this
17	state;
18	(2) The employee's services are performed both within and
19	without the state, but the service performed without the state is incidental
20	to the employee's service within the state. "Incidental" means any service
21	which is temporary or transitory in nature, or which is rendered in
22	connection with an isolated transaction; and
23	(3) If the employee's services are performed both within and
24	without this state, the employee's compensation will be attributed to this
25	state:
26	(A) If the employee's principal base of operations is
27	within this state;
28	(B) If there is no principal base of operations in any
29	state in which some part of the services are performed, but the place from
30	which the services are directed or controlled is in this state; or
31	(C) If the principal base of operations and the place from
32	which the services are directed or controlled are not in any state in which
33	some part of the service is performed but the employee's residence is in this
34	state.
35	
36	SECTION 16. Arkansas Code § 26-52-103, concerning the definitions used

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1 under the Arkansas Gross Receipts Act of 1941, is amended to add additional 2 subdivisions to read as follows: 3 (35)(A) "Forum" means a physical place or electronic location 4 where sales occur. 5 (B) "Forum" includes without limitation a: 6 (i) Store; 7 (ii) Booth; 8 (iii) Publicly accessible internet website; 9 (iv) Catalog; and 10 (v) Place or location similar to the places and 11 locations listed in subdivisions (36)(B)(i)-(iv); (36) "Marketplace facilitator" means a person that facilitates 12 13 the sale of tangible personal property, taxable services, a digital code, a 14 digital magazine, or specified digital products by: 15 (A) Listing or advertising tangible personal property, 16 taxable services, a digital code, a digital magazine, or specified digital 17 products for sale in a forum; and 18 (B) Either directly or indirectly through an agreement or 19 arrangement with a third party, collecting payment from a purchaser and 20 transmitting the payment to the person selling the tangible personal property, taxable services, a digital code, or specified digital products, 21 22 regardless of whether the person receives compensation or other consideration 23 in exchange for the person's services in collecting and transmitting the 24 payment; 25 (37) "Marketplace seller" means a person that has an agreement with a marketplace facilitator under which the marketplace facilitator 26 27 facilitates sales for the person; (39) "Referral" means the transfer by a referrer of a potential 28 purchaser to a person that advertises or lists tangible personal property, 29 30 taxable services, a digital code, or specified digital products for sale on 31 the referrer's platform; 32 (39)(A) "Referrer" means a person, other than a person engaging 33 in the business of printing or publishing a newspaper, that, under an 34 agreement or arrangement with a marketplace seller or remote seller, does the 35 following: 36 (i) Agrees to list or advertise for sale tangible

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1	personal property, taxable services, a digital code, or specified digital
2	products of the marketplace seller or remote seller via a physical or
3	electronic medium;
4	(ii) Receives consideration from the marketplace
5	seller or remote seller from the sale offered in the listing or
6	advertisement;
7	(iii) Transfers by telecommunications, internet
8	link, or other means, a purchaser to a marketplace seller or remote seller to
9	complete a sale; and
10	(iv) Does not collect a receipt from the purchaser
11	for the sale.
12	(B) "Referrer" does not include a person that:
13	(i) Provides internet advertising services; and
14	(ii) Does not:
15	(a) Provide the marketplace seller's or the
16	remote seller's shipping terms; or
17	(b) Advertise whether a marketplace seller or
18	remote seller collects sales or use tax; and
19	(40) "Remote seller" means a person, other than a marketplace
20	facilitator, that does not maintain a place of business in this state and
21	that through a forum sells tangible personal property, taxable services, a
22	digital code, or specified digital products, the sale or use of which is
23	subject to the tax imposed by this chapter or the Arkansas Compensating Tax
24	<u>Act of 1949, § 26-53-101 et seq.</u>
25	
26	SECTION 17. Arkansas Code § 26-52-110 is repealed.
27	26-52-110. Sellers and affiliated persons — Referral agreements —
28	Notice required — Definitions.
29	(a) As used in this section:
30	(1) "Affiliated person" means:
31	(A) A person that is a member of the same controlled group
32	of corporations as the seller; or
33	(B) Another entity that, notwithstanding its form of
34	organization, bears the same ownership relationship to the seller as a
35	corporation that is a member of the same controlled group of corporations;
36	and

