

The Florida Senate Committee on Finance and Taxation

Executive Summary

January 24, 2002

Chapter 2000-222 F.S. created the State Tax Reform Task Force and directed it "to examine the state's tax structure and make recommendations to the Governor and Legislature on how the state's tax structure can be improved to ensure a stable revenue base that is adequate to fund the needs of the state. After examining the state's tax structure and considering extensive testimony from all sectors we conclude that the current state's tax structure is adequate to carry the state forward into the 21st Century.

The State Tax Reform Task Force offers this report as our best efforts to fulfill the charge given us by the enabling legislation. The Task Force created a set of six Principles of Taxation to be utilized in evaluating Florida's tax system. These Principles of Taxation are:

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Equity – The Florida tax system should treat individuals equitably. It should impose similar tax burdens on people in similar circumstances and should minimize regressivity.

1. Compliance – The Florida tax system should facilitate taxpayer compliance. It should be simple and easy to understand so as to minimize compliance costs and increase the visibility and awareness of the taxes being paid. Enforcement and collection of tax revenues should be done in a fair, consistent, professional, predictable and cost-effective manner.
2. Pro-Competitiveness – The Florida tax system should be responsive to interstate and international competition in order to encourage savings and investment in plant, equipment, people, and technology in Florida.
3. Neutrality – The Florida tax system should affect competitors uniformly and not become a tool for "social engineering". It should minimize government involvement in investment decisions, making any such involvement explicit, and should minimize pyramiding.
4. Stability – The Florida tax system should produce revenues in a stable and reliable manner that is sufficient to fund appropriate governmental functions and expenditures.
5. Integration – The Florida tax system should balance the need for integration of federal, state and local taxation.

The Task Force believes that any revision or amendment to the tax code should conform to these principles, but recommends that the tax and spending limitations suggested by the Task Force be enacted prior to any attempt at major reform. It is the recommendation of the Task Force that, should the Legislature undertake an evaluation of the state's tax structure, a review of current tax

exemptions, propose new tax exemptions, or propose a reduction in the tax rate, the Legislature utilize these Principles of Taxation in their review.

Proposed Recommendations of the State Tax Reform Task Force

Issue # 1: Constitutional Amendment to Limit State Appropriations

Replace the state revenue limitation with an appropriations limitation that limits state appropriations for any fiscal year to state appropriations for the prior fiscal year plus a growth adjustment of inflation and population growth.

Issue # 2: Constitutional Amendment to Limit Legislative Authority to Increase Taxes

Require that any law that imposes new or increased taxes or repeals exemptions from a tax be enacted in a bill for that purpose only by a two-thirds vote of the membership of each house of the Legislature.

Issue # 3: Constitutional Amendment to Limit Local Authority to Increase Taxes

Requires that any local rule or ordinance that imposes new or increased taxes or repeals exemptions from a tax be enacted by a majority plus one vote of the membership of the respective board, council or commission.

Issue # 4: Streamlined Sales Tax Project

The Streamlined Sales Tax Project's primary objective is to reduce the complexity and administrative burden currently borne by businesses in collecting use taxes in interstate commerce. The project's secondary objective is to secure the passage of federal legislation whereby Congress would authorize the states participating in the streamlined project to require remote vendors, such as Internet and mail order sales, to collect and remit use taxes imposed by those participating states. With Florida's heavy reliance on the sales and use tax, the State Tax Reform Task Force believes it is imperative that Florida continues to actively participate in the Streamlined Sales Tax Project.

Issue # 5: Repeal of the Intangibles Tax

The Task Force recommends that the Legislature make a commitment to continue the elimination of the intangibles tax when appropriate.

Issue # 6: Repeal of the Alcoholic Beverage Surcharge

The Task Force recommends that the Legislature make a commitment to continue the elimination of the alcoholic beverage surcharge when appropriate.

Issue # 8: Roll Back of Sales Tax on Commercial Electricity and Communications Services

The Task Force believes that there should not be a differential in the sales tax rate between commercial and noncommercial electricity and communications services. The Task Force recommends that the Legislature make a commitment to roll back the state sales tax rate from 7% to 6% on commercial electricity and commercial telephone service, when appropriate.

Issue # 9: Repeal of the Health Care Assessment on Hospital Out-Patient Services

The Task Force recommends that the Legislature make a commitment to continue the elimination of the PMATF assessment on hospital out-patient services when appropriate.

Issue # 10: Documentary Stamp Tax on Unsecured Notes

Cap at \$2,450, the documentary stamp tax due on an unsecured note executed in Florida. This translates into a loan of \$700,000, which means that all such loans of \$700,000 or more would have a tax liability of \$2,450. The Legislature and the Department of Revenue should monitor the response to this change to determine if the loan threshold is appropriate.

Fiscal Impact: Revenue neutral

Explanation of why needed: Current law imposes the documentary stamp tax on promissory notes, nonnegotiable notes, written obligations to pay money, and assignments of salaries, wages, or other compensation, at the rate of 35 cents per \$100, if executed delivered, sold, transferred, or assigned in the state. Florida residents and businesses can avoid this tax by executing these agreements outside the State of Florida. When the amount of tax that would be due on the Florida transaction is significantly greater than the cost of closing the deal outside of the state, the parties to the transaction have an incentive to leave the state, and often do. This will not affect the tax on notes secured by real property.

Issue # 11: Tax Compliance

The Task Force recommends to the Legislature, the following tax compliance and tax administration changes:

Sales Tax

Provide statutory authorization to make permanent the temporary \$5 fee waiver for online registration.

Provide statutory authority for the department to require a report to be submitted when filing a sales and use tax return if the dealer is claiming credits against the tax.

Insurance Premium Tax

Authorize the Department of Revenue to create databases to be used by insurance companies in identifying the location of risks insured by their property and casualty insurance policies. Insurers using these databases would be exempt from any tax, penalty or interest which would otherwise be due as a result of incorrectly assigning its policies. Insurers that did not use the databases or exercise due diligence would be subject to a 0.5 percent penalty on the premium of each policy incorrectly assigned.

Corporate Income Tax

Delete the requirement that corporations, which are not otherwise required to file a tax return, must file an informational return for the year in which they make an election pursuant to s. 1361(b)(3) or the Internal Revenue Code.

Amend s. 220.23, F.S., to clarify that interest is owed on underpayments from the original due date of the tax to the date the tax is actually paid, even if the deficiency is discovered during a federal audit.

Documentary Stamp Tax

Repeal the documentary stamp tax on the original issue of stock certificates.

Intangible Personal Property Tax

Repeal the requirement that corporations file a return when no tax is due.

Repeal the requirement that corporations file annual information returns regarding stock value and the related penalty provisions.

Unemployment Tax

Change the due date for annual filing from April 1 to January 1 and change the delinquency date from April 30 to January 31. Amend the statute to allow most employers of domestic employees to file annually by removing some exceptions that exist in current law.

Issue # 12: Encourage Consistency Within the Department of Revenue

In order to ensure consistent tax treatment by the Department of Revenue, the Task Force recommends the following language be added to the "Florida Taxpayer's Bill of Rights":

16. Florida taxpayers shall have the right to fair and consistent application of Florida tax laws by the Department of Revenue.

Introduction and Principles of Taxation

Chapter 2000-222 F.S. created the State Tax Reform Task Force and directed it "to examine the state's tax structure and make recommendations to the Governor and Legislature on how the state's tax structure can be improved to ensure a stable revenue base that is adequate to fund the needs of the state.

