

SC Taxation Realignment Commission (“TRAC”)

AGENDA

Wednesday, September 30, 2009 at 10:00 AM

I. Welcome - *Chairman*

The meeting was called to order at 10:01 AM

In attendance:

- Bob Steelman
- Kenneth Cosgrove
- Burnie Maybank
- Brian Moody
- Don Weaver
- Ray Stevens
- Ben Kochenower
- Jimmy Addison
- Chares Way

Not in attendance:

- Jack Shuler
- Ken Wingate

II. Introductions/Opening Remarks - *Chairman*

- **Jimmy E. Addison**
- **Charles S. Way**

Rena clarified some issues related to the lobbyist provision adopted at our previous meeting. Commissioner Weaver had inquired about the expiration date of the lobbyist/commissioner provision. The provision will expire when the Commission dissolves, January 1, 2011, unless the Commission’s work is extended by the General Assembly. Commissioner Wingate asked that the “staff” referenced in the memorandum be specified. “Staff” refers to the staff of the House Ways and Means Committee, Senate Finance Committee, staff of the Board of Economic Advisors, staff of the Department of Revenue and staff of the Office of Research and Statistics.

Pertaining to the interaction between staff and lobbyists: As the Commission moves forward with its responsibilities as delegated by the General Assembly, staff, will, of course, need to

speak with lobbyists regarding legislation for the upcoming session. The adopted provision does not prohibit such talks.

The memorandum is not intended to impede economic development in our state. The Commission acknowledges that specific negotiations may be taking place during the course of the Commission's work. This previously adopted memorandum does not preclude individuals from discussing such opportunities for economic development with legislators.

Chairman Maybank asks if there are any questions related to the matter from the audience or Commissioners.

There are no questions from the audience or Commissioners.

IV. Proposed Agenda - Staff

V. Adoption of Minutes from Previous Meeting - Staff

Chairman explains that the minutes from the previous meeting need to be adopted and posted immediately to the website. He also notes that no changes were requested or made.

Motion to adopt Minutes made by Charlie Way, Seconded by Vice Chair Bob Steelman.

Adopted by voice vote.

The minutes will be posted to the website following adjournment.

VI. Update of Notebook Materials - Staff

Craig explained the new additions made to the notebooks. This includes tab 3, tab 4, and updated tab 28.

Tab 3 is the FTA Survey of Services Taxation; Tab 4 is a 'cost' study of Total State and Local Business taxes, 50 state estimates for FY 2008; Tab 28 has had an updated cigarette tax matrix added.

Chairman would like to have the entity that produced the 50 state survey of business tax burdens (tab 4) to come present. This is Ernst and Young. He believes he may be able to secure a time when they can come. He will keep the Commission notified.

Craig clarifies that everything received by the Commission at that last meeting is posted on the website and new materials will be posted as well. He also explicitly explained how to find and navigate the website.

VII. Adoption of "Assessment Criteria"

- **Explanation of Criteria - Staff**

Craig explains assessment criteria and emphasizes that it will be objective. The statute gives guidance as to what criteria should be used and that includes adequacy (examines concepts of reliability and balance), equity (concepts of fairness and equal protection in or among various categories of tax payers), and efficiency (of the tax structure relative to its neutrality in impacting the tax payers decision making).

Chairman mentions a case study he would like to see on the agenda for the next meeting that he will explain. The case study relates to the Supreme Court decision regarding the constitutionality of sales tax exemptions.

Commissioner Steelman expresses concerns that the legislation directs that economic development should also be considered as criterion for the purpose of the Commission. He would like to see that more specifically tied in.

Craig believes that economic development fits under equity and efficiency and states that we can finely tune as needed.

Commissioner Kochenower also explains how it is an overarching principle.

Commissioner Steelman would like to see a fourth bullet of criteria as Economic Development.

Chairman approves and adds that Economic Development will be added as a criteria measure.

VII. "Revenue Situation" Presentation by William C. Gillespie, PhD, Chief Economist

Hand outs to Commission include the following: Percent Change in SC General Fund Revenues; General Fund Revenue Forecast from FY 06-07 to FY 09-10; Projection of State K-12 Education Funding; SC General Fund Sales tax Collections as a Percentage of Gross State Product; SC Services as a Percentage of Gross State Product; US Electronic Commerce as a Percentage of Total US Retail Sales; SC General Fund Sales tax Collections as a Percentage of Total Personal Income; SC Total Sales Tax Collections as a Percentage of Total Personal Income; SC Income Tax Collections as a Percentage of Total Personal Income; SC Corporate Income Tax Collections as a Percentage of US Collections.

