

MINUTES
TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE
AUGUST 7, 2018

The Tax Reform and Relief Legislative Task Force met Tuesday, August 7, 2018, at 9:00 a.m., in Committee Room A-MAC, Little Rock, Arkansas.

Task Force Members Present: Senators Jim Hendren, Chair; Jonathan Dismang, Joyce Elliott, Bart Hester, Keith Ingram, Missy Irvin, Larry Teague, and David Wallace. Representatives Lane Jean, Chair; Frances Cavanaugh, Jim Dotson, Kenneth B. Ferguson, Joe Jett, and Bob Johnson.

Other Legislators Present: Senators Ronald Caldwell, Alan Clark, Scott Flippo, and Bill Sample. Representatives Fred Allen, Gary Deffenbaugh, Charlotte Douglas, Trevor Drown, Charlene Fite, Lanny Fite, Vivian Flowers, Kim Hammer, David Hillman, Grant Hodges, Aaron Pilkington, Chris Rickey, Johnny Rye, Matthew Shepherd, Dwight Tosh, and Carlton Wing.

Senator Hendren called the meeting to order.

Legal and Fiscal Analysis of Sales, Income, Property, and Excise Tax Proposals [Exhibit C]

Ms. Joi Leonard, Administrator, Legal Research and Drafting Section, Bureau of Legislative Research (BLR); Department of Finance and Administration (DFA) representatives Mr. Walter Anger, Commissioner of Revenue; Dr. John Shelnett, Administrator of the Office of Economic Analysis and Tax Research; and Mr. Paul Gehring, Assistant Commissioner of Revenue, were recognized to answer questions regarding the list of sales, income, property, and excise tax proposals and requests for information. Ms. Leonard gave a brief overview of each proposal for consideration.

The following sales tax proposals were approved by the task force at previous meetings as recommendations to be included in the final report:

- Regularly occurring legislative review process of all sales tax exemptions;
- Local sales tax – to clearly define local sales tax levels including a cap on those levels;
- Regularly occurring legislative review process of all individual income tax and corporate tax deductions, exclusions, and credits;
- Repeal the throwback rule for multistate business income under Arkansas Code § 26-51-716;
- Single Sales Factor Apportionment – amends the apportionment formula for taxing multistate business income to use a single sales factor apportionment.

The following proposals were either approved for further study by a majority vote or by a roll call vote.

Sales Tax Proposals:

#8 Coin-Operated Car Washes: Motion made by Sen. Hester; second by Sen. Ingram. To repeal the sales tax exemption for services provided by coin-operated car washes where labor is performed solely by the customer or mechanical equipment.

#9 All-Terrain Vehicles Used for Farming: Motion made by Sen. Hester; second by Sen. Wallace. To repeal the sales tax exemption on sales of four-wheelers and all-terrain vehicles (ATVs) for farm use and provide for a rebate of the sales tax paid on four-wheelers and all-terrain vehicles (ATVs) for farm use.

Sales Tax Proposals #16 and #17 are combined into one proposal to provide a tax exemption to all eligible nonprofit entities in Arkansas that meet the criteria and resolve any constitutional issues. Motion made by Sen. Irvin; second by Rep. Cavanaugh.

#17 Names Nonprofit Entities: To refine how entities qualifying for tax exemptions are defined in order to avoid constitutional implications of named entities.

#41 Magazine/Publication Subscription Sales: Motion made by Sen. Elliott; second by Rep. Johnson. To repeal the sales tax exemption on the sale of any publication, other than newspapers, through regular subscription.

#B Collection of Sales and Use Tax by Remote Sellers: Motion made by Rep. Dotson; second by Rep. Johnson. To require out-of-state sellers that do not have a physical presence in the state and that have more than \$100,000 in sales or at least 200 separate sales transactions in Arkansas to collect and remit Arkansas sales and use taxes. Sen. Elliott made a substitute motion, seconded by Sen. Teague, that the task force approve #B without a designation of funds. The motion failed by a roll call vote (5-9). Representative Dotson made the motion to adopt #B as written; second by Rep. Johnson. Motion passed by a roll call vote (10-4).

Income Tax Proposals:

#1B Net Operating Losses: Motion made by Rep. Johnson; second by Rep. Ferguson. To incrementally increase the carry-forward period on net operating losses for all businesses to twenty (20) years.

#10 Corporate Income Tax Rates: Motion made by Rep. Dotson; second by Sen. Elliott. To reduce corporate income tax rates and create a tax trigger for further reductions to the top marginal corporate income tax rate under Arkansas Code § 26-51-205, effective for tax years beginning January 1, 2019.

Representative Dotson made a substitute motion that the trigger will be determined in conjunction with other tax relief proposals. The substitute motion passed.

#21 Capitol Gains Tax Exemption: Motion made by Rep. Johnson; second by Sen. Hester. To repeal the capital gains tax exemption for capital gains over ten million dollars (\$10,000,000) under Arkansas Code § 26-51-815(b)(3), effective for tax years beginning January 1, 2019. Motion passed by a roll call vote (10-4).

#29 Political Contribution Income Tax Credit: Motion made by Rep. Dotson; second by Sen. Wallace. To repeal the political contribution income tax credit under Arkansas Code § 7-6-222 (a)(2), effective for tax years beginning January 1, 2019.