1	(2) "Controlled group of corporations" means the same as in 26
2	U.S.C. § 1563(a), as it existed on January 1, 2011.
3	(b) A seller is presumed to be engaged in the business of selling
4	tangible personal property, specified digital products, a digital code, or
5	taxable services for use in the state if an affiliated person is subject to
6	the sales and use tax jurisdiction of the state and the:
7	(1) Seller sells a similar line of products as the affiliated
8	person and sells the products under the same business name or a similar
9	business name;
10	(2) Affiliated person uses his, her, or its in-state employees
11	or in-state facilities to advertise, promote, or facilitate sales by the
12	seller to consumers;
13	(3) Affiliated person maintains an office, distribution
14	facility, warehouse or storage place, or similar place of business to
15	facilitate the delivery of property, specified digital products, a digital
16	code, or services sold by the seller to the seller's business;
17	(4) Affiliated person uses trademarks, service marks, or trade
18	names in the state that are the same or substantially similar to those used
	•
19	by the seller; or
	by the seller; or (5) Affiliated person delivers, installs, assembles, or performs
20	
19 20 21 22	(5) Affiliated person delivers, installs, assembles, or performs
20 21	(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state.
20 21 22	(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted
20 21 22 23 24	(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not
20 21 22 23 24 25	<pre>(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a</pre>
20 21 22 23	<pre>(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales.</pre>
20 21 22 23 24 25 26	<pre>(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales. (d)(1) If there is not an affiliated person with respect to a seller</pre>
20 21 22 23 24 25 26 27	<pre>(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales. (d)(1) If there is not an affiliated person with respect to a seller in the state, the seller is presumed to be engaged in the business of selling</pre>
20 21 22 23 24 25 26 27 28	<pre>(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales. (d)(1) If there is not an affiliated person with respect to a seller in the state, the seller is presumed to be engaged in the business of selling tangible personal property, specified digital products, a digital code, or</pre>
20 21 22 23 24 25 26 27 28 29	<pre>(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (e) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales. (d)(1) If there is not an affiliated person with respect to a seller in the state, the seller is presumed to be engaged in the business of selling tangible personal property, specified digital products, a digital code, or taxable services for use in the state if the seller enters into an agreement</pre>
20 21 22 23 24 25 26 27 28 29 30	<pre>(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales. (d)(1) If there is not an affiliated person with respect to a seller in the state, the seller is presumed to be engaged in the business of selling tangible personal property, specified digital products, a digital code, or taxable services for use in the state if the seller enters into an agreement with one (1) or more residents of the state under which the residents, for a</pre>
20 21 22 23 24 25 26 27 28 29 30 31	<pre>(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales. (d)(1) If there is not an affiliated person with respect to a seller in the state, the seller is presumed to be engaged in the business of selling tangible personal property, specified digital products, a digital code, or taxable services for use in the state if the seller enters into an agreement with one (1) or more residents of the state under which the residents, for a commission or other consideration, directly or indirectly refer potential</pre>
20 21 22 23 24 25 26 27 28 29 30 31 32	<pre>(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales. (d)(1) If there is not an affiliated person with respect to a seller in the state, the seller is presumed to be engaged in the business of selling tangible personal property, specified digital products, a digital code, or taxable services for use in the state if the seller enters into an agreement with one (1) or more residents of the state under which the residents, for a commission or other consideration, directly or indirectly refer potential purchasers, whether by a link on an Internet website or otherwise, to the</pre>
20 21 22 23 24 25 26 27 28 29 30 31 32 33	<pre>(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state. (c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales. (d)(1) If there is not an affiliated person with respect to a seller in the state, the seller is presumed to be engaged in the business of selling tangible personal property, specified digital products, a digital code, or taxable services for use in the state if the seller enters into an agreement with one (1) or more residents of the state under which the residents, for a commission or other consideration, directly or indirectly refer potential purchasers, whether by a link on an Internet website or otherwise, to the seller.</pre>

