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Organizational Meeting

Sales Tax Study Commission

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SALES TAX STUDY COMMISSION
ORGANIZATIONAL MEETING

DATE: December 1, 1986

TIME: Commenced at 10:38 a.m.
Concluded at 12:14 p.m.

PLACE: Cabinet Meeting Room
Lower Level
Capitol Building
Tallahassee, Florida

REPORTED BY: JULIE L. DOHERTY
Court Reporter

*W. Paul Rayborn
and Associates*

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A P P E A R A N C E S

SENATOR BOB JOHNSON	REPRESENTATIVE JIM BURKE
SENATOR GWEN MARGOLIS	REPRESENTATIVE SAM BELL
MR. RANDY MILLER, CHAIRMAN	REPRESENTATIVE BUD GARDNER
MR. CASS VICKERS	MS. MARTHA BARNETT
MS. SUSAN LEISNER	MR. JADE MOORE
MS. KAREN WOODALL	MS. ELAINE ALVAREZ
MR. KEN STEWART	MR. STEVE DEMONTMOLLIN
MS. KATHRYN KRAUSE	MR. STEVE UHLFELDER

I N D E X

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NOMINATIONS

OPENED
CLOSED

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5

REMARKS BY:

MR. EVERTON
MR. TOWNSEND
DR. FRANCIS
MR. KIELBASA

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10
16
19

CERTIFICATE OF REPORTER

70

P R O C E E D I N G S

CHAIRMAN MILLER: My name is Randy Miller and I'm the Executive Director of the Department of Revenue. And I'd like to welcome all these Commission members on such a short notice. It's an indication of your willingness to serve. And I want to apologize to you for the lateness, but it was unavoidable. In addition, this was the only room available today so we'll try to make for better arrangements in the future.

What we want to do today is first of all introduce the Commission. And I'll -- if you'll just indicate by raising your hand so that everybody will know who you are.

We'll start over with Senator Gwen Margolis, Senator Bob Johnson, Representative Jim Burke, Representative Sam Bell, Representative Bud Gardner.

Miss Elaine Alvarez, Miss Martha Barnett, Mr. Steve DeMontmollin, Miss Rosario Kennedy (not present), Miss Kathy Krause, Miss Susan Leisner, Mr. Jade Moore, Mr. Ken Stewart, Mr. Steve Uhlfelder, Mr. Cass Vickers, Miss Karen Woodall.

Thank you.

Charles Cobb and Phil Handy of Governor-elect Martinez' transition team were not here today. They had prior commitments and expressed their sorrow of not

1 being here, but will be at the next meeting.

2 At this time, I've just sort of informally
3 chaired this. We need to take some nominations for the
4 chairmanship and vice-chairmanship.

5 So, what we'll do right now is open the floor
6 for nominations for chairman.

7 SENATOR MARGOLIS: Mr. Chairman, I nominate
8 Mr. Chairman, Mr. Randy Miller.

9 MS. BARNETT: Second.

10 CHAIRMAN MILLER: Thank you. Are there any other
11 nominations?

12 (No response)

13 CHAIRMAN MILLER: Thank you. All in favor say aye.

14 (Respond affirmatively)

15 CHAIRMAN MILLER: By your vote I think it's
16 all unanimous.

17 Now, we need a nomination for vice-chairman.

18 MS. ALVAREZ: I'd like to nominate
19 Representative Sam Bell.

20 REPRESENTATIVE BELL: Thank you. I'd rather
21 decline. Isn't there a script on this?

22 (Laughter)

23 REPRESENTATIVE BELL: In the House, we have it
24 planned in advance.

25 CHAIRMAN MILLER: My script says if you're not

1 elected, get up.

2 (Laughter)

3 REPRESENTATIVE BELL: I appreciate this, but I
4 think maybe --

5 SENATOR MARGOLIS: I nominate Martha Barnett.

6 REPRESENTATIVE BELL: Yes.

7 CHAIRMAN MILLER: And seconded.

8 Any other nominations?

9 REPRESENTATIVE BELL: I move the nominations cease.

10 CHAIRMAN MILLER: All in favor.

11 (Respond affirmatively)

12 CHAIRMAN MILLER: Martha Barnett is vice-chairman.

13 Okay. Moving right along, what I would like to
14 propose at this time is, as you know, some of you know,
15 Chapter 86-166 provided about \$300,000 in funding to
16 fund this Commission.

17 The Department of Revenue and the Executive Office
18 of the Governor have split that money and the Department
19 of Revenue has been engaging in consulting services
20 with its money. And we'll hear later on some reports
21 on those consulting services.

22 But the Bill also allows for the appointment of
23 staffing, an executive director, and any other staff
24 that may be necessary.

25 The Department of Revenue staff stands willing to

1 assist in this effort. Therefore, I see that we
2 probably need to hire an executive director to coordinate
3 and maybe a couple of staff. We only have about
4 \$119,000 to do this with.

5 What I would recommend at this time is if the
6 Commission would grant the Chairman the authority to
7 publish a vacancy which will be under OPS within the
8 next ten days, and then to hire someone to work for the
9 Commission to do the organizational and correspondence
10 and that type of thing.

11 If I could get that authority, I will assure you by
12 the next time we meet we will have someone.

13 REPRESENTATIVE GARDNER: I will make the necessary
14 motion.

15 REPRESENTATIVE BURKE: Second.

16 CHAIRMAN MILLER: So, without objection, we will
17 by next meeting have an executive director.

18 And does anybody have any problem with the salary
19 we negotiate or would that also be left open? Anybody?

20 (No response)

21 CHAIRMAN MILLER: Okay. Thank you very much.

22 We'll move on. To those uninitiated in state
23 government, we have some housekeeping things to take care
24 of right now. Those who are familiar with state
25 government know about travel reimbursement.

