

**Senate Bill 2318 House Bill 2275**

**Department of Revenue  
Technical Corrections Bill**

**Section-by-Section Summary**

**I. Economic Incentives**

- Sections 1 – 14      These sections rewrite the job tax credit in order to simplify the statute. The credit remains substantially unchanged except that the amount is set at \$4,500 per job regardless of the county in which the job is created. Also, the minimum job requirement in connection with an investment of at least \$1 billion has been decreased from 1,000 to 500 qualified jobs. Finally, the daycare credit is repealed because no companies are using it.
- Section 15            Allows the industrial machinery credit earned by a taxpayer investing at least \$1 billion in the state to be carried forward until completely utilized.
- Sections 16 – 17     Increases the amount of relocation expense credit available to a headquarters facility that has invested at least \$1 billion in the state. The credit is increased from \$50,000 to \$100,000 per job.
- Sections 18 – 23     Includes funds spent on computer software in determining whether a company has made the required capital investment for purposes of the data center, headquarters facility, emerging industry, and industrial machinery incentives and includes computer software when calculating the credit. Also extends the \$1 billion dollar investment period for purposes of the industrial machinery credit from a maximum of 5 years to a maximum of 7 years.
- Section 24            Extends the investment period for a data center from a maximum of 5 years to a maximum of 7 years
- Section 25            Amends the definition of an emerging industry for purposes of the emerging industry credit by removing the specific exclusion of manufacturing and makes housekeeping changes by removing references to industries, such as call centers, that cannot qualify for the credit.
- Sections 26 – 27     Amends the green energy tax credit by allowing the credit to the green energy manufacturer itself as well as separate companies that are integrated into the green energy manufacturer's operations at its project site.

## II. Franchise and Excise Tax

- Section 28 – 30 Removes “rents” from the definition of “passive investment income” for purposes of the family-owned non-corporate entity exemption and replaces it with the term “rents from residential property or farm property.” Creates a reasonable rental rate provision of up to 2% of appraised value per month.
- Sections 31 – 32 Sets a minimum penalty of \$10,000 for failure to disclose transactions involving an intangible expense deduction or a captive REIT dividend received deduction. The commissioner is authorized to waive the penalty under certain statutory criteria.
- Section 33 Requires taxpayers that claim specific statutory exemptions from franchise and excise tax to file an annual exemption application and imposes a \$1,000 penalty for failure to file.
- Section 34 Amends the definition of a “publicly traded REIT” for franchise and excise tax purposes to clarify that the entity must be traded on a regulated national securities exchange of the United States or of a foreign country.

## III. Sales and Use Tax

- Sections 35 – 49 Delays implementation of the remaining Streamlined Sales Tax legislation from July 1, 2009 to July 1, 2011.
- Section 50 Removes the preferential tax rate applicable to interstate or international telecommunications sold to businesses. Increases the rate from 7.5% to 9.5%.
- Sections 51 – 53 Requires companies that provide television services to pay sales and use tax on any equipment used to provide the service to subscribers. Applies the tax equally to companies that provide television services through the use of cable, telephone lines, or direct-to-home satellite.
- Sections 54 – 57 Provides that the existing tax on computer software maintenance contracts applies to any contract covering software located in this state.
- Section 58 Provides that the “in-house” computer software exemption applies only if the software is created by the taxpayer or its employees and does not apply when the software is created by an employee of another company.

Sections 59 – 60	Clarifies the application of tax to advertising materials. Provides that the tax applies to final artwork and advertising materials but does not apply to preliminary artwork used by the advertising agency solely for conveying concepts or ideas.
Section 61	Clarifies that a hotel must pay tax on the purchase of food and beverages provided to guests as part of the lodging accommodation. A hotel may purchase food and beverages on a resale certificate without payment of tax if the food and beverages are served in a restaurant that is open to the public.
Section 62	Codifies the existing practice of allowing a credit for tax paid on aviation fuel sold to an air common carrier and subsequently used by the air carrier in an international flight, which is exempt from the tax.
Section 63	Allocates the state tax collected on ticket sales back to a performing arts center exclusively for use in maintaining and improving the facilities in which the performing arts center is located.
Section 64	Allocates sales tax collected from commercial breeders licensed under the Commercial Breeder Act to the commercial breeder act enforcement and recovery account.
Sections 65 – 66	Makes several changes to the 10% local privilege tax levied on tickets to events at a municipal stadium, including exempting events for the benefit of public colleges or universities that use the stadium for a majority of home football games, providing that state and local sales tax will not apply to the amount of the local privilege tax, and allowing the tax to continue after the stadium indebtedness has matured.
Sections 67 – 68	Provides that sales tax revenue generated by non-sporting events at an indoor sports facility in a county with a metropolitan form of government will be allocated to the Metro convention and visitors bureau rather than the Metro sports authority.
Sections 69 – 71	Imposes the professional privilege tax on National Basketball Association and National Hockey League players who play games in the state and allocates the proceeds of the tax to the municipality. The tax is equal to \$2,500 per game with a three (3) game annual cap.
Sections 72 – 73	Updates the existing sales and use tax exemption for services provided by one company to its affiliated company by allowing

