

GENERAL FUND TAXES

Omnibus Motion  
[LFB Papers #315 through #321]

Motion:

Move to adopt the following provisions relating to general fund taxes:

1. *Withholding from Nonresident Members of Pass-Through Entities.* Adopt Alternative 2 of LFB Paper #315, which would approve the Governor's proposal to require income taxes to be withheld from nonresident members of pass-through entities with a modification to exempt publicly traded partnerships (PTPs) treated as partnerships from the withholding requirements if the entity agreed to file an annual information return reporting the name, address, taxpayer identification number, and other information requested by the Department of Revenue (DOR) for each unitholder with an income in the state from the PTP in excess of \$500.

2. *Individual Income Tax Deduction for College Tuition.* Adopt Alternative 2 of LFB Paper #316, which would modify the Governor's proposal to increase the income tax deduction for higher education tuition payments by: (a) eliminating the reference to a maximum deduction of \$5,100; and (b) specifying that the increased deduction would first apply to tax years beginning on January 1, 2005.

3. *Earned Income Tax Credit (EITC).* Adopt the modification in LFB Paper #317, which would provide \$5,300,000 GPR in 2005-06 and \$6,700,000 GPR in 2006-07 to cover the costs of the EITC under current law. These amounts reflect a revised estimate of the cost of the credit.

4. *Internal Revenue Code (IRC) Update.* Adopt Alternative 2 of LFB Paper #318, which would adopt the Governor's recommendation to update state tax references to the IRC with a modification to include Public Law 108-375 in order to conform to the federal exclusion from gross income for members of the military for travel benefits donated by them.

5. *Livestock Farm Investment Credit.* Adopt Alternative 3 of LFB Paper #319, which would delete the Governor's recommendation to convert the current dairy farm investment credit to a livestock farm investment credit, and instead include the provisions of ASA 1 to AB 145, which would create a separate livestock tax credit. Specify that the new credit would be available for tax years that begin after December 31, 2005, and before January 1, 2012.

6. *Development Zones Tax Credit.* Adopt Alternative 1 of LFB Paper #320, which would approve the Governor's recommendation to permit claimants of the consolidated development zones environmental remediation and jobs tax credit, the development zones capital investment tax credit, and the development zones investment tax credit to use the credits to offset the entire amount of their income or franchise tax liability rather than only the amount of tax attributable to income from business operations in the zone or from directly-related business operations. In addition, apply the provision to carry-forwards of the former development zones tax credits for sales taxes expenses, location expenses, environmental remediation, location expenses, and day care expenses.

7. *Sales Factor in the Apportionment Formula.* Adopt Alternatives 2d and 2f of LFB Paper #321, which would approve the Governor's recommendations regarding the treatment of gross receipts from the use of computer software and from services under the sales factor of the apportionment formula for multi-state businesses. Delete the other provisions recommended by the Governor, including authority for DOR to promulgate administrative rules that specify how income should be apportioned if income from sales, other than sales of tangible personal property, could not be ascertained with reasonable certainty by the methods specified in the statutes.

8. *Income Tax Reciprocity.* Adopt the Governor's recommendations to fully fund the estimated costs of the individual income tax reciprocity agreements with Minnesota and Illinois.

9. *Tax Credit for Veterans' Property Taxes.* Create a refundable individual income tax credit for property taxes paid on a principal dwelling by certain veterans and unremarried surviving spouses of certain former service members, as follows:

a. The unremarried surviving spouse of a person who died while on active duty in the U.S. armed forces and who was a resident of this state at the time of entry into service and at the time of death.

b. The unremarried surviving spouse of a person who: (1) served on active duty in the U.S. armed forces; (2) was a resident of this state at the time of entry into active service; (3) was a resident of this state at the time of death; (4) was at least 65 years of age at the time of death (or would have been 65 at the close of the year in which the death occurred); and (5) had a service-connected disability of 100%, based on related federal provisions.

c. The unremarried surviving spouse of a person who served in the National Guard or Reserves, who was a resident of this state at the time of entry and at the time of death, and who died in the line of duty while on active or inactive duty.

d. A person who served on active duty in the U.S. armed forces and: (1) was a resident of this state at the time of entry into that service; (2) is a resident of the state for purposes of receiving veterans benefits under Chapter 45; (3) is at least 65 years old; and (4) has a service connected disability of 100% based on related federal provisions.