1 But at this time, I'd like to have John Everton
2 from our staff come to the well and explain to the
3 Committee members what they need to do for travel
4 reimbursement.

5 John is the assistant director of our Division of
6 Technical Assistance and he will explain to you -- in
7 this packet, there is some travel reimbursement forms.

8 (Pause)

9 MR. EVERTON: I'll make it as short and sweet as
10 possible. The State being a bureaucracy, there are
11 several things that are required for reimbursement of
12 expenses. Those of you involved with the Legislature
13 won't have any problem with it. You're very familiar
14 to it.

15 Basically, there are three types of travel that
16 are eligible for reimbursement by the funds that have
17 been appropriated for this Study Commission.

18 There's a Class A travel, which is continuous
19 travel of 24 hours or more away from your official
20 headquarters.

21 Now, each of you, your official headquarters
22 would be the city or location of your home office of
23 your business or if you're in business for yourself,
24 then your home residence.

25 Class B travel is travel -- continuous travel of

1 less than 24 hours which does involve an overnight stay
2 away from your official headquarters.

3 Class C travel is a short day trip, which some of
4 you will probably be making that type of trip today.

5 There are two -- you have two options for
6 reimbursement of expenses. One, you may go on an actual,
7 daily per diem, which is applicable only to Class A and
8 Class B travel, which is \$50 per day. This is at your
9 option.

10 In other words, you can be given \$50 per day for
11 every 24-hour continuous period away from your official
12 headquarters. And you would be allowed up to that
13 \$50 and nothing more.

14 At your option, you may elect to go with the actual
15 expense of lodging, which would be reimbursement for
16 the cost of your accommodations, plus a daily meal
17 allowance, which totals \$21 a day. That's \$3 for your
18 breakfast, \$6 for lunch, and \$12 for your dinner.

19 There are other expenses that also will be
20 covered; such as, any taxi fares, bridge, road or tunnel
21 tolls, any storage or parking fees, airport limo service,
22 any kind of communication expenses that are directly
23 related with the function and purpose of this Study
24 Commission.

25 Also, in your package I have also attached here to

1 assist you in filling it out is a copy of a Form C-676
2 which is authorized and recognized by the Comptroller's
3 Office. There are some included in your package.

4 It will be necessary to fill those out, original
5 and three. And there is the address in the packet to
6 the Office of the Governor, Attention Dr. Karen Walby.
7 All these expense vouchers will be processed through
8 her office.

9 It's important to remember when you are submitting
10 those for reimbursement that you attach any copies of
11 receipts if you're going on actual expenses. That will
12 be copies for every expense for paid parking, receipts
13 for hotel accommodations, anything of that nature.

14 If you have any questions on anything pertaining
15 to this package or actually filling out these expenses,
16 you may either contact Dr. Walby's business office or
17 I will be available and happy to assist you in any way
18 that I can.

19 Thank you.

20 CHAIRMAN MILLER: Thank you, John.

21 Over the last several months, several of our
22 employees from the Department of Revenue and the Office
23 of the Governor have been working on this project.

24 And what I would like to do at this time is
25 introduce those people so that when they -- you will

1 recognize who they are.

2 First is Dr. Karen Walby, State Economist, from
3 the Executive Office of the Governor. Karen, would you
4 stand up, please?

5 Thank you.

6 Next is Bill Townsend, our General Counsel from
7 the Department of Revenue. Thank you, Bill.

8 Next is Dr. Jim Francis. Most of you know Jim.

9 Next is Jeff Kielbasa, Deputy General Counsel for
10 the Department of Revenue.

11 And Buzz McGowan, technical assistant, in our
12 office. Thank you.

13 At this time, I am going to ask Bill Townsend to
14 step to the well and give us an overview of Chapter 86-166,
15 a synopsis of what we're going to be looking at.

16 MR. TOWNSEND: Before I start, there are a couple
17 of housekeeping things. Any of you who want to change
18 your addresses from what are in your packets, please let
19 me know after the meeting is over. Senator Margolis has
20 already requested a change. Any of the rest of you who
21 want it mailed to a different place, please let me know.

22 Secondly, Dr. Walby has some cards that you all
23 need to fill out.

24 And, thirdly, for the Press, there are press
25 packets similar to the packets that each of the members

1 of the Commission have been given. Celia, if you'll
2 raise your hand. They're in a briefcase right next to
3 Celia Johns.

4 Those are my short housekeeping --

5 (Pause)

6 MR. TOWNSEND: I guess I should have said after
7 the meeting they can pick up the packets.

8 Okay. Dealing with growth in Florida is not new
9 to the Legislature. In 1949, as a response to demands
10 for governmental services occasioned by post-war growth,
11 the Legislature promulgated the Florida Revenue Act of
12 1949. This was the sales and use tax. Fundamentally, the
13 tax has remained unchanged since its original enactment.

14 The sales and use tax is levied in four major
15 categories: transient rental accommodations, rentals
16 of real property, admissions, and retail sales of
17 tangible personal property. There is a school of
18 thought in the State which holds that a fifth category
19 has existed since July of this year when the Legislature
20 imposed the tax on licenses for the use of real property
21 unconnected with rentals.