After examining the state's tax structure and considering extensive testimony from all sectors we conclude that although the state's tax structure could be improved (i.e., by eliminating certain taxes and by making the sales tax more of a personal consumption tax), and although the state's tax structure could be made more immune from the effects of economic downturn (i.e., by extending the sales tax to groceries, rent, medicine, and so forth), the current state's tax structure is adequate to carry the state forward into the 21st Century.

According to figures published by the House Fiscal Policy and Resources Committee, over the last 20 years, state appropriations per person has grown 269 percent, while state personal income per person has grown 167 percent. During this same time, state appropriations have grown 498 percent. Florida's inflation adjusted tax revenue from fiscal year 1980 through 2000 has grown from \$1,086 per person (5.4% of income) to \$1,873 per person (6.6% of income). During the same time, Florida's sales tax revenue has grown from \$523 per person (2.6% of income) to \$908 per person (3.4% of income). Thus, over a period of time, which involves several recessions, the growth in Florida government spending per person has outpaced Florida personal income per person by nearly 61 percent. We believe that the state's tax structure is fundamentally sound.

The Task Force concludes that sales tax is more stable than an income tax during economic downturns, because consumption does not decrease in the same proportion as income. People and businesses use personal savings and borrowing to supplement their incomes during recessions. The sales tax could be made even more stable during downturns by eliminating the exemption on such things as groceries, rent, and medicine, but that would make the tax more regressive, and we are certainly not recommending that be done. We believe that eliminating other exemptions in the sales tax would ultimately result in a permanent increase in tax collections, but would not appreciably reduce the cyclical variability of the state's tax structure, and might even make it worse.

Over the last 20 years, our state government appears to have grown by revenues available rather than by a consideration of what government should be providing. We should not spend all of available tax revenue, but should save more during good times to supplement revenue during times that are not so good. If our "rainy day fund" of 5 percent is not adequate perhaps additional

allowances should be made. We believe that when the final results are tabulated, Florida revenues during fiscal year 2001, amid recession and terrorist attacks, will still increase though at a smaller rate than was expected. Government has shown that it will spend whatever it collects, and it is time we begin consideration of what our state government should be undertaking and planning its long-term needs for revenues and priorities. During that consideration, we should keep in mind that the private sector generally performs more efficiently than the public sector, and that more economic freedom (including a lower tax rate) promotes growth in per capita income at all levels.

We were asked to determine whether the state's tax structure "is adequate for supporting the continuing needs of the state," and we conclude that it is. Regarding the effectiveness of our tax system, we were directed to answer the following questions:

EFFECTIVENESS:

(Q) Is the revenue raised by the system stable and adequate to fund needed services or is it highly sensitive to economic fluctuations in the short run?

(A) As noted above, we believe our tax system is sufficiently stable both in the short run and the long run, and that no system would be immune from the business cycle. An income tax would be less stable, and broadening the base of the sales tax will not provide greater stability unless you include items that people have to have to live such as groceries, rent, and medicine.

(Q) Does the tax structure produce revenue that grows as the state's economy grows, thereby enabling the public sector to grow commensurately with the private sector?

(A) As noted above, the tax structure has enabled the public sector to grow faster than the private sector, and the Task Force does not believe that the public sector should necessarily grow even as fast as the private sector.

EFFICIENCY:

(Q) Is the Florida tax structure easily and economically administered? Is compliance with tax provisions, by business and by consumers, simple and inexpensive?

(A) Although Florida's tax system would probably be easier to administer if it consisted primarily of a consumer sales tax, in our judgment, the system is not broke, and is better than most other states. We are concerned about recommending substantial change unless and until tax and spending limitations are in place, but would welcome review by the Florida Association of CPA's with a view toward clarifying or simplifying Florida's Tax Code. They testified before the Task Force, but did not recommend any changes beyond what is being recommended by the Task Force.

(Q) Does the tax system unnecessarily distort decision-making by consumers or businesses?

(A) No. Not in our opinion, and there was no testimony otherwise.

(Q) To what degree can the tax burden be exported to the tourist, the federal government, or out-of-state businesses?

(A) One of the major reasons that the sales tax suits Florida so well is the state has a significant tourist industry, which allows our visitors to contribute in a substantial way to the operation of our state government, although they do not use our schools or most of the government services. Exporting responsibility to the federal government, if that be possible, is certainly not desirable, because the citizens of Florida are a substantial portion of that government. Getting the federal government to pay for it does not mean that it is free.

(Q) How does the state's tax structure interact with federal or local tax structures?

(A) Florida's accountants and tax lawyers could better answer that question, but testimony before this Task Force indicates that we have a good system and it would not appear feasible to make changes just for the sake of change. The Task Force heard testimony that Florida sales tax would be simpler if it were primarily a consumer sales tax, but such major reform would likely raise more problems than it would solve. We need to be very careful that we do not "simplify" Florida's Tax Code in the same way that Congress has been "simplifying" the income tax since its inception.

EQUITY:

(Q) Is Florida's tax structure proportional or progressive in its incidence among income groups? Are individuals with similar incomes taxed uniformly? Are Florida's taxes based on ability to pay?

(A) Yes. People determine how much tax they want to pay by how much they want to buy. The exemptions of rents, groceries, medicine, etc., which claim the greater part of earnings of lower income people alleviate regressivity of the sales tax.

(Q) How do other states treat the same or similar tax issues?

(A) Of course, we have not studied the tax system of all other states, but are recommending that Florida continue to work with other states on these issues.

(Q) Is the base of the tax system as broad as possible so that tax rates and burdens are as low as possible?

(A) The base could be broader and the rates could be lower by eliminating all exemptions, but we do not recommend doing so for the reasons stated above. We feel this would result in a permanent increase in government unless and until serious constitutional tax and spending limitations are in place.

(Q) Are tax exemptions consistent with state tax policies and the economic impact of each exemption?

(A) Yes.

In addition, we were directed to provide an analysis of alternative tax sources. We have not attempted to provide alternative tax sources at this time, because we have concluded none are necessary, and that the current system fairly meets the needs of the state.

The State Tax Reform Task Force offers this report as our best efforts to fulfill the charge given us by the enabling legislation. The Task Force created a set of six Principles of Taxation to be utilized in evaluating Florida's tax system. These Principles of Taxation are:

1. Equity – The Florida tax system should treat individuals equitably. It should impose similar tax burdens on people in similar circumstances and should minimize regressivity.
2. Compliance – The Florida tax system should facilitate taxpayer compliance. It should be simple and easy to understand so as to minimize compliance costs and increase the visibility and awareness of the taxes being paid. Enforcement and collection of tax revenues should be done in a fair, consistent, professional, predictable and cost-effective manner.
3. Pro-Competitiveness – The Florida tax system should be responsive to interstate and international competition in order to encourage savings and investment in plant, equipment, people, and technology in Florida.
4. Neutrality – The Florida tax system should affect competitors uniformly and not become a tool for "social engineering". It should minimize government involvement in investment decisions, making any such involvement explicit, and should minimize pyramiding.
5. Stability – The Florida tax system should produce revenues in a stable and reliable manner that is sufficient to fund appropriate governmental functions and expenditures.
6. Integration – The Florida tax system should balance the need for integration of federal, state and local taxation.

The Task Force believes that any revision or amendment to the tax code should conform to these principles, but recommends that the tax and spending limitations suggested by the Task Force be enacted prior to any attempt at major reform. It is the recommendation of the Task Force that, should the Legislature undertake an evaluation of the state's tax structure, a review of current tax exemptions, propose new tax exemptions, or propose a reduction in the tax rate, the Legislature utilize these Principles of Taxation in their review.