#30 Pass-Through Entity Tax: Motion made by Rep. Jett; second by Sen. Dismang. To create an optional pass-through entity tax (PET) for Arkansas businesses that operate as pass-through entities in Arkansas.

Property Tax Proposals:

#2 Income Tax Credit; Personal Property Tax Paid on Business Inventory: Motion made by Sen. Ingram; second by Rep. Johnson. To create a non-refundable income tax credit equal to the amount of property tax the taxpayer paid on business inventory, with a carry-forward period of ten (10) years.

#3 Franchise Tax: Motion made by Rep. Dotson; second by Rep. Johnson. Sen. Dismang made a substitute motion to change the filing date for the franchise tax, transfer the administration and collection authority for the franchise tax to the Department of Finance and Administration, and eliminate the penalty on closed businesses and, with a second by Rep. Dotson, the motion passed.

#6 Statewide Property Tax Assessment Guidelines: Motion made by Sen. Dismang; second by Sen. Irvin. To require the Assessment Coordination Department (ACD) to create statewide guidelines for the assessment of exempt property that are established by ACD and require compliance by counties.

Excise Tax Proposals:

#11 Fuel Taxes; Indexing Based on Construction Costs: Motion made by Rep. Johnson; second by Rep. Jett. To index motor fuel and distillate special fuel tax rates based on the inflation rate of construction costs, with the minimum tax rate set at the current tax rate and the maximum tax rate set at three percent (3%) over the tax rate of the previous year.

#14 Road User Fee for Electric and Hybrid Vehicles: Motion made by Sen. Irvin; second by Sen. Ingram. To create a road user fee for owners of electric and hybrid vehicles that would be paid at the time of the registration of the vehicle.

Other tax proposals that had a motion but failed on a roll call vote are as listed:

- Income Tax Proposal #12: Earned Income Tax Credit 15%: failed (4-9)
- Excise Tax Proposal #2: E-Cigarettes: failed (5-7)
- Excise Tax Proposal #4-5: Cigarette Tax Increase: failed (3-8)

Mr. Richard Wilson, Assistant Director, Bureau of Legislative Research, was recognized to explain that the Option B plan with a 10% Earned Income Tax Credit (EITC) applies only to individuals making up to \$40,000 with children. Low income tax payers with no children receive little aid from EITCs.

Discussion of Tax Proposals for Inclusion in the Draft Report by the Task Force

Task force members ranked the three individual income tax rates and bracket proposals 1-3. Staff tabulated task force members' priority list and Senator Hendren read the priority list to task force members by rank as listed: #1: Option A, #2 Governor's 6% tax cut plan, and #3 Option B with 10% EITC.

Prioritization of Sales and Excise Tax Proposals

Staff compiled task force members' prioritized list of six revenue increase proposals. The list will be analyzed by staff.

Presentation of Fiscal Impacts of the Casino Ballot Proposals [Exhibit F]

Department of Finance and Administration (DFA) representatives Mr. Walter Anger, Commissioner of Revenue; Dr. John Shelnett, Administrator of the Office of Economic Analysis and Tax Research; and Mr. Paul Gehring, Assistant Commissioner of Revenue, were recognized to provide a fiscal analysis regarding the casino ballot proposals under the Arkansas Casino Gaming Amendment of 2018, to authorize four casinos, one each in Crittenden, Garland, Pope, and Jefferson counties. Based on FY2018 actual Oaklawn and Southland net gaming receipts, DFA estimates a revenue impact from net gaming receipts for FY2022 from casinos in Crittenden, Garland, Pope, and Jefferson counties include:

- \$14.5 million net loss to state general revenue;
- \$15.9 million gain to the Arkansas Racing Commission Purse and Award Fund;
- \$5.5 million gain to counties; and
- \$2.3 million net gain to cities.

Taxes generated from net casino gaming receipts are as distributed: 55% to state general revenue, 17.5% to Arkansas Racing Commission Purse & Award Fund, 8% to the county, and 19.5% to the city

or town.

The fiscal impact for a proposal authorizing four casinos, one in Benton, Boone, Miller and Pulaski counties include:

- \$134.9 million gain to state general revenue;
- \$11.2 million gain to Arkansas cities or towns of casino location; and
- \$3.7 million gain to Benton, Boone, Miller and Pulaski counties.

Taxes generated from net casino gaming receipts are as distributed: 18% to state general revenue, 1.5% to a city or town of casino location, and .5% to a county of casino location.

Tax loss from electronic game of skills locations include:

- \$5.3 million net loss to state general revenue;
- \$439 thousand loss to Hot Springs and West Memphis;
- \$146 thousand loss to Garland and Crittenden counties;
- \$4.1 million loss to separate account by franchise holder for purses for live racing; and
- \$293 thousand loss to Arkansas Racing Commission Purse & Award Fund, with an overall net gain of \$129.6 million.

Mr. Alex Gray, Counsel, Driving Arkansas Forward, was recognized to present a fiscal analysis and revenue projections for a casino proposal in Pine Bluff (Handout #1). Mr. Gray listed several discrepancy concerns with DFA's projected casino revenue analysis such as lack of projected casino investments, the size of the casino being built, and historical increases in electronic games of skill revenue.

The meeting adjourned at 2:20 p.m.