22 To make sure there's no duplicating or pyramiding
23 of the tax, Chapter 212 provides an exemption for
24 items purchased for resale and for raw materials or
25 items purchased and incorporated into a finished product.

1 Certain types of services including utility and
2 telecommunications services, information services,
3 laundry, dry cleaning and upholstery cleaning services
4 are now specifically taxed under Chapter 212. For the
5 most part, however, services under Chapter 212 are exempt
6 from taxation unless the service is a part of the sale
7 of taxable tangible personal property and involves the
8 labor service to repair taxable tangible personal
9 property or freight charges to deliver the same kind of
10 property.

11 Two major types of sales that are not subject
12 to tax either as a result of the definition of taxable
13 sales or by specific exemptions in the Act are those
14 classes of goods such as the occasional or isolated
15 sale by one individual to another when neither is in the
16 business of selling those goods at retail. There is an
17 exception in that for the sale of boats, automobiles,
18 aircraft and mobile homes. Packaging materials that are
19 used only once are exempted. Tangibles like stocks
20 and bonds are examples of this type of exemption.

21 The second major exemption type consists of items
22 which are outright exempt from the tax, exempt based
23 on the account of the use or exempt because of whom they
24 are sold to or who they're used by. This type of
25 exemption is typified by sales of the United States flag,

1 certain boiler fuels which Martha is eminently familiar,
2 seed, fertilizers, machinery and equipment used in a new
3 or expanding business. Until July 1 of 1987, personal
4 and professional services will continue to be exempt
5 because they fall under this category.

6 All transactions involving sales and leases to the
7 state or federal government are exempt. Sales to or by
8 churches or youth organizations are exempt.

9 Although the tax under 212 is computed on the
10 sales price of the item, it is not a tax on the item
11 itself, but rather it is a tax upon the privilege of
12 doing business. The use tax is likewise imposed upon
13 the privilege of using, storing or consuming property
14 in this state. As with all such taxes, the use tax is
15 construed to be a complement of the sales tax. Without
16 the use tax, local businesses would suffer from
17 out-of-state mail order sales and substantial tax revenue
18 would be lost to the State.

19 Other operative sections of Chapter 212 are
20 designed to prevent duplication or pyramiding of the tax.

21 I have not dealt with a lot of sections in 212
22 which relate to the auditing functions, the collection
23 function. And I'd like to give you just a little
24 overview of where we are now.

25 Currently, there are approximately 382,700 active

1 sales tax registrations in the state. When Chapter 86-166
2 becomes law, it is possible for this number to increase
3 to an amount in excess of one million registrations. And
4 if a use tax is imposed upon services, the number could
5 raise to more than four million, based on current
6 projections.

7 Whenever the need for more governmental services has
8 been sensed in the past, the Legislature has generally
9 responded by raising the tax rates. Chapter 86-166,
10 which many industries regard as something akin to a
11 nuclear holocaust, however, is a landmark response to
12 the question of funding the dramatic growth that has and
13 continues to occur in our state. Instead of raising the
14 tax rate, the Legislature removed all of the exemptions
15 thereby broadening the tax base.

16 Under the terms of 86-166, all services become
17 taxable on July 1. Certain other exemptions dissolve
18 at that time also. Preliminary estimates of the changes
19 which will occur over the next two years as a result of
20 this Act show an increase in revenue of approximately
21 \$1.3 billion.

22 Recommendations concerning which of the exemptions
23 should not be subject to Sunset are the responsibility
24 of this Committee.

25 That's generally where we are.

1 CHAIRMAN MILLER: Any questions?

2 REPRESENTATIVE BELL: Just one question. I may have
3 not understood what you said, but you said, when that
4 becomes law, I believe -- when the Bill repealing the
5 Sunset becomes law. It is my understanding it has already
6 become law.

7 MR. TOWNSEND: What I meant was when it goes into
8 effect July 1 of '87. It has already been passed and
9 signed by the Governor.

10 REPRESENTATIVE BELL: You did say, when it becomes
11 law; didn't you?

12 MR. TOWNSEND: I believe that is what I said.

13 REPRESENTATIVE BELL: I think we need to understand
14 it is law.

15 MR. TOWNSEND: Yes, sir.

16 CHAIRMAN MILLER: Yes, it is. It is the law. The
17 effective date of the Sunset is July 1, '87.

18 REPRESENTATIVE BELL: Unless the Legislature should
19 otherwise act.

20 CHAIRMAN MILLER: That is correct.

21 REPRESENTATIVE BELL: And that's both Chambers of
22 the Legislature.

23 CHAIRMAN MILLER: That's right.

24 (Laughter)

25 CHAIRMAN MILLER: Correct. Are there any other

1 questions of Mr. Townsend? Any committee members have
2 any other questions?

3 (No response)

4 CHAIRMAN MILLER: I think you can see --

5 MS. KRAUSE: Are we going to get some sort of
6 listing of how the different dollars are going to be
7 spent and what the results are?

8 CHAIRMAN MILLER: Yes, you will get that. This is
9 just an overview for you to let you know the broad scope
10 of what we're dealing with. It's quite large.

11 At this time, I'd like to call on Jim Francis to
12 give a report on the consultants' reports that we've
13 entered into. And he's been working closely with them.
14 That is some of the financial information that you were
15 asking about.

16 DR. FRANCIS: As mandated in the General
17 Appropriations Act passed by the Legislature last year,
18 the Department of Revenue is to conduct studies
19 examining the administration, the legal and revenue
20 implications of all the Sunset exemptions.

21 We have farmed out two portions of this study to
22 private consulting firms. One deals with some of the
23 legal issues and we'll have a presentation on that
24 momentarily.