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1	of agreement described in subdivision (d)(l) of this section exceed ten
2	thousand dollars (\$10,000) during the preceding twelve (12) months.
3	(e)(l) The presumption in subsection (d) of this section may be
4	rebutted by submitting proof that the residents with whom the seller has an
5	agreement did not engage in any activity within the state that was
6	significantly associated with the seller's ability to establish or maintain
7	the seller's market in the state during the preceding twelve (12) months.
8	(2) Proof provided under subdivision (e)(1) of this section may
9	consist of written statements from all of the residents with whom the seller
10	has an agreement stating that they did not engage in any solicitation in the
11	state on behalf of the seller during the preceding twelve (12) months if the
12	statements were provided and obtained in good faith.
13	(f) The Director of the Department of Finance and Administration shall
14	promulgate rules to implement this section.
15	
16	SECTION 18. Arkansas Code Title 26, Chapter 52, Subchapter 1, is
17	amended to add an additional section to read as follows:
18	26-52-111. Remote sellers and marketplace facilitators.
19	(a) A remote seller or a marketplace facilitator that sells or
20	facilitates the sale of tangible personal property, taxable services, a
21	digital code, or specified digital products for delivery into Arkansas shall
22	collect and remit the applicable sales tax levied under this chapter or the
23	applicable compensating use tax levied under the Arkansas Compensating Tax
24	Act of 1949, § 26-53-101 et seq., if in the previous calendar year or in the
25	current calendar year, the remote seller or the marketplace facilitator had
26	aggregate sales of tangible personal property, taxable services, digital
27	codes, or specified digital products subject to Arkansas sales or use tax
28	within this state or delivered to locations within this state exceeding:
29	(1) One hundred thousand dollars (\$100,000); or
30	(2) Two hundred (200) transactions.
31	(b) A sale made through a marketplace facilitator:
32	(1) Is a sale of the marketplace facilitator for purposes of
33	determining whether a person satisfies the criteria stated in subsection (a)
34	of this section; and
35	(2) Is not a sale of the marketplace seller for purposes of
36	determining whether a person satisfies the criteria stated in subsection (a)

26

1	of this section.
2	(c) The requirement to collect and remit sales or use tax under this
3	section shall not be applied retroactively.
4	(d) This section does not affect or impair the:
5	(1) Obligation of a purchaser in this state to remit use tax on
6	any applicable transaction in which the seller does not collect and remit
7	sales or use tax;
8	(2) Obligation of a seller, when the seller is transacting
9	business in the state and a point-of-sale tax is collected on the
10	transaction, to remit all state and local taxes on any applicable transaction
11	in which the seller provides goods or furnishes services within the state; or
12	(3) Ability of a state entity to immediately collect the taxes
13	described in subdivision (d)(2) of this section.
14	(e)(l) The Department of Finance and Administration shall audit a
15	marketplace facilitator solely for sales made by marketplace sellers and
16	facilitated by the marketplace facilitator.
17	(2) The department shall not audit marketplace sellers for sales
18	facilitated by a marketplace facilitator except to the extent the marketplace
19	facilitator seeks relief from liability under subsection (f) of this section.
20	<u>(f)(l) A marketplace facilitator is relieved of liability under this</u>
21	section for failure to collect and remit the correct amount of tax under this
22	section to the extent that the failure was due to incorrect or insufficient
23	information given to the marketplace facilitator by the marketplace seller.
24	(2) This subsection does not apply if the marketplace
25	facilitator and the marketplace seller are related.
26	
27	SECTION 19. Arkansas Code § 26-52-301(3)(B)(ii), concerning the levy
28	of sales tax on certain products and services, is repealed.
29	(ii)(a) However, the provisions of this section
30	shall not apply to a coin-operated car wash.
31	(b) As used in subdivision (3)(B)(ii)(a) of
32	this section, "coin-operated car wash" means a car wash in which the car
33	washing equipment is activated by the insertion of coins into a slot or
34	receptacle and the labor of washing the exterior of the car or motor vehicle
35	is performed solely by the customer or by mechanical equipment.
36	

