



92nd General Assembly

April 11, 2019

STATE CHAMBER/AIA PRIORITY ISSUES SUMMARY

Last fall our Boards of Directors approved a Legislative Agenda that was developed through a series of meetings by our committees. The Agenda set forth the following categories as our priorities: Workforce Quality & Education, Taxation, Transportation & Infrastructure, Unemployment Insurance, Legal Environment, Ballot Initiative Process and Labor & Employment. We are pleased to announce that at least one of our bills was passed in each category.

WORKFORCE QUALITY AND EDUCATION

CAREER EDUCATION AND WORKFORCE DEVELOPMENT BOARD

SB 522 awaits the Governor's signature. It will increase industry involvement in workforce training by amending the duties of the Career Education and Workforce Development Board and renames it as the Office of Skills Development and the Career Education and Workforce Development Board. It will also authorize a voting member of the board to establish a subcommittee that is made up of members relevant to the specific industry in order to better develop recommendations. Finally, it will add one representative from the Department of Human Services, the Department of Correction, and the Arkansas Economic Developers and Chamber of Commerce Executives (AEDCE) as nonvoting members.

WEIGHTED CREDIT COURSES

SB 478, which is now **Act 632**, will apply new standards for the Department of Education in approving courses for weighted credit. It will also allow teachers in advanced placement programs to satisfy requirements by attending a College Board-endorsed training or other similarly rigorous training approved by the department. Finally, it will allow the Department of Education to approve a course weighted for credit if the course exceeds the curriculum standards for non-weighted credit class or meets or exceeds the standards of a comparable advanced placement class.

EXPANDED HIGHER EDUCATION SERVICE AREAS

SB 659 awaits the Governor's signature. It will allow state-supported two-year institutions of higher education to market, offer courses or provide services to any individual who resides in the state, regardless of the service area.

LOW READING ASSESSMENT LEVELS

SB 603 awaits the Governor's signature. It will place new requirements on the Department of Education (DOE) and school districts, among them coordinated and direct support from DOE to certain school districts and development of literacy plans by categorized school districts. Arkansas's reading levels should change dramatically with these changes.

TAXES

INTERNET FAIRNESS

SB 576 was signed into law yesterday by Governor Asa Hutchinson as **Act 822**. This Act will require out-of-state remote sellers without a physical presence in the state to collect and remit sales and use taxes on annual sales of more than \$100,000 from products and services delivered into Arkansas. The remote sellers will also be required to collect sales and use taxes if they sold products and services for delivery in Arkansas on at least 200 separate transactions. These provisions match the provisions used in South Dakota, which were upheld by the U.S. Supreme Court in 2018 in *South Dakota v. Wayfair*. **Act 822** also requires "marketplace facilitators," such as Amazon or eBay, that sell or facilitate sales for their participating sellers to collect and remit applicable state sales taxes on all purchases through the marketplace.

Out-of-state sellers will begin collecting the tax July 1. The sales thresholds would apply to the previous calendar year or the current year. The Arkansas Department of Finance and Administration (DFA) projects these requirements would raise \$32.4 million in revenue in fiscal 2020, over 11 months, and \$35.3 million in fiscal 2021, based on a full 12 months. DFA also forecasts the bill would raise \$10.8 million for cities and counties in fiscal 2020 and \$11.8 million in fiscal 2021 because of local sales taxes.

CORPORATE TAX RATE

Act 822 will lower the corporate income tax rate from 6.5 percent to 6.2 percent effective January 1, 2021 for income above \$100,000. Effective January 1, 2022 the rate will reduce from 6.2 percent to 5.9 percent on income above \$25,000. The state revenue impact will be \$9.8 million for state fiscal year 2021, \$29.5 million for fiscal year 2022 and \$39.3 for fiscal year 2023 and beyond.

SINGLE SALES FACTOR AND NET OPERATING LOSS CARRY FORWARD

Act 822 also adopts the single sales factor (SSF) and extends the net operating loss carry forward (NOL). These changes bring Arkansas more in line with most states.

The NOL will be extended from five to eight years for losses occurring in the tax years starting January 1, 2020, and to 10 years for losses in tax years beginning on or after January 1, 2021. The DFA projects this change will reduce state revenue in fiscal year 2026 by \$7.8 million and eventually \$70 million in fiscal year 2032.

The national trend is states are going to a SSF. Changing the apportionment formula for multistate corporations from three factors to a SSF, will increase state revenue by \$357,000 in fiscal 2021 and \$714,270 in fiscal 2022 and beyond, according to DFA.

The effect of SSF is to tax Arkansas businesses based solely on their sales in Arkansas, instead of physical investment, payroll and sales in Arkansas.