25 The other deals with some of the pieces we need to

1 produce a reliable and we think an airtight estimate
2 of revenues under this proposal.

3 There are three linchpins in developing a set of
4 estimates regarding services. The first is to have
5 gross receipts by industry within Florida. And for that
6 we go to the economic census, the geographic area series
7 for Florida that is published every five years by the
8 United States Department of Commerce. It's a compre-
9 hensive survey of all the business entities across the
10 nation, and as I said there is a separate series for
11 business locations within the State of Florida.

12 The second is payroll data, including payroll
13 growth from the last economic census to the current
14 period. For that, we rely on data collected by our
15 own Department of Labor and Employment Security.

16 The third linchpin is detailed information on
17 exactly how those affected businesses operate. The
18 economic census treats business as monoliths. They're
19 categorized by their primary business activity, but
20 of course many of the businesses already affected by
21 this bill do -- may be taxable already.

22 For this third element, we have contracted with
23 the public accounting firm of Cooper and Lybrand.
24 Their study will tell us the sources of receipts for each
25 of 61 major business categories and a number of

1 subcategories within that. The uses of receipts,
2 whether there is a multi-state in any of these
3 categories of receipts, whether there are any receipts
4 that resulted from inner corporate transactions, whether
5 there are any receipts from barter transactions or other
6 nonmonetary transfers of materials that are already
7 taxable, what value is added by each of these business
8 categories, and finally what sales are delineated by
9 the businesses themselves as service charges, fees and
10 commissions.

11 Ultimately, when the data is put together with the
12 other data we have available, a set of proposals will be
13 reviewed by a formula that is set up known as the
14 Revenue Estimating Conference. That group agrees on all
15 estimates of proposed revenue or proposed exemptions in
16 Florida as well as the revenues from an existing tax
17 basis.

18 And we expect to have a revised set of estimates
19 for you and finalized by late February. There are
20 tentative estimates that are already existing that are
21 published in the booklets called, Florida Tax Sources,
22 which we'll be happy to provide you with.

23 Tentatively, or at least the current estimates
24 which will be reviewed provide for the following kind
25 of receipts from all Sunset exemptions in terms of cash

1 monies, which money will be occurring for expenditures
2 in the budget year of 1987-88. The estimate is general
3 revenue receipts, of \$897 million.

4 For the second year, the biennial fiscal year of
5 '88-89, the estimated cash receipts show general revenue
6 of one billion three hundred and roughly 71 million.

7 CHAIRMAN MILLER: Any questions?

8 (No response)

9 CHAIRMAN MILLER: Thank you, Dr. Francis.

10 Next is Mr. Jeff Kielbasa.

11 MR. KIELBASA: Members of the Commission, my name
12 is Jeff Kielbasa and I'm here to discuss the legal
13 consultants that the Department of Revenue has engaged
14 to study the legal problems associated with the Sunset
15 of the sales tax exemptions.

16 As indicated before, the Legislature has appropriated
17 funds for us to conduct this study and we've engaged the
18 services of Morrison and Foerster, a law firm, and
19 Professor Walter Hellerstein, and Prentiss Willson.
20 They were deemed to be experts in the area of sales and
21 local taxation.

22 They began about a month ago to get into the
23 problem. We have negotiated with them a method of
24 tackling the problem. It's a broad problem and the way
25 we have them going right now is to, as the Legislature

1 indicated, take a look at those problems. And we
2 indicated that they did it in a functional basis, by
3 whenever they enter into a discussion of a problem for
4 some area of the tax, to go ahead and talk about it in
5 terms of statutes that exist now and interface it with
6 some suggested language that would explain or elaborate
7 on the considerations.

8 Following this, we're having them produce the
9 general report on the tax itself as it exists in the
10 country, legal aspects of this.

11 Additionally, they will produce a report on any
12 and all constitutional issues raised by the tax,
13 responding formally to it and responding to general
14 questions that the Department has been asking them
15 concerning the tax itself.

16 This report is targeted to be due December 31.
17 And then we will incorporate it in a general report that
18 the Department will put together sometime in February of
19 next year, 1987.

20 From my understanding, the legal consultants will
21 be concerned with the technical, legal aspects of the
22 tax, and as Bill Townsend indicated, this Commission
23 will be concerned with the public policy, with the fiscal
24 impact and those kinds of things. We have not asked the
25 lawyers to tell us what is a good tax, what is a bad tax,

1 what is a good or bad way of doing it, but simply to
2 concentrate on the legal aspects.

3 And I believe the significance of that will be
4 to allow individuals who then will look at what is there
5 and what is done to be better able to make decisions
6 concerning the imposition of the tax and how it will
7 function within 212 as it exists right now.

8 Any questions?

9 REPRESENTATIVE GARDNER: I have several questions.

10 If the Department of Revenue is not going to have
11 this report available until sometime in February --

12 MR. KIELBASA: No, we'll have the report by the
13 end of next month.

14 REPRESENTATIVE GARDNER: You mentioned a February
15 date.

16 MR. KIELBASA: The Department is going to put
17 together a final report based on all the consultants'
18 studies and the work we're doing. And we hope to get
19 it out by the end of February.

20 REPRESENTATIVE GARDNER: My concern is the
21 complications of developing a bill in time for
22 consideration by both the Senate and the House in the
23 event --

24 MR. KIELBASA: Well, if the Senate and the House
25 need it, we'll make it available when they need it, as

1 soon as it can be. We just have a time frame scheduled
2 to work on it and go with it, but we expect a report by
3 the end of this month.