1	SECTION 20. Arkansas Code § 26-52-401, concerning sales tax exemptions
2	for certain products and services, is amended to add an additional
3	subdivision to read as follows:
4	(40)(A) Gross receipts or gross proceeds derived from the sale
5	<u>of:</u>
6	(i) Tangible personal property, specified digital
7	products, or a digital code by or to a car wash operator for use in an
8	automatic car wash, a car wash tunnel, or a self-service bay or as part of an
9	ancillary service;
10	(ii) Services to a car wash operator; and
11	(iii) Ancillary services by a car wash operator.
12	(B) As used in this subdivision (40):
13	(i)(a) "Ancillary service" means a service provided
14	by a car wash operator in conjunction with the sale of a service through an
15	automatic car wash, a car wash tunnel, or a self-service bay that involves
16	the cleaning of interior or exterior, or both, of a motor vehicle.
17	(b) "Ancillary service" includes without
18	limitation:
19	(1) Hand prepping any portion of a motor
20	vehicle;
21	(2) Vacuuming;
22	(3) Hand drying any portion of a motor
23	vehicle;
24	(4) Waxing any portion of a motor
25	vehicle;
26	(5) Hand cleaning any portion of a motor
27	vehicle; and
28	(6) Applying a protective or shine coat
29	to any portion of a motor vehicle;
30	(ii) "Automatic car wash" means the same as defined
31	<u>in § 26-57-1601;</u>
32	(iii) "Car wash operator" means a person that
33	operates one (1) or more automatic car washes, car wash tunnels, self-service
34	bays, or any combination of automatic car washes, car wash tunnels, self-
35	service bays;
36	(iv) "Car wash tunnel" means the same as defined in

28

1	<u>§ 26-57-1601; and</u>
2	(v) "Self-service bay" means the same as defined in
3	<u>§ 26-57-1601.</u>
4	(C)(i) This subdivision (40) shall expire if the Director
5	of the Department of Finance and Administration determines under § 26-57-1606
6	that the total state revenue loss resulting from the exemption provided in
7	this subdivision (40) is greater than the total state revenue generated by
8	the fees under § 26-57-1601.
9	(ii) If the exemption provided under this
10	subdivision (40) expires under subdivision (40)(C)(i) of this section, the
11	expiration of the exemption is effective on and after the first day of the
12	calendar quarter following the director's determination under § 26-57-1606.
13	
14	SECTION 21. Arkansas Code Title 26, Chapter 57, is amended to add an
15	additional subchapter to read as follows:
16	<u>Subchapter 16 - Car Washes</u>
17	
18	<u>26-57-1601. Definitions.</u>
19	As used in this subchapter:
20	(1) "Automatic car wash" means a car wash bay that provides a
21	car wash using mechanical equipment that cleans the motor vehicle while the
22	motor vehicle remains stationary;
23	(2) "Car wash tunnel" means a car wash bay that provides a fully
24	automated car wash in which the motor vehicle is moved through a tunnel by a
25	<u>conveyor</u> system;
26	(3) "Nonpublic water system" means a water source that is not a
27	public water system, including without limitation a private well;
28	(4) "Public water system" means a water system subject to
29	regulation under the Safe Drinking Water Act, 42 U.S.C. § 300f, as existing
30	on January 1, 2019, which is owned by a municipal corporation, a governmental
31	corporation, or a nonprofit corporation, including without limitation:
32	(A) A municipality;
33	(B) A public facilities board;
34	(C) A public water authority;
35	(D) A water association;
36	(E) A regional water distribution district;