Recommendations of the State Tax Reform Task Force

Issue # 1: Constitutional Amendment to Limit State Appropriations

Amends Article VII, Sec. 1, of the State Constitution, to:

Replace the state revenue limitation with an appropriations limitation that limits state appropriations for any fiscal year to state appropriations for the prior fiscal year plus a growth adjustment of inflation and population growth. As with the state revenue limitation, the amendment provides for the transfer of excess revenues to the Budget Stabilization Fund, until it is fully funded, and then refunds the rest to taxpayers pursuant to general law. The appropriations limitation can be suspended in any fiscal year in which the governor declares a state financial emergency and the legislature must agree by three-fourths vote in a separate bill containing no other subject.

Issue # 2: Constitutional Amendment to Limit Legislative Authority to Increase Taxes

Require that any law that imposes new or increased taxes or repeals exemptions from a tax be enacted in a bill for that purpose only by a two-thirds vote of the membership of each house of the Legislature.

Issue # 3: Constitutional Amendment to Limit Local Authority to Increase Taxes

Amends Article VII, Sec. 9, of the State Constitution, to:

Requires that any local rule or ordinance that imposes new or increased taxes or repeals exemptions from a tax be enacted by a majority plus one vote of the membership of the respective board, council or commission.

Issue # 4: Streamlined Sales Tax Project

Chapter 2001-225, Laws of Florida, created the "Simplified Sales and Use Tax Administration Act", authorizing Florida to participate in discussions with other states for the purpose of developing a multi-state, voluntary, streamlined system for the collection and administration of state and local sales and use taxes. The project's primary objective is to reduce the complexity and administrative burden currently borne by businesses in collecting use taxes in interstate commerce. The project's secondary objective is to secure the passage of federal legislation whereby Congress would authorize the states participating in the streamlined project to require remote vendors, such as Internet and mail order sales, to collect and remit use taxes imposed by those participating states.

Florida relies heavily on its 6 percent sales and use tax. In fiscal year 1999-2000, sales and use tax collections accounted for 73% of General Revenue and over 48% of all tax revenues. Florida is projected to lose \$1.2 billion in sales tax revenue in fiscal year 2001-02 from both Internet and mail order sales. With Florida's heavy reliance on the sales and use tax, the State Tax Reform Task Force believes it is imperative that Florida continues to actively participate in the Streamlined Sales Tax Project.

Issue # 5: Repeal of the Intangibles Tax

Florida's tax on intangible personal property was enacted in 1931, and it is a tax on "all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents". Taxable intangible personal property includes, among other things, stocks, bonds, notes, and other obligations to pay money. The tax rate is currently 1 mill, or \$1 per every \$1,000 taxable assets. The intangibles tax exemption for a natural person is \$20,000 and the married couple exemption is \$40,000. Effective January 1, 2002, the exemptions will be increased from \$20,000 to \$250,000 for a natural person and from \$40,000 to \$500,000 for a married couple. In addition, a new \$250,000 exemption for non-natural taxpayers was created effective January 1, 2002.

Since 1998, the Legislature has made changes in the intangibles tax, working toward their expressed goal of eliminating the tax. In 1998, one-third of accounts receivable was exempted from the tax. In 1999, the exemption for accounts receivable was increased to two-thirds and the annual tax rate on intangible assets was reduced from 2 mills to 1.5 mills. In 2000, accounts receivable was fully exempted from the tax and the annual tax rate was reduced further to 1 mill. The 2001 Legislature had proposed reducing the tax rate further, but due to the down turn in the economy, the Legislature settled for increasing exemptions instead. The exemption for a natural person was increased from \$20,000 to \$250,000, the married couple exemption increased from \$40,000 to \$500,000, and a new \$250,000 exemption for non natural taxpayers was created. These changes were to go into effect January 1, 2002, but an 18 month delay in the implementation of the exemption increases was adopted during Special Session C.

The Task Force recommends that the Legislature make a commitment to continue the elimination of the intangibles tax when appropriate.

Issue # 6: Repeal of the Alcoholic Beverage Surcharge

In 1990, the Legislature created s. 561.501, F.S., which imposed an alcoholic beverage surcharge on all alcoholic beverages sold by the drink for consumption on a retailer's licensed premises. The surcharge was ten cents on each one ounce of liquor or four ounces of wine, six cents on each 12 ounces of cider and four cents on each 12 ounces of beer.

Since its inception, the alcoholic beverage surcharge has been viewed as an onerous tax by alcoholic beverage retailers. There have been several attempts to eliminate the surcharge since 1997. In 1999, the Legislature reduced the surcharge by one-third and in 2000, the surcharge was again reduced by one-third to its current rate of 3.34 cents on each one ounce of liquor or four ounces of wine, 2 cents on each 12 ounces of cider and 1.34 cents on each 12 ounces of beer. It was the Legislative plan to eliminate the final third of the surcharge in 2001, but as a result of the down turn in the economy, the surcharge was not eliminated.

The Task Force recommends that the Legislature make a commitment to continue the elimination of the alcoholic beverage surcharge when appropriate.

Issue # 8: Roll Back of Sales Tax on Commercial Electricity and Communications Services

In 1992, the State of Florida was faced with a revenue shortfall and needed to raise revenue to meet the budget demands of state government. In order to find sufficient funds, the Legislature raised the needed revenue by primarily increasing taxes paid by businesses. Among the tax increases enacted by the 1992 Legislature on business was the increased sales tax rate on commercial telephone service and commercial/industrial electricity from the standard 6% to 7%, which raised an estimated \$55 million in 1992.

Consistently during the 1980's and early 1990's, the Legislature fashioned tax increases to fall on businesses rather than individuals. The business community understood the necessity for government to have adequate funding to operate and, in many instances, did not object to such tax increases because it was believed that government was allocating its tax resources for the greater good of all Floridians.

The Task Force believes that there should not be a differential in the sales tax rate between commercial and noncommercial electricity and communications services. The Task Force recommends that the Legislature make a commitment to roll back the state sales tax rate from 7% to 6% on commercial electricity and commercial telephone service, when appropriate.

Issue # 9: Repeal of the Health Care Assessment on Hospital Out-Patient Services

The Health Care Assessment was originally enacted in 1984 to impose an assessment of 1.5 percent against the annual net operating revenue of each state-licensed hospital. The funds generated through the assessment are used to expand Medicaid coverage and equalize the financial burden of indigent health care among hospitals. Assessments are deposited into the Public Medical Assistance Trust Fund (PMATF).

The 1991 Legislature extended the PMATF assessment to four additional types of health care providers: clinical laboratories, ambulatory surgical centers, diagnostic imaging centers, and freestanding radiation therapy centers. In 1992 an assessment was imposed on nursing home facilities in the amount of \$1.50 for each patient day provided by the nursing home, but was repealed in 1993. In 2000, the Legislature reduced the annual assessment on net operating revenues attributed to hospital out patient services from 1.5% to 1.0%. Further reductions were proposed during the 2001 Legislative Session, but not adopted. As with the intangibles tax and the alcoholic beverage surcharge, the Legislature has expressed a desire to eliminate the PMATF assessment on hospital out-patient services.

The Task Force recommends that the Legislature make a commitment to continue the elimination of the PMATF assessment on hospital out-patient services when appropriate.