Require the Department of Veterans Affairs to verify to DOR a claimant's eligibility for the

credit. Specify that the proposed credit would not be allowed if the claimant filed a claim for the property tax/ rent credit, the farmland tax relief credit, the homestead credit, or the farmland preservation credit. Specify that the credit would first apply to taxable years beginning on January 1 2005.

10. *Utility Tax on Car Line Companies.* Repeal the current utility tax on car line companies, which is equal to 3% of the company's gross earnings in this state. Instead, impose a tax on car line companies equal to the amount of the company's gross earnings in this state multiplied by the average net rate of taxation, as determined by DOR. Specify that the average net rate of taxation would be determined by subtracting the total state property tax credits paid in the year from the total of all general property taxes paid in this state in the year, and dividing the result by the state assessment of all general property in this state. Specify that these modifications would take effect with tax payments that are due on September 10, 2005.

11. *Sales Tax on Transactions Between Affiliated Businesses.* Specify that taxable property and services transferred between members of an affiliated group of business entities (organizations affiliated through stock ownership of a common parent organization that owns directly or indirectly 80% or more of the total stock of each of the other organizations) that are eligible to file a single consolidated return for federal income tax purposes would be exempt from the sales and use tax. Also, provide that when a seller makes a purchase of tangible personal property or services that is to be subsequently sold to a member of its affiliated group and is exempt under this provision, the original purchase by the seller would not be considered a sale for resale. Specify that these provisions would take effect on the first day of the second month beginning after publication of the budget bill.

12. *Health Savings Accounts.* Include the provisions of AB 4, as passed by the Joint Committee on Finance, which would adopt the federal provisions regarding health savings accounts for state income tax purposes, with a modification to specify that these provisions would first apply to tax years beginning on January 1, 2005.

13. *Deduction for Health Insurance Premiums.* Adopt the provisions of AB 6, as passed by the Joint Committee on Finance, which would: (a) increase the current individual income tax deduction for medical care premiums paid by an individual whose employer does not contribute toward the individual's medical care insurance from 50% to 100%; and (b) create a deduction for medical care insurance premiums paid by an individual with no employer and no self employment income. Specify that the increased deduction under (a) would first apply for tax years beginning on January 1, 2006, and that the new deduction under (b) would be phased in over a three-year period beginning in tax year 2007 as follows: 33.4% of the cost of such premiums would be deductible in tax year 2007; 66.7% would be deductible in tax year 2008; and 100% of such premiums would be deductible in tax years 2009 and thereafter.

14. *Sales Tax on Services Provided by Temporary Help Companies.* Create an exemption from the sales and use tax, under section 77.54 of the statutes, for charges for services provided by a temporary help company if the client for whom the services are provided controls the means of performing the services and is responsible for the satisfactory completion of the services. Define "temporary help company" to mean an entity which contracts with a client to supply individuals to

perform services for the client on a temporary basis to support or supplement the workforce of the client in situations such as personnel absences, temporary personnel shortages, and workload changes resulting from seasonal demands or special assignments or projects, and which, both under contract and in fact:

- a. Negotiates with clients for such matters as time, place, type of work, working conditions, quality, and price of the services;
- b. Determines assignments or reassignments of individuals to its clients, even if the individuals retain the right to refuse specific assignments;
- c. Sets the rate of pay of the individuals, whether or not through negotiation;
- d. Pays the individuals from its account or accounts; and
- e. Hires and terminates individuals who perform services for the clients.

Specify that these provisions would take effect on July 1, 2007.

15. *Exclusion for Social Security Benefits.* Modify the current treatment of social security benefits, under which up to 50% of such benefits are taxable under the individual income tax, by phasing in a full income tax exclusion for social security benefits over five years. Implement the phase-in by reducing the currently taxable share of social security benefits by 20% in tax year 2007, 40% in tax year 2008, 60% in tax year 2009, 80% in tax year 2010, and 100% in 2011 and thereafter.

16. *Sales Tax Retailer's Discount.* Modify the current retailer's discount under the sales and use tax, which is 0.5% of the amount of tax due per reporting period, to instead provide a discount equal to 0.5% of the first \$50,000 of tax due per reporting period and 0.2% of any amount exceeding \$50,000. As under current law, specify that the discount could not be less than \$10 or more than the amount of tax due.