29

1	(F) A rural development authority;
2	(G) A sanitation authority;
3	(H) An improvement district;
4	(I) A regional wastewater treatment district; or
5	(J) A consolidated waterworks; and
6	(5) "Self-service bay" means a car wash bay that allows a person
7	to manually wash a motor vehicle using equipment and supplies provided by the
8	<u>car wash operator.</u>
9	
10	<u>26-57-1602. Registration.</u>
11	(a) A person that is entitled to claim a sales and use tax exemption
12	under § 26-52-401(40) shall pay the fee required under § 26-57-1603 in lieu
13	of paying the sales tax under the Arkansas Gross Receipts Act of 1941, § 26-
14	52-101 et seq., and the compensating use tax under the Arkansas Compensating
15	Tax Act of 1949, § 26-53-101 et seq., on the exempt products and services.
16	(b) A car wash operator that is required to pay a fee under § 26-57-
17	1603 shall register electronically with the Director of the Department of
18	Finance and Administration before a self-service bay, an automatic car wash,
19	or a car wash tunnel is made available for commercial use.
20	(c) The electronic registration form provided for in this section
21	shall:
22	(1) Be in the form prescribed by the director; and
23	(2) Contain the information required by rules adopted by the
24	director to implement this subchapter.
25	
26	<u>26-57-1603. Fees.</u>
27	(a) A car wash operator that uses water from a public water system
28	shall pay to the Director of the Department of Finance and Administration the
29	following fee by the twentieth day of each month:
30	(1) For a car wash operator that operates only one (1) or more
31	car wash tunnels, the car wash operator shall calculate the monthly fee due
32	under this subsection as follows:
33	(A) Multiply by nine-tenths (0.9) the total aggregate
34	number of gallons of water the car wash operator used during the preceding
35	month for all of the car wash operator's car wash tunnels; and
36	(B) Multiply the product obtained under subdivision

30

1	(a)(1)(A) of this section by seventy-five hundredths of one cent (0.75¢); and
2	(2) For a car wash operator that operates one (1) or more car
3	wash tunnels and one (1) or more self-service bays or automatic car washes,
4	or both, at the same location, the car wash operator shall calculate the
5	monthly fee due for each location with one (1) or more car wash tunnels and
6	one (1) or more self-service bays or automatic car washes, or both, under
7	this subsection as follows:
8	(A) Multiply the number of self-service bays and automatic
9	car washes at the same location as a car wash tunnel by one-tenth (0.1);
10	(B) Subtract the lesser of five-tenths (0.5) or the
11	product obtained under subdivision (a)(2)(A) of this section from nine-tenths
12	<u>(0.9);</u>
13	(C) Multiply the total aggregate number of gallons of
14	water the car wash operator used during the preceding month for all of the
15	car wash operator's car wash tunnels at that location by the difference
16	obtained under subdivision (a)(2)(B) of this section; and
17	(D) Multiply the product obtained under subdivision
18	(a)(2)(C) of this section by seventy-five hundredths of one cent $(0.75c)$.
19	(b)(1) Except as otherwise provided in this subsection, by July 31 of
20	each year, a car wash operator that operates only one (1) or more self-
21	service bays or automatic car washes, or both, that use water from a public
22	water system or a nonpublic water system shall pay to the director an annual
23	fee of:
24	(A) One hundred dollars (\$100) for each self-service bay
25	operated by the car wash operator; and
26	(B) Five hundred dollars (\$500) for each automatic car
27	wash operated by the car wash operator.
28	(2) A car wash operator that has one (1) or more self-service
29	bays and one (1) or more automatic car washes at the same location is not
30	required to pay the fee levied under subdivision (b)(1)(A) of this section on
31	the self-service bays.
32	(3) A fee paid for a self-service bay or automatic car wash
33	operated only during the last six (6) months of the fiscal year shall be
34	equal to one-half ($\frac{1}{2}$) of the annual fee levied under this subsection.
35	(c) A car wash operator shall pay the fees required under this section
36	electronically in the form and method prescribed by the department.