4 REPRESENTATIVE GARDNER: Do you think that in the
5 absence of substantive legislation, that the Department
6 would promulgate a rule based on the existing law, the
7 Sunset Law that was passed this past session and other
8 laws that are on the books to handle legal problems
9 that might develop with the Sunset?

10 MR. KIELBASA: We've engaged in and developed some
11 rules. I believe we can and we've been setting up some
12 initial drafts of rules to implement the tax as it
13 exists.

14 REPRESENTATIVE GARDNER: So, the feeling is that we
15 would not be hamstrung by inaction on the part of the
16 Legislature?

17 MR. KIELBASA: I don't know if I can predict in
18 that regard. I will say that we have and I've asked
19 the consultants to specifically look at it. We do have
20 a tax as Representative Bell indicated and we can act on
21 it. And we're taking steps to do that.

22 I think what I want the consultants to do is, if
23 they're talking about specific problems or ways of
24 taxing or better ways of doing it or fixing a flytrap a
25 little better, to not talk about it in a way that leaves

1 me hanging there with the responsibility of coming back
2 and saying, okay, how are we going to do that?

3 So, we said, what we're talking about is going
4 into the statute as it exists now and find other ways of
5 handling problems and dealing with things and suggest
6 how we can do it, if we want.

7 But right now, we have no anticipation of any
8 legislation. We're taking a look at what we have and
9 going forward with it.

10 REPRESENTATIVE GARDNER: One last question.

11 MR. KIELBASA: Sure.

12 REPRESENTATIVE GARDNER: In the area of services,
13 which is the big bulk of this whole thing, will there
14 be any differentiation made between in-house services and
15 out-house services?

16 MR. KIELBASA: Well, yes, I think there certainly
17 is. I think we're taking a look right now at the notion
18 that there is a significant difference between two types
19 of animals. Exactly how it will all wash out, I'm not
20 certain yet, but that is part of the study as to what
21 the legal significance of it is.

22 And that will be part of the report.

23 CHAIRMAN MILLER: Mr. Vickers?

24 MR. VICKERS: I want to follow up on one of
25 Representative Gardner's questions.

1 Isn't one of the issues -- the legal issues that
2 you're having the consultants look at, the legality,
3 constitutionality of 86-166 if no implementing
4 legislation were enacted?

5 MR. KIELBASA: Yes, they're taking a look at it.
6 You know, I wouldn't characterize it as the legality
7 of it. I think the Legislature has a broad discretion
8 in this area and has spoken, has implemented the tax
9 effective next July.

10 I think, basically, the scope of the Department's
11 ability to tax is being looked at by the consultants and
12 they will indicate to us some -- some cases and
13 problems that indicate that the agency can go only so
14 far in choosing methods of implementing a tax and needs
15 legislative guidance or other activities.

16 When we actually get into the nuts and bolts of
17 getting the tax working down the line, there will be
18 court cases. There will always be court cases and they
19 will challenge the Rules that we promulgate and the
20 results of that of course will be decided by the court
21 at a later date.

22 MR. VICKERS: Well, I asked because my understanding
23 is that one of the things expected to come out of
24 the consulting agreement is a pretty extensive proposed
25 rewrite of Chapter 212, the sales tax law. And I just

1 wanted to follow up on Representative Gardner's question
2 because it isn't clear to me that it would be anything
3 short of an extraordinary task for the Department to try
4 to put in place by way of rules the necessary mechanisms
5 to implement the law we had passed last year.

6 CHAIRMAN MILLER: Senator Margolis?

7 SENATOR MARGOLIS: I'd like to address last year's
8 law, also. In respect to personal services, where I've
9 been told over and over again that the language that we
10 used in the law is so ambiguous that it would be
11 impossible to implement.

12 MR. KIELBASA: Is that directed to me?

13 CHAIRMAN MILLER: Yes.

14 MR. KIELBASA: I don't believe -- you can make a
15 point that language, any language, is ambiguous if you
16 have two views in regard as to how it is to be implemented
17 or taken care of. I think the notion that we have is
18 it is broad and it is simple in its terms. We're talking
19 about a tax on any service.

20 Now, certainly, and me being a lawyer, I would
21 indicate that the more an agency tries to carve out
22 individual pockets in there and start moving along and
23 making decisions as to what is supposed to be done,
24 the greater risk that the courts will say, you don't
25 do that without legislative guidance. And that is what

1 we're talking about, all the different ways of dealing
2 with this matter.

3 Since we have the consultants working for us as
4 the Department, we thought it would be better for these
5 individuals to take a look at all and anticipate all of
6 the future concerns that may arise and develop language
7 for it, let us know how far we might be able to go.

8 I think clearly down the road -- and on the '49
9 language we have right now, it's broad by the use of that
10 language.

11 And my recommendations as a lawyer would be to
12 treat it as a broad enactment and not to engage in
13 nitpicking out some direction. And that's what we would
14 do.

15 CHAIRMAN MILLER: Mr. Bell?

16 REPRESENTATIVE BELL: What do you anticipate will
17 be the time frame necessary to develop and work through
18 the 120 process, the next rule to implement the tax?

19 MR. KIELBASA: Well, we would -- we would -- I
20 really can't target a date. We have right now until
21 sometime shortly before July 1 to do that and we are in
22 the process of putting the rules together right now,
23 the hearings that would be required. Under the notice
24 time they range from twenty to thirty days and all that.