Issue # 10: Documentary Stamp Tax on Unsecured Notes

Proposal 1: Cap at \$2,450, the documentary stamp tax due on an unsecured note executed in Florida. This translates into a loan of \$700,000, which means that all such loans of \$700,000 or more would have a tax liability of \$2,450. The Legislature and the Department of Revenue should monitor the response to this change to determine if the loan threshold is appropriate.

Fiscal Impact: Revenue neutral

Explanation of why needed: Current law imposes the documentary stamp tax on promissory notes, nonnegotiable notes, written obligations to pay money, and assignments of salaries, wages, or other compensation, at the rate of 35 cents per \$100, if executed delivered, sold, transferred, or assigned in the state. Florida residents and businesses can avoid this tax by executing these agreements outside the State of Florida. When the amount of tax that would be due on the Florida transaction is significantly greater than the cost of closing the deal outside of the state, the parties to the transaction have an incentive to leave the state, and often do. This will not affect the tax on notes secured by real property.

Issue # 11: Tax Compliance

The Task Force recommends to the Legislature, the following tax compliance and tax administration changes:

Sales Tax

Waiver of fees for online registration

Proposal: Statutory authorization to make permanent the temporary \$5 fee waiver for online registration.

Explanation of why needed: Current law requires a \$5 registration fee for businesses that collect sales and use tax. The Department of Revenue now accepts applications over the Internet and for the first 6 months of the Internet application program the fee has been waived. The department will begin to accept applications via the Multistate Tax Commission's online multi-jurisdiction registration process. This proposal will encourage dealers to register online, which will reduce costs for them and the department.

Verification of entitlement to credit

Proposal: Provide statutory authority for the department to require a report to be submitted when filing a sales and use tax return if the dealer is claiming credits against the tax.

Explanation of why needed: Sales and use tax dealers are eligible for various credits under many programs, such as the urban high-crime area job credit, enterprise zone credit, empowerment zone program, Front Porch communities, designated brownfield areas, and urban infill areas. Dealers may also claim credit for tax refunds, and other deductions and exemptions. Sales and use tax returns currently used make it difficult to verify whether a dealer is eligible for credits or refunds and additional information must be requested, which delays the credit. If

information were provided on a separate report it would facilitate approval of the credits, to the benefit of taxpayers. It would also make it easier to track utilization of the credits and evaluate the programs associated with them.

Insurance Premium Tax

Local Premium Tax Siting Data Base

Proposal: Authorize the Department of Revenue to create databases to be used by insurance companies in identifying the location of risks insured by their property and casualty insurance policies. Insurers using these databases would be exempt from any tax, penalty or interest which would otherwise be due as a result of incorrectly assigning its policies. Insurers that did not use the databases or exercise due diligence would be subject to a 0.5 percent penalty on the premium of each policy incorrectly assigned.

Explanation of why needed: Under current law, pension plans of participating cities and special fire control districts receive annual distributions of premium tax dollars for insurance policies written within the boundaries of the cities or districts. Insurance premium taxes are collected by the Department of Revenue, and a portion of the revenue is transferred to the Police Officers' and Firefighters' Premium Tax Trust Fund at the Division of Retirement. Insurers must report the geographic location of its insured risks to DOR in order to determine the proper distribution of premium tax revenue to the police' and firefighters' pension funds. This process has been prone to errors, and some municipalities have received improper distributions from the trust fund.

Corporate Income Tax

Corporate income tax information returns

Proposal: Delete the requirement that corporations, which are not otherwise required to file a tax return, must file an informational return for the year in which they make an election pursuant to s. 1361(b)(3) or the Internal Revenue Code.

Explanation of why needed: This proposal reduces an administrative burden on corporations that do not owe Florida income tax. If these corporations owe tax in the future this information will be received from the IRS and they can be added to Florida's database.

Corporate income tax interest on underpayments

Proposal: Amend s. 220.23, F.S., to clarify that interest is owed on underpayments from the original due date of the tax to the date the tax is actually paid, even if the deficiency is discovered during a federal audit.

Fiscal Impact: \$10 million increase in General Revenue.

Explanation of why needed: Under current law, taxpayers generally pay market-rate interest on corporate income taxes not paid in a timely fashion. An exception to this general rule was created in 1999 by the case of *Barnett Banks, Inc. v. Department of Revenue*, 738 So.2d 502 (1st DCA 1999), which ruled that the intent of the Florida Legislature to impose interest on tax deficiencies discovered during federal audits was not clearly expressed in the Florida Income Tax Code. This ruling has created an inconsistency in the treatment delinquent taxpayers.

Documentary Stamp Tax

Documentary Stamp Tax on Original Issues of Stock

Proposal: Repeal the documentary stamp tax on the original issue of stock certificates.

Explanation of why needed: Under current law, the original issue in Florida of certificates of stock or shares by a corporation or by any joint stock company or other association is subject to documentary stamp tax. Revenue from this tax source is very small because taxpayers can avoid the tax by issuing certificates of stock out of state or minimize the tax by issuing the stock at \$.01 par value. Tax on the resale and transfer of stock in Florida was repealed in 1987.

Intangible Personal Property Tax

Intangibles tax zero returns

Proposal: Repeal the requirement that corporations file a return when no tax is due.

Explanation of why needed: Recent changes in intangibles tax law have resulted in 90 percent of corporations being required to file returns even though they owe no intangibles tax.

Intangibles tax information returns

Proposal: Repeal the requirement that corporations file annual information returns regarding stock value and the related penalty provisions.

Explanation of why needed: Current law requires each corporations to file an information report that is a representative copy of the notice of stock value for shares in the corporation's stock or its election to pay the intangibles tax as agent for its shareholders. Recent changes to the intangibles tax law have resulted in 90 percent of all corporate filers having no tax due each year, but they will still be required to file zero returns and provide an information report regarding stock value. A penalty of \$100 can be assessed against a corporation that does not timely file these information returns.

Unemployment Tax

Annual filing for domestic service employees

Proposal: Change the due date for annual filing from April 1 to January 1 and change the delinquency date from April 30 to January 31. Amend the statute to allow most employers of domestic employees to file annually by removing some exceptions that exist in current law.

Explanation of why needed: Federal law allows annual filing for unemployment tax for domestic service employees, but current state tax law filing dates do not allow employers to take full credit for payment of state unemployment taxes if they file their federal returns annually.

Issue # 12: Encourage Consistency within the Department of Revenue

In order to ensure consistent tax treatment by the Department of Revenue, the Task Force recommends the following amendment to s. 213.015, F.S., the "Florida Taxpayer's Bill of Rights":

213.015 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights to guarantee that the rights, privacy, and property of Florida taxpayers are adequately safeguarded and protected during tax assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements which explain, in simple, nontechnical terms, the rights and obligations of the Department of Revenue and taxpayers. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax assessment and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed Florida taxpayers in the Florida Statutes and the departmental rules are:

16. Florida taxpayers shall have the right to fair and consistent application of Florida tax laws by the Department of Revenue.

Task Force Meetings and Presentations

September 19, 2001 Full Task Force Meeting

The full Task Force met after a lengthy recess on September 19, 2001. The state of the economy had significantly changed since the last full meeting of the Task Force, as a result of the economic downturn. In addition, the impact of September 11th on the economy and, in particular, on the tourist industry of Florida could not yet be quantified.

Chairman Blosser provided a brief update.

The Steering Committee Members provided a list of future meeting dates as follows:

- October 17, 2001 - Tallahassee
- November 13 and 14, 2001 – Public forum meetings scheduled for South Florida, Central Florida and North Florida (tentative locations: Ft. Lauderdale, Orlando and Jacksonville)
- December 12, 2001 – Tallahassee
- January 16, 2001 – Tallahassee (tentative)

Next, the Task Force divided into their various subcommittees for discussion purposes.

