

Committee Minutes:

Joint Legislative Sales Tax Task Force

House Majority Caucus Room

February 9, 2004

4:00 p.m.

The meeting was called to order at 4:00 p.m. by Cochairman Senator Bunderson. Other members present were Cochairman Representative Crow, Senator Kennedy, Senator Malepeai, Representative Raybould, Representative Jaquet and Representative Henbest. Senator Stegner was absent and excused.

Others present were Mike Ferguson, Division of Financial Management; Dan John, State Tax Commission and Randy Nelson, Associated Taxpayers of Idaho. Staff members present were Mike Nugent and Toni Hobbs.

A copy of the revised draft of the sales tax task force report was distributed. This revised version contains everything the original draft did with additions from **Representative Raybould**. **Representative Henbest's** comments were distributed in a separate document and will be added. Other task force members were encouraged to prepare additions to the report if they so chose.

A revised letter to the Pro Tem and Speaker was also passed out to the members of the task force.

Senator Bunderson added that a sentence should be added to the letter informing people to send additional comments to Mike Nugent in the Legislative Services Office with his E-mail address mnugent@lso.state.id.us. **Representative Crow** said that would be okay with her but after this meeting, the task force will be dissolved so comments received would be for future use. **Senator Bunderson** agreed.

Representative Henbest asked how the decision was made to dissolve the task force. In her opinion the work has not been completed and the task force should continue. **Representative Crow** stated that in discussions with the Speaker of the House, the task force is to be dissolved after this meeting. **Senator Bunderson** commented that this task force is just making a report on what information was reviewed and the Speaker and Pro Tem will advise on the continuance of the task force in the future.

Representative Raybould said that in his opinion the work of the task force has been completed and future work done in this area should be done by Germaine committees in the House and the Senate after they look at the task force report. Ending the task force's work does not end the discussion on sales tax exemptions. Comments from the public, task force members or other legislative members should be brought before the Germaine committees that handle taxes.

Senator Bunderson said that the letter does not specify Germaine committees, it just says the legislature. Leadership will be able to make the decision on how to proceed.

Representative Jaquet comment that she had hoped the task force would make a recommendation regarding the Streamline Sales Tax Act. **Senator Bunderson** said that arguments are included in the report and that legislation is being drafted regarding that subject.

He added that the letter to the Pro Tem and the Speaker contains language stating that the arguments and comments contained in the report are not complete. It also states that no recommendations are being made. To add a recommendation regarding the Streamlined Sales Tax issue would require modification of this letter.

Senator Bunderson continued that the report contains all arguments regarding the sales tax exemptions that were received by the task force or by Mr. Nugent from others. These arguments were not weighted or evaluated and are presented as information to others.

Senator Kennedy said that in his opinion, the task force members did not meet the charge of the task force. After receiving an excellent analysis from the State Tax Commission of the pros and cons of the various tax exemptions, the task force did not debate, discuss or evaluation any of them. His understanding was that the task force was charged to make some sort of recommendation. **Representative Crow** commented that the Speaker made it clear to her that he wants to review the draft report and then decisions will be made for the future direction of a study of the sales tax exemptions.

Senator Bunderson said that, in his opinion, the task force is at an impasse and moving forward at this time would not be effective. He suggested letting the Pro Tem and the Speaker decide what to do next after reviewing the report. **Representative Crow** agreed. **Senator Bunderson** added that the report does not suggest that the task force be dissolved or that it continue. The door is left open for future direction.

Representative Raybould stated that the task force opened the door for public comment on each of the exemptions after the tax commission presented the information. The opportunity was there for anyone who had an interest in these exemptions to comment. The report gives the pros and cons of each exemption so that other members of the legislature will have the information.

Representative Henbest said that the letter to the Pro Tem and Speaker needs to include a statement that the task force did not complete its charge. **Senator Bunderson** stated that the letter does say the charge was not met in different words. **Senator Kennedy, Senator Malepeai and Representative Jaquet** agreed with **Representative Henbest** and suggested the wording be changed to actually say the task force did not complete its charge. **Senator Malepeai** added that he wants to make sure the letter is not misconstrued to say that sales tax exemptions do not need

to be looked at. **Senator Bunderson** said that there would be no problem with another letter being attached stating the differing views of the task force members.

Senator Kennedy clarified that his comments should not be taken to mean that he is in favor of additional sales taxes on services or that certain exemptions should be excluded. His point is that the task force did not meet to evaluate the exemptions using the information that was received.

Senator Bunderson, in order to reach a middle ground, suggested adding a paragraph that recommends additional work be done in order to complete the task force charge. **Senator Kennedy** said that the existing wording does state that the task force did not meet its charge and did not make recommendations but it could be worded more explicitly. **Representative Crow** added that those who do not feel comfortable with the wording of the letter could have their names removed and write their own letter.

Representative Jaquet stated that the problem with this has to do with other groups that felt the task force would be able to accomplish something. It was assumed that the task force would take more than one year to complete its charge and to not go forward with the issues that have been discussed would be inappropriate. She suggested adding an amendment to the bottom of the letter for those that feel that task force did not complete its work.