25 It would be and will be a busy spring for us. But --

1 REPRESENTATIVE BELL: My concern is this: That
2 I think you're charged with the responsibility of
3 implementing a law that now exists.

4 MR. KIELBASA: Right.

5 REPRESENTATIVE BELL: We've been given from your
6 Department an estimate in the fiscal year '87-88 we can
7 anticipate \$897 million of revenue from existing revenue --
8 from the existing revenue sources on the books of new
9 revenue.

10 I assume that it is anticipated that the rule will
11 be in final form on July 1?

12 MR. KIELBASA: I've just been advised that it would
13 be on the Cabinet agenda in March.

14 REPRESENTATIVE BELL: And that's sufficient then
15 to implement for the full fiscal year and therefore your
16 number of 897 million?

17 MR. KIELBASA: I believe so, yeah. It's several
18 months.

19 MR. DEMONTMOLLIN: Chairman, there was a suggestion
20 that the Department had some questions that it had
21 directed to the consultants and I wanted to bring to
22 your attention, if you didn't know, that Mr. Vickers
23 has authored a law note that appears in the December
24 Florida Bar Journal and if the answers to his questions
25 that he's raised have not been addressed by the consultants

1 already --

2 MR. KIELBASA: I have not seen that report, but
3 we are -- my job is -- I'm giving the consultants every
4 bit of information I can, editorials, any news clippings.
5 I'd appreciate a copy of that and we'll ship it straight
6 up to them. They've been given copies of just about
7 everything that's come across my desk.

8 REPRESENTATIVE GARDNER: Can we get copies of that?

9 MR. VICKERS: It's just questions. There are no
10 answers in there.

11 (Laughter)

12 SENATOR JOHNSON: Chairman, on the question of
13 professional services, in-house and out-house.

14 I would hope you will give us the reading both ways.
15 In other words, if you're going to make a distinction
16 between in-house and out-house, we could know what the
17 numbers are both ways.

18 And the policy recommendation is with this panel
19 and not with the -- the policy recommendations should
20 be with this panel not with the Department of Revenue
21 and the consultants because I don't see a great deal of
22 distinction between an attorney in-house and an attorney
23 out-house.

24 MR. KIELBASA: I agree with you completely there.
25 We're having the consultants put together a technical

1 legal draft. A lot of this will be in the form of
2 questions.

3 SENATOR JOHNSON: I don't see a great deal of
4 difference between in-house specialists and out-house
5 specialists. So, I'd like to have the numbers both ways
6 as best they can be hypothecated.

7 I'd like to also suggest, Mr. Chairman, that the
8 Legislature is not going to wait on this Commission.
9 If you don't have a report in a timely fashion, they're
10 not going to wait for us. There's six of us here but
11 there're another 154 out there.

12 CHAIRMAN MILLER: We'll try to expedite everything
13 as much as we can to get a good work product and get
14 something to the Legislature.

15 Now, the Committee will have a lot of work to do
16 and I think we have a lot to do. And we'll have a work
17 product to turn over to the Legislature early so that
18 they can understand early on what it is we're dealing
19 with. A lot of issues are going to be fully discussed and
20 a lot of answers cast to our questions.

21 Ms. Barnett?

22 MS. BARNETT: It appears to me we will be placing
23 a lot of reliance at least initially on some of the
24 reports from the outside consultants that we've employed
25 and that they work for the Commission, I guess, rather than

1 the Department, which has initially engaged them.

2 A couple of things, I'd like to see a list of the
3 questions or the scope of the responsibility that -- the
4 charge we've given to the Commission, see what they've
5 done.

6 And then you may want to, Mr. Chairman, appoint just
7 a subcommittee of your Study Commission to work directly
8 with the staff and those outside consultants in terms of
9 focusing them and directing their responsibility.

10 CHAIRMAN MILLER: That is a good idea. What we
11 have done with the selection of these consultants was
12 work with the Revenue Estimating Conference, which are
13 staff members of both legislative houses, and try to come
14 up with a consensus charge to these consultants. But I
15 will not be opposed to appointing a subcommittee to work
16 with the staff and the consultants in reviewing the work.
17 Is there --

18 SENATOR JOHNSON: Mr. Chairman, I think the
19 vice-chairman ought to head the subcommittee.

20 MS. BARNETT: I thought Mr. Vickers ought to do
21 that because he's raised all the questions.

22 (Laughter)

23 CHAIRMAN MILLER: If the Commission please, I
24 would like to appoint Ms. Barnett to do that.

25 Now, do I have any volunteers to serve with her?

1 Mr. DeMontmollin, Mr. Stewart and Mr. Uhlfelder.
2 Anybody over here?

3 Cass Vickers and Susan Leisner.

4 Okay. That will be the subcommittee. Did you
5 get that one, Martha?

6 Once again, those people that -- I didn't get it
7 all either. Would you raise your hands?

8 Okay. Vickers, Leisner, DeMontmollin, Stewart,
9 Uhlfelder, Martha Barnett, chairman of the subcommittee.

10 Okay. Any other questions of Mr. Kielbasa?
11 Mr. Bell?

12 REPRESENTATIVE BELL: No.

13 MR. KIELBASA: Thank you.

14 CHAIRMAN MILLER: Yes, Mr. Uhlfelder?

15 MR. UHLFELDER: When is a copy of the draft rules
16 going to be made available?

17 MR. TOWNSEND: We're projecting the first workshop
18 around the first of February on the rules.

19 CHAIRMAN MILLER: On the rules for the current law
20 as it exists sunseting --

21 MR. TOWNSEND: For the Sunset that goes into effect
22 July 1, because we'll need to have them in place after
23 the Cabinet meeting by about the first or second week of
24 April so we have time to get the forms out.