31

1	
2	26-57-1604. Distribution of revenues.
3	All revenue collected under this subchapter shall be general revenues
4	and shall be deposited into the State Treasury to the credit of the State
5	Apportionment Fund.
6	
7	<u>26-57-1605. Administration - Rules.</u>
8	(a)(l) Each fee levied under this subchapter is a "state tax" as that
9	term is defined in the Arkansas Tax Procedure Act, § 26-18-101 et seq.
10	(2) The Arkansas Tax Procedure Act, § 26-18-101 et seq., so far
11	as is practicable, is applicable to the fees levied under this subchapter and
12	to the reporting, remitting, and enforcement of the fees.
13	(b) The Director of the Department of Finance and Administration shall
14	adopt rules to implement and administer this subchapter.
15	
16	<u>26-57-1606. Sunset.</u>
17	(a) At the end of each fiscal year, the Director of the Department of
18	Finance and Administration shall determine the total state revenue:
19	(1) Generated under this subchapter; and
20	(2) Loss resulting from the sales tax exemption provided under §
21	26-52-401(40).
22	(b) This subchapter shall sunset if the director determines that the
23	total state revenue loss resulting from the exemption provided in § 26-52-
24	401(40) is greater than the total state revenue generated by the fees under
25	this subchapter.
26	(ii) If the fees provided under this subchapter expire under
27	subsection (b) of this section, the expiration of this subchapter is
28	effective on and after the first day of the calendar quarter following the
29	director's determination under this section.
30	
31	SECTION 22. DO NOT CODIFY. <u>Rules.</u>
32	(a) When adopting the initial rules required under Sections 20-22 of
33	this act, the final rules shall be filed with the Secretary of State for
34	adoption under § 25-15-204(f):
35	(1) On or before October 1, 2019; or
36	(2) If approval under § 10-3-309 has not occurred by October 1,

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1	2019, as soon as practicable after approval under § 10-3-309.
2	(b) The Director of the Department of Finance and Administration shall
3	file the proposed rules with the Legislative Council under § 10-3-309(c)
4	sufficiently in advance of October 1, 2019, so that the Legislative Council
5	may consider the rules for approval before October 1, 2019.
6	
7	SECTION 23. EFFECTIVE DATES.
8	(a) Section 5 of this act is effective for tax years beginning on or
9	after January 1, 2020.
10	(b) Sections 2-4 and 6-16 of this act are effective for tax years
11	<u>beginning on or after January 1, 2021.</u>
12	(c) Sections 20-22 of this act are effective on the first day of the
13	calendar quarter following the effective date of this act.
14	(d) If the emergency clause in Section 25 of this act fails, Sections
15	17-19 of this act are effective on the first day of the calendar quarter
16	following the effective date of this act.
17	
18	SECTION 24. EMERGENCY CLAUSE. It is found and determined by the
19	General Assembly of the State of Arkansas that the income tax structure for
20	Arkansas residents is too complicated in comparison with the income tax
21	structure in surrounding states; that this complexity prevents Arkansas from
22	being competitive with surrounding states in the region; that the State of
23	Arkansas will be prevented from seeking the remittance of sales and use tax
24	on the ever-expanding online tax base absent an immediate change in the law
25	allowing for the collection of sales and use tax by remote sellers and
26	marketplace facilitators; and that this act is immediately necessary because
27	it is in the best interests of the state to increase Arkansas's ability to
28	compete in the region by simplifying the tax laws and dedicating as much
29	funding as is economically possible and prudent to relieve the tax burden
30	suffered by taxpayers in the state. Therefore, an emergency is declared to
31	exist, and Sections 17-19 of this act being necessary for the preservation of
32	the public peace, health, and safety shall become effective on July 1, 2019.
33	
34	
35	/s/Hester
36	