Representative Raybould commented that in his opinion the letter explains what the task force did. The discussion that the task has not been completed assumes that the task force was going to make recommendations on the exemptions. Each exemption was analyzed and no motions were made suggesting any exemption be removed. If task force members had the expectation that exemptions were going to be removed, it was not brought up during the meetings.

Senator Kennedy said that in his judgment no motions were made to remove exemptions due to the fact that those possibilities were never discussed. The data was presented by the State Tax Commission but that was all. It was his belief that a meeting was going to be held allowing task force members to discuss the information received and then debate whether an exemption should be removed or not. **Senator Bunderson** agreed that the task force did not discuss these things and suggested allowing the legislature to decide what direction to take next because it is clear that the task force is at an impasse.

Senator Bunderson made a motion that the task force accept the letter as written with the addition that "additional arguments be sent to Mike Nugent in the Legislative Services Office at mnugent@iso.state.id.us."

He suggested that these comments could then be kept separate from the report as an attachment for people that want to review those comments at a later date.

In response to a question from **Senator Kennedy**, **Senator Bunderson** stated that the revised version of the report is the one that will be submitted at this time. The letter being discussed will replace the letter on page 3 of that report.

Representative Raybould added to the motion that this letter replace the letter on page 3 of the revised report with the additional wording suggested by **Senator Bunderson**.

Representative Henbest stated that for her to sign the letter it has to contain an explicit statement that the task force did not complete its charge and that additional work needs to be done. She also said that the revised report is not acceptable to her due to the fact that an addition to the evaluation criteria has been added. This evaluation criteria was set at the first meeting of the task force and additional items should not be added after the evaluation has been completed. **Representative Raybould** said that the two new criteria items were discussed and added at the first meeting. **Representative Jaquet** said that she does not remember the new criteria being discussed. **Senator Bunderson** stated that his position in the first draft was not to make a judgment on someone else's argument. He suggested letting all of the arguments stand on their own without any changes or deletions. **Representative Henbest** agreed with that. **Senator Kennedy** said that if the task force is not going to make any recommendations and is only going to compile the information received at the meetings of the task force, the report should not contain any opinions. He would accept the letter if this was to be the case. He would like to see the first draft report be submitted. **Mr. Nugent** clarified that the arguments for the first report were taken from task force minutes and from past Revenue and Taxation Committee minutes where necessary. He added that **Representative Henbest** had also prepared comments to the report that need to be added.

In returning to discussion of the letter, **Representative Jaquet** stated that she would like to include language stating that the committee was at an impasse and is unable to go forward. **Senator Bunderson** said most people agree that the task force is at an impasse. **Representative Crow** said that the task force needs to reach a compromise in this area in order to produce a report.

Senator Kennedy suggested adding language to the letter in the second to last paragraph after

"We submit this report without recommendation" adding the words *because the task force could not reach a majority opinion*. **Representative Raybould** suggested saying *the task force could not reach a consensus*. It was discussed that consensus was not the correct word. The wording was changed to say *because the task force was divided in its opinion*. **Senator Kennedy** agreed with that language.

Senator Kennedy said that he would be willing to accept the letter with the additional wording if the first draft of the report was submitted. After more discussion **Senator Bunderson** suggested letting the arguments in the first draft report stand with nothing being deleted or weighted. He continued that additional comments would be accepted and accumulated by **Mr. Nugent** to be given to anyone who requests them. He also added that any task force member is welcome to add their own arguments to the report. This document was prepared to give future task forces or committees a report to use as a starting point. **Representative Crow** suggested submitting two reports with the members signing on to whichever report they support. **Senator Bunderson** said he did not feel comfortable with that extensive of a difference and asked that if people have a position to make, they put it in letter form and attach it. Submitting two reports would be very confusing.

Representative Henbest made a substitute motion that the task force make changes to the letter by adding "at the meetings" after "Arguments presented", adding that comments can be sent to Mike Nugent in the Legislative Services Office at mnugent@lso.state.id.us and adding a sentence that reflects the task force did not meet its charge. Her motion includes that the report submitted include all arguments from committee members without editorializing or deletions of preexisting language and that the additional evaluation criteria be struck.

Senator Bunderson clarified that her motion says that the revised draft is satisfactory if the strike outs are not allowed and that the last two criteria evaluations points be struck.

Representative Henbest said that she would also like her additional arguments incorporated into the final version to be submitted. **Senator Bunderson** said that everyone's comments/arguments will be included if they so choose to submit them. He added that they should be submitted to **Mr. Nugent by Friday, February 13, 2004.**

Representative Raybould made an amended substitute motion that the task force accept the letter as rewritten but leave the additions to the evaluation criteria in the report.

The amended substitute motion failed by voice vote.

The substitute motion carried by voice vote.

Senator Kennedy said that **Representative Raybould and Representative Crow** can submit a letter stating the items they would like included in the report.

It was discussed that the Streamlined Sales Tax issue was not part of this task force's work and that legislation is being prepared on that issue.

Representative Crow moved that the task force adjourn sine die. The motion carried and the meeting adjourned at 5:30 p.m.