25 REPRESENTATIVE GARDNER: What is the charge of this

1 special subcommittee that we just did?

2 CHAIRMAN MILLER: The special subcommittee is to
3 look and work with the staff for the focus of what the
4 consultants are doing.

5 In other words, to basically look over what the
6 Department has already done and for any future questions
7 that come up about the focus of what kind of report they
8 will be producing.

9 Is that the understanding that you had, Martha?
10 What was the intent of your committee?

11 MS. BARNETT: We haven't met to decide yet. I
12 think my only concern was that a lot of direction was
13 being given to the consultants, rightly so, up front as
14 to areas of inquiry and problem areas.

15 In that we may be relying a great deal on some of
16 the information generated, that we ought to have the
17 Commission -- I mean the consultants will work for the
18 Commission now as opposed to just the Department. We
19 ought to have Commission members dealing with them on
20 what they're doing.

21 But an important aspect of this to me was we meet
22 and focus on issues, directing the efforts of the
23 consultants in some areas.

24 REPRESENTATIVE GARDNER: Mr. Chairman, the reason
25 for my question, it's impossible for us as a commission to

1 divorce ourselves from certain considerations, just the
2 same as it's impossible for us as individuals to divorce
3 ourselves from certain considerations.

4 I think that this Commission should go way beyond
5 what we consider is necessary as keeping this as pure as
6 we possibly can. For example, we've talked a lot about
7 the amount of revenue that potentially would be generated
8 by the removal of sales tax exemptions, but when you
9 examine the law, the criteria that we are to use doesn't
10 mention anything about how much money is generated by
11 sales tax exemptions. But it's out there and we can't
12 divorce ourselves from that consideration.

13 I think that when we talk about directions to the
14 consultants, I'm concerned that those directions be,
15 and I'm not suggesting that this would be anything but,
16 from a purist standpoint.

17 But the perception which past-Speaker Haben, I don't
18 know if he's still here or not, he said perception is
19 reality. Perception is reality, that the directions that
20 the consultants receive must be pure. That is my only
21 concern.

22 CHAIRMAN MILLER: Mr. Gardner, I agree with you
23 one hundred percent. I too plan to visit with this
24 committee. We have engaged the consultants, the
25 Department of Revenue. It is very important that the

1 consultants produce a report that balances both sides.

2 In other words, we have to know the issues. We
3 can't say, ignore that because that won't be a problem.
4 We have -- in revenue laws, while the laws are self-
5 executing, we get all tangled up in the rules and how
6 it applies.

7 The law says one thing, but we're charged to
8 interpret. So, whatever we do, there will be a clear
9 direction to cover the waterfront.

10 In other words, we're not going to say, ignore this
11 issue. I think that would be silly. And I know that it
12 would cause us trouble, which I'm not about to let
13 happen.

14 Mr. Bell?

15 REPRESENTATIVE BELL: Let me say two things here.
16 First of all, I had a law school professor who said
17 fairly often that to ask the question is to answer it.
18 And one of the things that concerned -- that's one of
19 the things that concerns me in the procedure that you've
20 outlined.

21 Let me also say that the legislation sets forth
22 the procedure to be followed and that is that this --
23 those consultants are to report to the Legislature
24 through the Department of Revenue. And the consultation
25 and oversight is to be conducted by the Revenue

1 Estimating Conference.

2 And I think to have a subcommittee from this
3 Commission that's there giving direction to the
4 independent consultants would be contrary to the
5 statutory provision for the creation of this, and may
6 create some conflict internally since the oversight is
7 to be done by the joint -- or by the Revenue Estimating
8 Conference.

9 SENATOR JOHNSON: Mr. Chairman?

10 CHAIRMAN MILLER: Senator Johnson.

11 SENATOR JOHNSON: The one thing that concerns me
12 is the fact that DOR staff makes assumptions in giving
13 directions to consultants. That's been said at the
14 podium. They made certain assumptions that out-house or
15 in-house consultants may be treated differently.

16 I tell my staff to assume nothing and I think
17 that should be a basic premise of this undertaking.
18 Assume nothing, give us the pure data on both sides of
19 the picture.

20 I don't agree with the assumption that in-house
21 people are somewhat different than people that are out
22 there on the street working in a private firm. And if
23 this assumption was made, it's a false assumption.

24 So, therefore, you know, I think the purity in
25 the system means that when you give the instructions or

1 somebody else gives the instructions that they be pure
2 instructions and we assume nothing, we be given the raw,
3 pure data from all sides of the issue. I don't want
4 somebody's assumptions brought to this Commission or to
5 the Legislature.

6 CHAIRMAN MILLER: Mr. Burke?

7 REPRESENTATIVE BURKE: In that vein, wouldn't it
8 perhaps be better if we instead of going to a subcommittee,
9 if any member of the Commission has questions that they
10 want to be asked, that we funnel that through the DOR
11 to the consultants, rather than -- that way we could
12 perhaps have a stopgap group that may decide one
13 assumption's better than another.

14 CHAIRMAN MILLER: I concur one hundred percent.
15 I don't see -- and, Mr. Bell, I think you're exactly
16 right. The law sets out how the consultant should be
17 engaged, the oversight, the charge, if you will. I don't
18 at this point think there is a problem and I want to
19 make sure that the subcommittee that has been appointed,
20 if we need to go back and unappoint it, we might do that.