17. *Sales Tax Exemption for Clay Pigeons.* Provide that a current sales tax exemption for the sale of live game birds and clay pigeons to certain bird hunting preserves would also apply to clay pigeons sold to a trapshooting facility if either of the following applies: (a) the trapshooting facility is required to pay sales tax on its gross receipts from charges for shooting at the facility; or (b) the trapshooting facility is a nonprofit organization whose gross receipts from charges for shooting at the facility are exempt from the sales tax as occasional sales. Specify that these provisions would first apply on January 1, 2003 and would take effect retroactively to the same date. [These changes would make the current exemption conform to the intent of the legislation that created it, and to the way the exemption is administered by DOR.]

18. *Income Tax Credit for Military Income.* Increase the individual income tax credit for military income from \$200 to \$300 (and from \$400 to \$600 if both spouses qualify), effective with tax year 2006.

19. *Credit for HIRSP Assessments.* Create a nonrefundable credit under the insurance premiums tax, the corporate income and franchise tax, and the tax on investment income paid by domestic (Wisconsin-based) life insurance companies equal to a percentage of the amount of assessments paid by the insurer during the taxable year under the health insurance risk-sharing plan (HIRSP). Require DOR, in consultation with the Office of the Commissioner of Insurance, to determine the credit percentage for each year so that the annual cost of the credit is as close as practicable to \$2 million in the 2006-07 fiscal year and \$5 million in each fiscal year thereafter. Provide that unused credits could be carried forward for fifteen years to offset future tax liabilities. Specify that the credit would first apply to tax years beginning on January 1, 2006.

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Note:

The following table shows the estimated fiscal effects of this motion in the 2005-07 biennium, compared to AB 100. As shown, the motion is estimated to increase GPR expenditures by \$8.0 million in 2005-06 and \$9.4 million in 2006-07 and to decrease general fund tax revenues by \$0.9 million in 2005-06 and \$11.4 million in 2006-07. The net impact on the general fund would be a decrease of \$8.9 million in 2005-06 and \$20.8 million in 2006-07. As the provisions of the motion are phased-in, the total impact on the general fund (in 2006-07 dollars) would increase to \$54.0 million in 2007-08, \$80.3 million in 2008-09, \$105.5 million in 2009-10, \$125.5 million in 2010-11, and \$137.9 million in 2011-12 and thereafter.

It should also be noted that the provisions of the motion regarding the sales factor of the apportionment formula would eliminate provisions of AB 100 that would likely result in a net increase in tax revenues, and retain provisions that would likely result in a net tax reduction. This would likely result in a substantial decrease in tax revenues beginning in 2005-06, compared to AB

100. However, the precise amount of the revenue loss cannot be determined.

### Estimated Fiscal Effects of Omnibus General Fund Tax Motion

Item	Provision	Change to AB 100		
		2005-06	2006-07	
1	Pass-Through Member Withholding	\$0	\$0	
2	Deduction for College Tuition	0	0	
3	Earned Income Tax Credit	5,300,000	6,700,000	GPR
4	IRC Update	0	0	
5	Livestock Farm Investment Credit	0	-185,400	GPR-REV
6	Development Zones Tax Credit	0	0	
7	Apportionment Sales Factor*	Unknown	Unknown	GPR-REV
8	Income Tax Reciprocity	0	0	
9	Veterans' Property Tax Credit	2,700,000	2,700,000	GPR
		400,000	400,000	GPR-REV
10	Car Line Company Tax	-135,000	-135,000	GPR-REV
11	Sales Tax on Affiliates' Transactions	Minimal	Minimal	GPR-REV
12	Health Savings Account	-3,500,000	-4,000,000	GPR-REV
13	Deduction for Health Insurance Premiums	0	-2,000,000	GPR-REV
14	Sales Tax on Temporary Help Agencies	0	0	
15	Exclusion for Social Security Benefits	0	-8,000,000	GPR-REV
16	Retailer's Discount	2,300,000	5,000,000	GPR-REV
17	Exemption for Clay Pigeons	0	0	
18	Credit for Military Income	0	-500,000	GPR-REV
19	HIRSP Assessment Credit	0	-2,000,000	GPR-REV
	Total	\$8,000,000	\$9,400,000	GPR
		-935,000	-11,420,400	GPR-REV

\*The motion's modifications regarding the sales factor of the apportionment formula would result in a revenue loss compared to the provisions of AB 100. The fiscal effect would likely be substantial, but a precise amount is not known.

[Change to Bill: \$17,400,000 GPR and -\$12,355,400 GPR-REV]