

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB498**

**Bill Subtitle: TO AMEND THE PROVISIONS OF THE ARKANSAS CASINO GAMING AMENDMENT OF 2018; AMENDING ARKANSAS CONSTITUTION, AMENDMENT 100; AND TO DECLARE AN EMERGENCY.**

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### Basic Change :

**Sponsor: Senator M. Johnson**

SB498 would amend various provisions of the Arkansas Casino Gaming Amendment of 2018 regarding types of wagers authorized, the casino application process and procedures, and the rate and distribution of the tax to be remitted on net casino gaming receipts.

The changes in the provisions include:

- Provides the legal basis for the Arkansas General Assembly to change an amendment to the Arkansas Constitution;
- Provides a change to the definition of "Casino Gaming" authorized by the Amendment to include wagers on sporting events that occur outside of Arkansas that do not involve amateur athletics;
- Allows a casino to be located in a county adjacent to Pope County if the voters of Pope County vote against a casino location. The qualifying adjacent counties that would qualify include Johnson and Conway Counties;
- Specifies that the Arkansas Racing Commission shall not issue a license in any city or any county, including Jefferson, Pope, Johnson or Conway, without the approval of the voters of the county and city where the casino is to locate;
- Changes the casino license renewal fee from \$10,000 to \$100,000 and changes the annual amount to be contributed to the compulsive gambling disorder and compulsive gambling disorder education fund from \$200,000 to \$800,000. Casino licenses are issued for 10 years; and
- Increases the tax levy on net casino gaming receipts from 13% to 20% on the first \$150,000,000 of net gaming receipts and from 20% to 25% on amounts exceeding \$150,000,000. The distribution of the tax on net casino gaming receipts to General Revenue is increased from 55% to 65% and the tax distributed to the Arkansas Racing Commission purse and awards fund is reduced from 17.5% to 7.5%. The bill would also add language allowing the General Assembly to enact laws amending the distribution of revenues to the franchise holders.

The bill includes an emergency clause and would be effective upon signature of the Governor.

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### **Revenue Impact :**

#### **FY2020**

\$36,927,936 Gain in Total Tax Revenue from Casino Gaming

- \$33,451,735 Gain to State General Revenue
- \$(6,678,981) Loss to Arkansas Racing Commission Purse & Award Fund
- \$2,954,235 Gain to County
- \$7,200,948 Gain to City / Town

#### **FY2021**

\$42,703,358 Gain in Total Tax Revenue from Casino Gaming

- \$38,510,530 Gain to State General Revenue
- \$(7,550,595) Loss to Arkansas Racing Commission Purse & Award Fund
- \$3,416,269 Gain to County
- \$8,327,155 Gain to City / Town

### **Taxpayer Impact :**

The local electorate would have to approve a casino to be located in their jurisdiction. Casinos would be subject to increased tax on net casino gaming receipts.

### **Resources Required :**

None.

### **Time Required :**

Adequate time is provided.

### **Procedural Changes :**

Update computer systems to reflect change in distribution percentages.

### **Other Comments :**

None.

### **Legal Analysis :**

SB498 is a bill that modifies Amendment 100 of the Arkansas Constitution regarding casino gaming ("Amendment"). The bill makes the following changes to the Amendment:

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- The bill allows for the Amendment to be regulated by any successor agency to the Arkansas Racing Commission.
- The bill restricts the sports wagering provision of the Amendment to only allow for sports wagering on non-amateur events outside of the state of Arkansas.
- The bill modifies the requisite letter of endorsement for casino applicants. Originally, the Amendment required a letter of support from a county judge, mayor, or quorum court member that voted in favor of a letter of support. The bill modifies this to any elected official of the county, city, or town who has served as an elected official in the last ten (10) years. It is unclear whether this is intended to include elected officials such as recorders or sheriffs instead of just elected chief executives of the county or city such as the county judge or mayor.
- The bill modifies the casino location for Pope county to be a casino in either Pope County or a county adjacent to Pope County bisected by an interstate highway (including potentially Johnson County).
- The bill adds a requirement to the Amendment that a license will not be issued to either Jefferson or Pope county without an election in that county approving same. An election can be called as a special election by the quorum court or by submission to the county clerk of the signatures of at least 8% of qualified electors for the Governor in the last election. The bill does not provide for a funding mechanism for the localities to pay for the election so required.
- The bill provides that if Pope County voters reject approving casinos, an adjacent county may hold an election to approve casino gaming.
- The bill increases the Arkansas Racing Commission's time to renew a casino license from ten to one hundred and twenty days and increases the renewal fee from \$10,000 to \$100,000. The bill amends the amount the Racing Commission must provide for compulsive gambling from \$200,000 to \$800,000.
- The bill modifies the rate and distribution of net gaming receipts tax. The rate of tax is modified from 13% to 20% on the first \$150,000,000 and from 20% to 25% on any amount over \$150,000,001. The distribution is also modified from 55% to 65% of the net gaming receipts tax to General Revenue and 17.5% to 7.5% to the Arkansas Racing Commission for the Arkansas Racing Commission Purse and Awards Fund. The bill allows for the General Assembly to enact laws amending the distribution of revenues in the future.
- The bill modifies the language regarding the dedication of net casino gaming receipts to purses and awards. The modification appears to allow for franchise holders to use monies obtained through the net gaming receipts tax to satisfy existing contractual obligations with horseman or greyhound owners or trainers.

It is unclear that the General Assembly has the authority to modify an Amendment created by ballot initiative. The bill argues that the Arkansas Supreme Court should overrule its existing precedent on the ability of the General Assembly to amend constitutional amendments passed by the people under the language of Article 5, section 1 of the Arkansas Constitution based on subsequent developments such as the Andrews holding regarding sovereign immunity and plain language of the Constitution. The bill contains an emergency clause to allow for this bill to go into effect upon signature of the Governor, passage into law without signature, or on override of a veto.