After the Task Force returned from their subcommittee meetings, Dr. Ed Montanaro of the Office of Economic and Demographic Research gave an outlook on the State's forecasted general revenues and working capital funds for the 2002-2003 fiscal year in comparison to the prior fiscal year.

- There has been a large jump in unemployment.
- Consumer confidence is down.
- Recessions result from a significant economic imbalance and weakened economy.
- Generally, recessions result from some external shock to the economy.
- Effect of Recession on State Budget

Consumer confidence is usually a short-term problem.

Transportation sector/tourism is a longer-term problem that primarily affects air traffic.

Out-of-state tourism accounts for 13-14% of sales tax collections.

Fuel tax collections should increase as more visitors choose to drive instead of fly.

- Recessions are usually relatively short

1990 recession – approximately 8 months

1982 recession – approximately 16 months

1974 recession – approximately 16 months

The Subcommittees gave reports of their earlier meetings.

- Mr. Cashin gave the report for the Evaluation and Simplification Subcommittee.

The subcommittee requested information on a breakdown of the documentary stamp tax revenue by category.

The subcommittee felt the insurance premium tax was difficult to revamp and difficult to increase compliance.

The subcommittee recommended that they get feedback from the industry regarding the impact of a cap on the documentary stamp tax on unsecured notes executed in Florida.

Commenting on the worthiness of all of the sales tax exemptions is too large in scope for this Task Force and would consume too much time relative to other aspects of taxation.

The subcommittee was in favor of the Streamlined Sales Tax Report.

- Mr. Miller spoke on behalf of the Taxes and Economic Growth Subcommittee and said they were now focused on helping the Evaluation and Simplification Subcommittee with its various issues.
- The Honorable Mr. Hilton spoke on behalf of the Constitutional Expenditure and Revenue Limitations Subcommittee and requested that Dr. Randall Holcomb of the FSU Economics Department speak to the Task Force.

Senate Finance and Taxation Committee staff provided data on the State revenue outlook and on the effect that the Economic Growth and Tax Relief Reconciliation Act of 2001 (the "Act") would have on the State of Florida as a result of the phased reduction and eventual repeal of the Federal estate tax in year 2010.

- The Act was written in such a way that it impacts Florida's estate tax on a much more accelerated timetable than the repeal of the Federal estate tax itself.
- The Federal estate tax credit for state estate taxes is reduced 25% in 2002, 50% in 2003, 75% in 2004 and eliminated in 2005.
- The estimated impact of H.R. 1836 on Florida's estate tax is as follows:

State Fiscal Year	Old Estimate	New Estimate	Loss in Revenues
FY 01-02	\$ 730.00	\$ 730.00	\$ 0.00
FY 02-03	\$ 766.50	\$ 613.20	\$ 153.30
FY 03-04	\$ 833.70	\$ 444.60	\$ 389.10
FY 04-05	\$ 906.20	\$ 241.70	\$ 664.60
FY 05-06	\$ 974.60	\$ 48.70	\$ 925.80
FY 06-07	\$1,022.20	\$ 0.00	\$1,022.20

Marshall Stranberg of the Department of Revenue presented information on the activities of the Streamlined Sales Tax Project. A write-up of his presentation is included in Appendix 1.

October 17, 2001 Full Task Force Meeting

The Task Force convened on October 17, 2001.

Dr. Randall Holcomb of Florida State University made a presentation on tax and expenditure limitations, which made the following points:

- Florida's current tax limitation is ineffective. Over time the limitation becomes less and less of a constraint because the allowable growth in the limitation far exceeds the growth in revenues.
- Other states have implemented tax or expenditure limitations; however most of these programs are also ineffective because of poor structural design.
- There are several ways in which a state can implement a tax or expenditure limitation. The program can either be adopted through voter referendum or by legislation. Voter referendum is more binding than legislation. A limitation on expenditures is more effective than a limitation on revenues.
- Some conditions that would strengthen Florida's limitation are;

Use the previous year's appropriation's base rather than the previous year's tax limitation as a premise to estimate future growth;

Assess the limitation on all revenues;

Estimate future revenue growth based on population and inflation rather than income.

Marshall Stranberg of the Department of Revenue gave an update on the Federal Internet Tax Freedom Act legislation.

- On the previous day (October 16, 2001), the U.S. House of Representatives had passed a bill which would extend until November 1, 2003 a moratorium preventing the taxation of Internet access and multiple and discriminatory Internet taxes. The three-year moratorium was scheduled to expire the following Sunday.

- There are four major pieces of House legislation and nine major pieces of Senate legislation proposed by the 107th Congress regarding the taxation of electronic commerce.
- The National Conference of State Legislatures (the "NCSL") supports the amended version of H.R. 1552, "The Internet Tax Nondiscrimination Act", as reported by the House Judiciary Committee, which would extend the moratorium for a two-year period and retain the grandfather clause which allows those states that imposed a tax on Internet access as of October 1, 1998 to continue to do so. The NCSL believes the two year moratorium would allow states time to simplify sales and use tax collection systems.
- The NCSL supports S.B. 1481, "The Internet Tax Moratorium Extension Act", which is similar to H.R. 1552.
- The NCSL opposes the majority of the House and Senate bills, believing they would be unfunded federal mandates imposed upon the States.
- The Center for Business and Economic Research presented updated estimates on State and Local Sales Tax Revenue Losses from e-commerce (authored by Donald Bruce, Assistant Professor of The University of Tennessee and William F. Fox, Professor of The University of Tennessee) based on the Forrester Research, Inc. e-commerce forecast.
- This report updated estimates of losses from e-commerce provided in 2000. In 2001, the updated study projected a 41% increase in lost revenue over the previous report primarily due to a higher forecast of e-commerce business-to-business transactions.
- "Total" e-commerce loss is the total sales and use tax loss due to all sales on the Internet. This includes sales that would not have been subject to sales tax anyway because purchases were made via telephone or catalog.

The total e-commerce estimated state and local government revenue loss for all states in 2001 is \$13.3 billion.

The total e-commerce estimated state and local government revenue loss for all states in 2006 is \$45.2 billion.

The total e-commerce estimated state and local government revenue loss for all states in 2011 is \$54.8 billion.

- "New" e-commerce loss is sales and use tax loss resulting from sales made through the Internet both on goods that would have otherwise been purchased from the over-the-counter method and projected new goods to be purchased over the Internet. In comparison to the "total" e-commerce

loss, all "new" e-commerce loss is attributable to transactions that otherwise would have been subject to sales and use tax.

The new e-commerce estimated state and local government revenue loss for all states in 2001 is \$7 billion.

The new e-commerce estimated state and local government revenue loss for all states in 2006 is \$24.2 billion.

The new e-commerce estimated state and local government revenue loss for all states in 2011 is \$29.2 billion.

In 2011, states are estimated to lose anywhere from 2.6 percent to 9.92 percent of their total state tax collections to total e-commerce losses.

- In general, the sales tax base has declined for several years relative to state personal income. The decline is due primarily to three factors:

E-commerce, catalog, telephone and cross-state shopping have all increased rapidly in recent years.

There has been a shift toward greater consumption of services and less consumption of goods.

Many states have increased the amount of legislative exemptions to their state's sales and use tax.

Next, Lisa Echeverri of the DOR outlined various legislative proposals to improve tax compliance and reduce administrative costs. These proposals have been adopted by the Task Force and are included in the recommendations of the Task Force.