Dr. Gillespie: The General Fund is down 12.2% in 2009 and the BEA is projecting a negative 5.2% growth. State Government has declined a total of 19% since the current recession began. SC is essentially a sales and income tax reliant state with 85% of SC revenues being derived from that. It will take \$317 million to bring the EFA back to where it should be based on a formula that includes the entire South East. SC's average growth is usually around 4 or 4.5% meaning it would take a full year of average growth just to restore the EFA. SC has a declining revenue base on a long run trend by a small amount because of sales tax. Sales tax as a percentage of

personal income is about the same as in 1970 but with a higher tax rate. SC is rapidly becoming a personal income tax state. With a graduated income tax system, the state has lost elasticity within the income tax structure.

Chairman would like to have revenues based on each exemption. Craig explains that this is already in the notebook.

Commissioner Way asks what revenue would be generated if we repealed all the sales tax exemptions. Dr. Gillespie explains that Craig requested that information. Staff then passed out the letter detailing that if all exemptions were repealed the new sales tax rate would be 3.4%.

Dr. Gillespie notes that he would like to make a clarification: He noted during his presentation that if all sales tax exemptions were removed there would be \$2.75 billion generated but this includes federal tax money that the state cannot touch. Ultimately SC would be looking at \$2.5 billion increase if all exemptions were removed.

IX. Sales Tax Exemptions (to include caps and exclusions) Technical Review (Part 1) by the Department of Revenue

- **Explanation of Technical Review Procedure - *Staff***
- **Elimination of All Sales Tax Exemptions Letter from BEA**

The Chairman explained that the Commission should look at all sales tax exemptions separately and decide which ones should be added back.

John McCormick with the SC Department of Revenue presents the Sales Tax Exemption Technical Review.

Craig clarifies that the Commission should follow Tab 21 in their notebooks for the presentation.

John McCormick clarifies that he will be focusing on exemption and exclusions. Maximum tax items can be found in 12-36-2110 of the code. The DOR brought sales and use tax manuals for the Commissioners. Things covered can be found in Ch. 8 - 10.

Chairman notes that the Commission has been provided a sheet on tax comparisons on automobiles. He would like to know how other southeastern states handle caps on boats, planes, and light construction material homes.

Commissioner Way would like to know the effective tax rates on a 56K car without local taxes. He would also like to know how much would SC raise if we took sales tax cap off cars and put it at the NC or GA level.

The Chairman would like to have this information at the next meeting.

Commissioner Stevens notes that John McCormick has only covered maximum tax items and would like to point out how difficult it will be to determine tax rates.

Commissioner Steelman would like more information on how carrier charges are taxed among different states in the region.

The Chairman clarifies that the Commission will be studying the sales tax exemption on gasoline in further detail at the next meeting.

The Chairman calls the Commission to be in recess from 12 PM to 1 PM.

The Chairman reconvenes the TRAC Commission at 1:09.

Craig explains a handout that has been put in the Commissioner's seats. It is a Gasoline Taxes in the South East spreadsheet.

Commissioner Weaver requests to know the years the different exemptions came into code. Craig explains that at the back of the BEA's handout there is a summary spreadsheet that specifies the enacted date.

The Chairman indicates he may like to take up the sales tax exemption on specific medical supplies, medicine, etc (exemption number 28), in more depth, at a separate meeting.

The Chairman and Commissioner Weaver would like information regarding where SC is compared to other states on the sales tax exemption to electricity, natural gas, fuel oil, kerosene, LP gas, coal, or any other combustible heating material for residents (exemption number 33).

John McCormick ends the presentation on sales tax exemptions at the half way point, exemption number 37.

X. Upcoming Meetings - Staff

Rena explains what will be covered at the upcoming meetings as follows:

October 28, 2009 Meeting

- Part II of the Sales Tax Exemption Technical Review
 - Secretary Kenneth Lay of the NC DOR
 - Representative from SCDOT
 - Public Testimony Procedure

November 12, 2009 Meeting

- Public Testimony on Sales Tax Exemptions

Chairman notes that tentatively scheduled is Secretary Kenneth R. Lay of the North Carolina Department of Revenue to brief the Commission on sales tax exemptions in North Carolina. There will also be a representative from the SC Department of Transportation to present and brief the Commission on SC's fuel tax and how its' structure compares to other states.

XI. Adjournment

Chairman adjourned at 1:51 PM.