the exemption to apply to any form of entity rather than being restricted only to corporations.

#### IV. Other Tax Provisions

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| Sections 74 – 97   | Shifts primary administration of the business tax from the local to the state level.  |
| Section 98         | Lowers the threshold for required filing of the sales and use tax return from \$2,500 to \$1,000. Clarifies that franchise and excise tax quarterly estimated payments must be remitted electronically if the payment exceeds \$2,500.  |
| Sections 99 – 100  | Authorizes the Department of Revenue to participate in the Multistate Tax Commission Joint Audit Program.   |
| Section 101        | Provides an automatic extension of twelve months in order to file the inheritance tax return. Also allows the estate to include a copy of its federal extension with its state tax return filed on the extended due date, in lieu of filing for an extension before the statutory due date. |
| Section 102        | Updates obsolete references in the petroleum tax law.   |
| Section 103        | Provides that the penalty for unauthorized use of dyed motor fuel will not apply to agricultural vehicles used solely for transferring harvested crops from the field to a storage facility if the distance traveled on the highway does not exceed five miles.                             |
| Section 104        | Updates a statute regarding TVA payments in lieu of tax by providing that the Department of Revenue rather than the Comptroller will calculate the payments to local governments due under the statute.   |
| Section 105        | Provides that the state shall be deemed the prevailing party for purposes of awarding attorneys' fees in any case in which the taxpayer has been found by the court to have committed fraud.  |
| Sections 106 – 107 | Makes changes to property tax provisions concerning the redemption of property and forced assessments.  |

Sections 108 – 109 Removes qualified commercial financing entities from the provision which assesses the stockholder on shares of stock in lieu of assessing the company on its capital stock.

#### V. Motor Vehicle Title and Registration

Section 110 Authorizes the Department to accept credit and debit cards in payment of titling and registration fees. Authorizes the Department to pass on to the registrant any third-party surcharge or convenience fee related to such transactions.

Section 111 Increases, from \$5.00 to \$5.50, the fees due the Department for noting a lien or an extension of a mortgage on a certificate of title.

Sections 112 – 113 Clarifies that a post office box is not sufficient proof of residency for purposes of issuing a certificate of title or registration.

Section 114 Clarifies language regarding the applicable registration fees for buses.

Section 115 Authorizes the Department to establish a method for accepting electronically captured signatures in connection with title applications.

Section 116–117 Increases, from six (6) to seven (7), the number of letters and numerals that can appear on a license plate. Authorizes the Department to extend the period between the issuance of new metal license plates up to a maximum of eight (8) years.

Sections 118 – 130 Creates a new license plate for company vehicles owned by any automobile manufacturer that is headquartered in this state. These company vehicles will also be exempt from title and registration fees and sales tax. The manufacturer may also apply for an exemption from wheel tax.

Section 131 Authorizes the Department to contract with vehicle emissions testing centers to process documentation necessary for the Department to renew motor vehicle registrations.

Section 132 Clarifies that trailers used in the furtherance of a business must be titled and registered. Trailers owned by farmers and used for agricultural purposes are not required to be titled and registered.

Sections 133 – 134 Changes certain statutory language from the “Department of Safety” to the “Department of Revenue” in order to reflect the movement of responsibilities between the departments.

Section 135

Makes a housekeeping change to the statutory language requiring that the seller's signature on a bill of sale be notarized.

Section 136

Effective dates