- Sales Tax

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Waiver of fees for online registration.

Verification of entitlement of credit (i.e., provide statutory authority for DOR to require a report be submitted if dealer is claiming credit on sales and use tax return.

- Create local premium situsing database for Insurance Premium Tax
- Corporate Income Tax

Delete the requirement that corporations file a state informational return in the year they make a federal election.

Amend statute to clarify that interest is owed on underpayments from the original due date of the tax to the date the tax is actually paid, even if the deficiency is discovered during a federal audit.

- Documentary Stamp Tax

Repeal the documentary stamp tax on original issues of stock certificates.

Cap the amount of documentary stamp tax due on an unsecured note executed in Florida.

- Intangible Personal Property Tax

Repeal the requirement that corporations file a return when no tax is due.

Repeal the requirement that corporations file annual information returns regarding stock value and the related penalty provisions.

- Unemployment Tax

Change the due date for annual filing from April 1 to January 1 and change the delinquency date from April 30 to January 31. Amend the statute to allow most employers of domestic employees to file annually by removing some exceptions that exist under current law. Current state tax law filing dates do not allow employers to take full credit for payment of state unemployment taxes if they file their federal returns annually.

Senate Finance and Taxation Committee staff provided an update on the general revenue forecast based on the Revenue Estimate Conference held on October 15, 2001.

- Together with reductions from the estimating conference held on September 15, 2001, the new estimate of General Revenue collections has been reduced by \$1,317.5 million from the original estimate used to develop this year's appropriations act (i.e., a 6.6% reduction).
- Together with reductions from the estimating conference held on September 15, 2001, the new estimate of General Revenue collections for fiscal year 2002-2003 has been reduced by approximately \$783.5 million.
- The new estimate for the General Revenue/Working Capital Fund for the current fiscal year, together with other available funds, projects a \$928.5 million deficit without taking into account reserve funds of \$940.9 million in the Budget Stabilization Fund.
- The new estimate for the General Revenue/Working Capital Fund for fiscal year 2002-2003 is approximately \$19,595.2 million.

Next, Richard Hunt, Richard H. Hunt & Associates, P.A., gave a presentation on behalf of the Florida Tax Watch on Florida's participation in the Streamlined Sales Tax Project ("SSTP").

- Florida enacted qualifying legislation to participate in the SSTP in 2000, but was not listed as a participating state until 2001.
- The purpose of the SSTP is to (i) replace revenues lost to states as a result of the aftermath of the Quill case, (ii) reduce the administrative and economic burdens of collecting the tax and (iii) provide remote vendors with adequate and fair compensation for their collection activities and risks.
- The SSTP has approved a model act and agreement (the "SSTP Act and Agreement").
- The NCSL has also approved model legislation (such legislation, as amended, the "NCSL Amendment").
- Florida has relied on the NCSL Amendment and enacted the first 10 sections of the Simplified Sales and Use Tax Administration Act into law.
- As of August, 2001, 17 states, including Florida, are considered "Governing States" in the SSTP and 33 states are considered "Participating States". (6 of these 33 states are formal "Observers"). Collectively, 44 of the 50 states, including Florida, have signaled their commitment to work cooperatively toward sales and use tax simplification and to reduce the burdens of use tax compliance upon remote vendors by conforming their sales and use tax laws to norms adopted by voluntary reciprocal state action.
- Congress, in Senate Bill 512, the "Internet Tax Moratorium and Equity Act", which is supported by Senator Graham, has incorporated many ideas of the SSTP and the NCSL.

Finally, Randy Miller presented an overview to the Task Force of draft legislation entitled "Airline Economic Incentive and Stabilization Act" that Associated Industries of Florida is proposing be enacted into law at the October 22, 2001 Special Session.

- Commercial airlines are substantially cutting back nationwide routes.
- Florida needs to establish an incentive package so that it receives the highest level of airline service possible to support its tourism industry.
- The following proposals are suggested:

Abate the 6.9¢ per gallon aviation fuel tax effective immediately through July 1, 2003 (Florida's aviation fuel tax is the highest in the country).

Reinstate the proration provisions in former § 206.9825(2), F.S. for air carriers that utilize mileage apportionment for the corporate income tax.

Reinstate the fuel tax credit for air carriers offering transcontinental jet service that increase their workforce in Florida by 1000% and at least 250 employees, retroactive to July 1, 2001.

Remove sales tax on:

- Catering provided to commercial airlines.
- Crew and hotel rooms rented and leased by commercial airlines.
- Security services at airports.
- Airline ground support equipment.
- Airport construction.

November 14, 2001 Full Task Force Meeting

The full Task Force originally scheduled public forum meetings on November 13 and 14, 2001 to be held in South Florida, Central Florida and North Florida. However, in an effort to save costs appropriated to the State Tax Reform Task Force, the Commission voted to cancel the November 13th meeting and conduct the November 14th meeting as a public forum in Tallahassee.

The Task Force commission received public testimony from the following:

Sam Ard of the Florida Farm Bureau, who said:

- Most other states outside of Florida have a complete exemption from sales and use tax relating to the purchase of farm equipment used in farming activities.
- After September 11, 2001, the farming industry may be the largest revenue generating industry in the State of Florida.
- Currently, the farming industry is bearing the majority of the necessary increased costs to protect its crops from potential bioterrorist attacks.
- The Farm Bureau proposes that the sales tax exemption for food and pesticides as well as the partial exemption on farm equipment be continued.

Russell Hale, Akerman Senterfitt & Eidson, presented testimony on behalf of the Florida Bankers Association requesting that a limit be placed on the maximum amount of documentary stamp tax that would be imposed by the State of Florida on the execution of an unsecured note in the State of Florida.

- Currently, Florida imposes a documentary stamp tax at the rate of 35 cents per \$100 of consideration on unsecured bonds, certificates of

indebtedness, promissory notes and other financial instruments executed in the State of Florida.

- The documentary stamp tax is avoided if the financial instrument is executed outside of the State of Florida, including being executed in international waters. House Bill 1009 and Senate 2140 from the 2001 Legislative session would have capped the documentary stamp tax on all obligations of \$700,000 or more, resulting in a maximum tax of \$2,450.
- At this level, the Revenue Estimating Conference believed the cap would have a revenue neutral effect because many taxpayers would pay up to the \$2,450 cap rather than go through the additional time burden, extra record keeping and expense of travel outside of the state.
- The cap on the documentary stamp tax on unsecured obligations is being proposed as a revenue neutral proposal. The proposal could have a sunset provision and in the event it was later determined the cap had a revenue positive or revenue negative effect, the cap could be adjusted accordingly in later years.

Dominic Calabro, President and CEO of the Florida Tax Watch, also presented testimony regarding placing a cap on the imposition of the documentary stamp tax on unsecured obligations.

In addition, on November 7, 2001, Dominic Calabro, on behalf of the Florida Tax Watch, distributed A Report by the Center for a Competitive Florida dated April, 2001 (the "April Report") which further supported a \$2,450 documentary stamp tax cap on unsecured obligations executed in the State of Florida.

- The April Report stated that in addition to keeping transactions from leaving Florida, because 39 states have some form of documentary stamp taxation, financial transactions from other states could flow into Florida.
- The April Report did raise one concern with respect to the imposition of a cap on the documentary stamp tax on unsecured obligations with respect to the more than \$2.6 billion of revenue bonds issued by the State of Florida and payable from and secured by documentary stamp taxes.
- The April Report suggests that the bill sponsor request from the Division of Bond Finance a legal opinion from bond counsel that the bill would not constitute an impairment of the bondholders' contractual rights or otherwise create legal problems for the state on such bond issue or future bond issues.
- Florida TaxWatch does not believe the bill would create any impairment of the bondholders' rights but believes it would be prudent to get an

opinion to avoid potential future challenges or to make appropriate adjustments to secure the public benefits intended by the legislation.