TRANSPORTATION AND INFRASTRUCTURE

FUNDING FOR HIGHWAYS

SB 336, which is now **Act 416**, will levy an indexed wholesale tax on motor fuel, which is the equivalent of 3 cents on gasoline and 6 cents on diesel fuel. The revenue from the fuel tax and other sources will go into the State Highway Fund for maintenance of streets, highways and bridges. It also adds annual fees of \$100 and \$200, respectively, to hybrid and electric vehicle registration and transfers casino tax revenues in excess of \$31,200,000 annually with a minimum of \$35 million to the State Highway Fund. The Governor's office projects the revenue generated by these items will be \$95 million.

CONSTITUTIONAL AMENDMENT

HJR 1018 refers to the 2020 General Election the opportunity for voters to continue the one-half percent sales tax that provides additional funding for four-lane highways, county roads and city streets. The Governor's office projects this issue would provide \$205.6 million for highways if adopted by the people.

UNEMPLOYMENT INSURANCE

INDEXED WAGE BASE

SB 298, which is now **Act 512**, creates a mechanism to move the wage base in accordance with the Unemployment Insurance (UI) Trust Fund balance, insured unemployment rate and disbursements from the UI Trust Fund.

The wage base, which is the amount of each employee's wages that the unemployment tax rate is applied, is currently \$10,000. Legislation we sponsored in 2017 lowered the wage base from \$12,000 to \$10,000. The Department of Workforce Services (DWS) advises that the \$2,000 wage base reduction in 2017 reduced deposits into the UI Trust Fund by \$43 million. The indexing process of **Act 512** will at least reduce the wage base from \$10,000 to \$8,000. It is possible that by the time the law goes into effect, the relevant factors could lower the wage base to \$7,000, which is the federal minimum.

LEGAL ENVIRONMENT

PRE-JUDGMENT AND POST-JUDGMENT INTEREST RATES

SB 544 awaits the Governor's signature. It would change the pre-judgment and post-judgment interest rates from 10 percent per annum to the Federal Reserve primary credit rate in effect on the date on which the judgment is entered plus 2 percent. It would also set the rate for an action on a contract at the rate provided by the contract unless it is less than the above rate.

BALLOT INITIATIVE PROCESS REFORM

PETITION AND FILING PROCEDURE LEGAL CHANGES

SB 346, which is now **Act 376**, will require the State Board of Election Commissioners, rather than the Attorney General, to determine whether a submitted ballot title and popular name are sufficient. It also amends the signature approval process by the Secretary of State. Finally, the Act cleans up requirements on signature gatherers.

CONSTITUTIONAL AMENDMENT

HJR 1008 will refer to the 2020 General Election the opportunity to reform the state Constitution regarding consideration of future efforts to amend the state Constitution. If approved by voters in 2020, **HJR 1008** would:

- Repeal the 30-day signature cure period
- Move the filing deadline for initiatives and signatures to January 15 of the General Election year
- Set a deadline to file legal challenges on April 15 of the General Election year
- Increase the vote majority required by the Legislature to make amendment referrals from a simple majority to a three-fifths (60 percent) majority
- Increase the number of counties from which a set number of signatures are required to three-fifths (60 percent), which will increase the counties from 15 to 45

LABOR & EMPLOYMENT

EMPLOYMENT LAW – STATE CHAMBER/AIA PRIORITY LEGISLATION

HB 1751 awaits the Governor's signature. This bill addresses wage and payment requirements, including requiring the employer to pay a discharged employee within seven days of the next regular payday or pay double the wages due. Other provisions include: establishing a two-year statute of limitation, and providing that if an employer is providing wages earned via a pre-loaded debit card, the employee is entitled to at least one free withdrawal for each deposit of wages loaded onto the card. This bill is designed to provide some clarity in employment laws.

STATE CHAMBER TRACKED BILLS

Total House bills and resolutions filed: 1110
Total Senate bills and resolutions filed: 752
Total bills and resolutions we tracked: 551

Our complete tracking list is posted on our website, by category, and can be reviewed by

clicking this link: <https://www.arkansasstatechamber.com/governmental-affairs/legislative-tracking/>

You can view the entire 2019 State Chamber/AIA Legislative Agenda by clicking this link: <https://www.arkansasstatechamber.com/wp-content/uploads/2019/01/AR-StateChamberAIA-2019-Legislative-Agenda.pdf>

LEGISLATIVE SESSION INFORMATION

To view schedules, calendars, bill information and legislator information, click www.arkleg.state.ar.us.

Legislative Message Center

House of Representatives: 501-682-6211
Senate: 501-682-2902

Live Streaming from the Capitol

The House and Senate have links to live streaming of their committee meetings and floor session online.

- House: <https://www.arkansashouse.org/>
- Senate: <http://www.arkansas.gov/senate/>

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