Next, Members of the Task Force presented additional testimony. Representative Rob Wallace presented testimony of a Tax and Expenditure Limitation Bill that would amend Section 1 of Article VII and Section 21 of Article XII of the Florida Constitution to limit the state appropriations (excluding any portion spent from receipt of federal funds) for any fiscal year to the state appropriations (excluding any portion spent from receipt of federal funds) for the prior fiscal year plus the sum of the average of inflation and population change for each of the prior three years.

- State appropriations in excess of any fiscal year in excess of the state appropriations limitation would be transferred to the Budget Stabilization Fund until the fund reached its maximum balance and thereafter would be refunded to the taxpayers.
- The state appropriation limitation would not apply in any fiscal year in which the governor declared a state of financial emergency on the order of war, a natural catastrophe, an economic depression or an event of similar magnitude.
- Any suspension of the state appropriations limit would require a three-fourths vote of the membership of each house in a separate bill that contains no other subject matter.
- An adjustment to the appropriations limitations would be made to reflect the fiscal impact of transfers of fiscal responsibility between the states and other levels of government.
- The amendment to the state appropriations limitation would take effect at January 1, 2003 if adopted at the general election in November, 2002.
- The proposed state appropriations limitations would replace the existing limitation which limits increases of state revenue collected in any fiscal year to a growth factor equal to the average annual rate of growth of Florida personal income over the most recent twenty quarters.
- The prior limitation has proved completely ineffective in placing any meaningful limitation on the growth of state revenues.
- Representative Wallace displayed charts illustrating the lack of impact of the current state revenue limitation (a copy of which is attached as Exhibit A entitled Budget Population, Budget Per Capita and Family Income 1975-2001) and illustrating from 1975-1999, then per capita state budget increased approximately 5.4 times. The state budget as a portion of a Florida family of four income increased from approximately 3.56 percent

in fiscal year 1975-76 to approximately 5.669 percent in fiscal year 1998-1999.

- Exhibit B, Appropriations, Population and Inflation illustrates the difference in where the state appropriation limitation would have been over the last 25 years if such limitation would have been in effect.

The Honorable Charlie Hilton introduced language for a proposed House Joint Resolution which would limit:

- at the state level, the ability of any law enacted after January 1, 2002 to impose, expand the base of, increase the rate of, or repeal any exemption from any tax unless the law was enacted in a separate bill for that purpose only by a two-thirds vote of the membership of each house of legislature, and
- at the local level, any county, school district, municipality or special district from imposing, expanding the base of, increasing the rate of, or repealing an exemption from tax unless enacted in a separate local rule or ordinance for that purpose only by a vote of a majority plus one of the membership of the respective board, council or commission.

Senate President John McKay presented the Commission with a copy of a speech he gave regarding his plan for reforming Florida's tax structure.

- Florida's tax system is an antiquated system that was developed in the 1949 legislature and needs modernization.
- The current system doesn't mirror Florida's current economy, is too subject to economic fluctuations and is not capable of meeting Florida's long-term needs.
- In 2002, Florida will collect approximately \$17 billion from sales and use tax, but will exempt \$23 billion from collection. The exemption portion of the sales and use tax is growing at a faster rate than the collections portion.
- In 1964, the sales tax applied to approximately 68 percent of Florida's economic activity. Today, it applies only to approximately 55 percent.
- Many sales tax exemptions do not make sense and merely protect special interests.
- Senator McKay's proposal includes a constitutional amendment to decrease the state sales tax rate from 6% to 4% and yet maintain the same level of revenue by broadening the base through the repeal of a variety of current exemptions.

- There should be no sales tax on groceries, residential rent, health care services, prescription drugs or basic residential telephone service.
- Elimination of the "by-the-drink tax", "hospital bed tax", and intangibles tax.
- Tax on commercial utilities lowered from 7% to 4%.
- Protection against increases in sales and use tax rate. Any amendment to increase the rate would require a 3/5 vote of both legislative houses.
- Any new exemption will require 3/5 vote of both legislative houses.
- Taxation of services.
- Revenue growth must maintain neutrality for the first three years. After that, if revenue grows at a faster rate than it would have under the old sales tax base, the legislature would have the option to rollback the sales tax to compensate for growth.

The Commission then focused on preparing the draft of the Final Report to the legislature. Various recommendations to be included in the report were as follows:

- Cap the amount subject to the documentary stamp tax imposed on unsecured notes executed in Florida.
- By a 7/1 vote, the Task Force agreed to recommend language proposed by Representative Rob Wallace and the Honorable Charlie Hilton to limit the growth of state appropriations.
- Recommend Florida continue its participation in the SSTP, even though the moratorium on taxing e-commerce is in effect.
- Recommend that the legislature use the principals of a good tax system developed by the Task Force as a guideline in evaluating Florida's tax structure in the future and, in particular, in evaluating the merits of the various sales and use tax exemptions.
- Recommend that when the economy gets better, the current trend to repeal the intangibles tax and the "by-the-drink tax" be continued.
- Recommend the DOR's recommendations for improving compliance and administration discussed in the October meeting be adopted.
- Recommend that the DOR institute procedures to be consistent in its tax administration.

November 27th Steering Committee Meeting.

On November 27, 2001, the Steering Committee met to discuss and review a proposed 1st draft of the proposed recommendations of the State Tax Reform Task Force. Randy Miller, Ken Cashin, Jane Houk and Senate Finance and Taxation Committee staff attended. The Committee adopted the proposed first draft with minor stylistic changes.

December 12, 2001 Full Task Force Meeting

The State Tax Reform Task Force met on December 12, 2001. Susan Langston, Executive Director of the Florida Telecommunications Industry spoke endorsing a memo written by Frank Meiners of BellSouth that called for the rollback of the sales tax rate on commercial telephone service from 6.8% to 6% and the rollback of the sales tax rate on commercial electricity from 7% to 6%. The proposal would roll back these taxes at a time when the State has sufficient revenue to do so, similar with the State Tax Reform Task Force's recommended timing on the repeal of the Intangibles Tax, the Alcoholic Beverage Surcharge and the Health Care Assessment. The Task Force later voted to approve this proposal and include it in the Final Report. The Task Force approved the following recommendations for inclusion in the final report:

Proposal #1: Cap documentary stamp tax on unsecured notes.

Senate Finance and Taxation Committee Staff provided data that the tax cap of \$2,450.00 (i.e., not taxing any unsecured loan amount in excess of \$700,000) was estimated to be revenue neutral at the February 9, 2001 revenue estimating impact conference. It was further recommended that the DOR and the legislature should monitor and review the capped amount in the future to work toward providing a revenue neutral reduction in the tax.

Proposal #2: Constitutional Amendments to Limit State Appropriations, Limited Legislative Authority to Increase Taxes and Limit Local Authority to Increase Taxes.

The Task Force recommended the breakout of the three proposals into three separate issues: 1) the limitation on state appropriations, 2) the limitation on the legislature's authority to increase taxes and 3) the limitation on local government's ability to increase taxes into three separate proposals.

The proposed version regarding limiting local government's authority to increase taxes required a three-fifths vote of the membership of the applicable local authority to pass any local rule or ordinance that imposes new taxes or increases taxes was amended. The "three-fifths vote" was changed to a "majority plus one vote".

Randy Miller stated that the proposal regarding limiting local government's authority may be beyond the scope of the Task Force because it deals with local taxing authority issues and the Task Force has not had a local hearing on this.

Proposal #3: Streamlined Sales Tax Project.

Senate Finance and Taxation Committee staff provided an update on the taxing of e-commerce and sales. The moratorium on taxing e-commerce expired October, 2001, but has been extended two years.

Marshall Stranberg attended the last SSTP commission meeting on behalf of the State of Florida. At such meeting, bylaws were adopted and the commission is scheduled to bring back guidelines by the 2003 legislature.

The Task Force adopted Proposal #3, which states that the Task Force's recommendation is that the State of Florida continue to actively participate in the SSTP.

Proposal # 4: Evaluation of Tax Exemptions Using Task Force Criteria.

This proposal sets forth the six principles of taxation that the Task Force adopted as governing provisions in the evaluation of any future review of the state's tax structure or the review of current or proposed tax exemptions or any proposal of any appropriate reduction in the tax rate. The proposal was amended to include the following statement: "The Task Force believes that any revision or amendment to the Tax Code should conform to these principles and further recommends that the tax and spending limitations suggested by the Task Force be enacted prior to any attempt at major tax reform."

Proposal # 4 was moved to the front of the Final Report, linking back to the enabling legislation and contains language that this proposal is the Task Force's response to the matters set forth in the enacting legislation.

Proposal #5: Repeal of the Intangibles Tax

The Task Force voted unanimously to recommend to the legislature that it make a commitment to continue the elimination of the intangibles tax when economic times improve.

Proposal #6: Repeal of the Alcoholic Beverage Surcharge

The Task Force voted unanimously to recommend to the Legislature that it make a commitment to continue the elimination of the alcoholic beverage surcharge tax when economic times improve.

Proposal #7: Repeal of the Health Care Assessment on Hospital Outpatient Services

The Task Force voted unanimously to recommend to the Legislature that it make a commitment to continue the elimination of the health care assessment on hospital outpatient services tax when economic times improve.

Proposal #8: Tax Compliance

The Task Force reviewed the DOR's recommendations on tax compliance, simplification and administration and adopted all such recommendations unanimously.

Proposal #9: Encourage Consistency with the DOR

The Task Force voted unanimously to adopt a proposal amending §213.015, F.S., the "Florida Taxpayer's Bill of Rights" to provide Florida taxpayers with the right to fair and consistent application of Florida tax laws by the DOR.

Buddy Thurman, Executive Director of the FICPA, and Jennifer Jankowski Green of the FICPA, reviewed the first draft of the Final Report and said the FICPA's was generally complimentary of the proposals and had no other recommendations.

It was recommended that a generic reference be added to the beginning of the Final Report that the Task Force reviewed the legislative act which created it and the Task Force believes, given its timeframe and resources, it has used its best efforts to address the intent and spirit of the legislative act.

Appendix 1

Streamlined Sales Tax Project

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The Project's proposals will incorporate uniform definitions within tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. The Streamlined Sales Tax System is focused on improving sales and use tax administration systems for both Main Street and remote sellers for all types of commerce.

Thirty-eight states are currently involved in the project. Thirty-three states are voting participants in the project because their legislatures have enacted enabling legislation or their governors have issued executive orders or a similar authorization. Five states are non-voting participants in the work of the project because they do not have the formal commitment of the state executive or legislative branches.

The project has addressed its issues through a steering committee and four work groups: Tax Base and Exemption Administration; Tax Rates, Registration, Returns and Remittances; Technology, Audit, Privacy and Paying for the System; and Sourcing and Other Simplifications. Businesses—including national retailers, trade associations, manufacturers, technology companies, and others--have actively participated in Project meetings by reviewing proposals and providing feedback to the states on key elements of the new system.

The key features of the Streamlined Sales Tax System include:

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- Uniform definitions within tax bases. Legislatures still choose what is taxable and exempt but will use the common definitions for key items in the tax base.
- Simplified exemption administration for use- and entity-based exemptions. Sellers are relieved of the "good faith" requirements that exist in current law and will not be liable for uncollected tax. Purchasers will be responsible for incorrect exemptions claimed.
- Rate simplification. States will be responsible for the administration of all state and local taxes and the distribution of the local taxes to the local governments. State and local governments will use common tax bases and accept responsibility for notice of rate and boundary changes. States will be encouraged to simplify their own state and local tax rates.
- Uniform sourcing rules. The states will have uniform sourcing rules for all property and services.
- Uniform audit procedures. Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have a limited scope audit, depending on the technology model used.
- Paying for the system. To reduce the financial burdens on sellers, states will assume the responsibility for implementing the Streamlined Sales Tax System.

Participation in the system by both vendors and states is voluntary. Also, registration by vendors in the Streamlined Sales Tax System does not infer nexus for business activity or income tax purposes.

The Streamlined Sales Tax System will provide sellers the opportunity to use one of three technology models. A seller may select Model I where a Certified Service Provider performs all of the seller's sales tax functions. A seller may select Model 2, a Certified Automated System, to perform only the tax calculation function. A larger seller with nationwide sales that has developed its own proprietary sales tax software may select Model 3 and have its own system certified by the states. However, some sellers may choose to continue to use their current systems and still enjoy the benefits of simplification.

On December 22, 2000 state representatives to the Streamlined Sales Tax Project voted to approve a Uniform Sales and Use Tax Administration Act and Streamlined Sales and Use Tax Agreement. State legislatures began considering the Act and Agreement in January 2001.

The approval of the Act and Agreement provides the basis for states to enact legislation to provide the benefits of simplification to vendors in their state. However, the Project will continue its work throughout 2002 to incorporate additional elements into the system. These elements may include additional uniform definitions, a uniform tax return, and revisions to the technology models based upon information gained through the testing of tax collection software. The Project has completed a handful of issue papers relating to uniform definitions and other features of the Streamlined Sales Tax System. The Project plans to complete remaining issue papers by the end of this year.

As of January 1, 2002, thirty states plus the District of Columbia have introduced legislation dealing with simplification. Streamlined legislation has been enacted in twenty states and the District of Columbia.

Participating States (33)

Alabama

Nevada

Arkansas North

Carolina

Florida

North Dakota

Illinois

Ohio

Indiana

Oklahoma

Iowa

Rhode Island

Kansas

South Carolina

Kentucky

South Dakota

Louisiana

Tennessee

Maine

Texas

Maryland

Utah

Michigan V

ermont

Minnesota

Washington

Mississippi

West Virginia

Missouri

Wisconsin

Nebraska

Wyoming

New Jersey

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Observer States (5)

Connecticut

Georgia

Idaho

New York

Pennsylvania

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States That Enacted Legislation in 2001 (20) (Plus the District of Columbia)

Arkansas

Nevada

Florida

North Carolina

Illinois

North Dakota

Indiana

Oklahoma

Kentucky

Rhode Island

Louisiana

Tennessee

Maryland

Texas

Michigan

Utah

Minnesota

Wisconsin

Nebraska

Wyoming

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Uniform Definitions Being Developed

Food

Prepared Food

Soft Drinks

Candy

Vending Machines

Medical Equipment

Drugs

Clothing

Tangible Personal Property

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- Software

- Digital Products

Lease and Rental

Purchase Price

Sales Price

Retail Sale

Bundled Transactions

Bad Debts