21 But I don't think that there will be any conflict
22 in trying to narrow down. I think Senator Johnson is
23 right. This has to be what the issue is, both sides.

24 In other words, we can't direct them to the
25 conclusion that we want or whoever's giving the instructions.

1 That is your concern; isn't that right, Mr. Bell?

2 REPRESENTATIVE BELL: (Nods affirmatively)

3 CHAIRMAN MILLER: Mr. DeMontmollin?

4 MR. DEMONTMOLLIN: I think this is an issue that
5 should be resolved. However, because in the statutes,
6 as I read it, the Commission should employ staff and
7 consultants. And I think there has been a concomitant
8 obligation of the Department to submit a report, but
9 clearly we have an obligation to submit a report to the
10 Legislature.

11 And it's in carrying out those duties that I think
12 the Commission should have some oversight, review of
13 those consultants.

14 And, Chairman Bell, respectfully, I don't see
15 that the REC or the Department has this oversight
16 responsibility that you've given to them.

17 Now, in the appropriations bill, I think there is
18 some language to that effect, but not in 86-166.

19 CHAIRMAN MILLER: Maybe I could ask Dr. Zingale
20 to clarify this.

21 DR. ZINGALE: There are two choices the Study has.
22 Randy has been talking about what the Department's done.
23 It's controlled by proviso language in the Appropriations
24 Act that sets up that.

25 You're reading the statutes that sets up the role

1 in this Commission as to reporting to the Legislature.
2 They are two totally different issues.

3 MR. DEMONTMOLLIN: Who's paying the consultants?

4 DR. ZINGALE: It's in the Appropriations Act in
5 the Department of Revenue budget and directed proviso in
6 terms of what should be done.

7 CHAIRMAN MILLER: Mr. Bell, if I may inquire,
8 the law, as Dr. Zingale just stated, gives the Department
9 as well as the Revenue Estimating Conference a
10 responsible role there.

11 Is it your position that this Commission should not
12 have any direct input to those consultants?

13 REPRESENTATIVE BELL: No, I think this Commission
14 may have that input. I'm not sure that I want to
15 delegate to a subcommittee since I'm not sure where the
16 subcommittee may be coming from.

17 Mr. Vickers, for example, not to pick on any
18 particular person, but he has by his own admission raised
19 a series of questions in the Bar Journal.

20 I don't know whether I would agree with that list
21 as to its appropriateness or completeness or not.

22 And Senator Johnson has raised, you know, a point
23 that we may want to debate. But I think this Commission
24 is charged with the responsibility and I would like to
25 be there when the discussions are taking place. And I

1 think that others in the Commission may feel similarly,
2 so that we know what instructions are being given, if any.

3 That's my only feeling. I think we should be
4 involved in focusing the attention of the consultants.

5 CHAIRMAN MILLER: Obviously, we can cure that by
6 having the consultants come here and discuss with us the
7 issues. And I would feel just as comfortable with that.--

8 REPRESENTATIVE BELL: Sure.

9 CHAIRMAN MILLER: -- as having a subcommittee. I
10 think the only point is that there is going to be a lot
11 of work and if the full Commission would like to do that,
12 if I could get a sense that that's what we want to do,
13 I'd be willing to do that.

14 I think that that would be appropriate. This was
15 just, I think, to get some input from the Commission
16 without having to have the full Commission together.
17 But I'd be more than willing if I could get a sense of the
18 committee's -- Commission's feeling on it.

19 Let's say this, if you feel that would be
20 worthwhile for this Commission to have the consultants
21 here in the future meetings, we would be willing to do
22 that and have the discussions with them at the
23 Commission meetings.

24 Could I get some kind of sense? Those of you in
25 favor, would you raise your hand?

1 (Respond affirmatively)

2 REPRESENTATIVE BURKE: The whole group.

3 CHAIRMAN MILLER: The whole group. All right.

4 What we will do then, Mr. Bell, is we'll have the
5 consultants come and appear before the Committee.

6 And we'll have discussions with them at the time the
7 Commission's meeting, rather than the subcommittee. I
8 think that that would be the sense of what the Commission
9 would like.

10 Mr. Stewart?

11 MR. STEWART: Prior to the next full committee
12 meeting, will we be able to look at what direction has
13 been given to the consultants to date?

14 CHAIRMAN MILLER: Yes, yes, we can do that.

15 Mr. Kielbasa, do we have a preliminary report
16 coming from the consultants? How about stepping to the
17 well and giving us some type of a time frame.

18 MR. KIELBASA: We have a final product due
19 December 31.

20 CHAIRMAN MILLER: Final product. And that is from?

21 MR. KIELBASA: Final product in the sense that
22 he's put together his documents and sending it down to
23 us and, you know, I think we are flexible that if we
24 should have some future questions or what not, that would
25 be within the scope of his services to go ahead and try

1 to answer it.

2 CHAIRMAN MILLER: Could we provide to the committee
3 members the written charge to the consultants? Was there
4 I know you've met with them extensively, but do we have
5 something written that you could provide to the committee
6 members?

7 MR. KIELBASA: Yes, we do.

8 CHAIRMAN MILLER: What we will do is provide the
9 Commission members the written charge that the Department
10 gave to the consultants at the December meeting.
11 The report will be done by the end of this month; is that
12 correct?

13 MR. KIELBASA: That's correct.

14 CHAIRMAN MILLER: Why don't we -- we will provide
15 that as a work product, not a final report, to the
16 Commission members as soon as we are able to get our
17 hands on the document. This deals with the legal issues.
18 This has nothing to do with the financial part,
19 Dr. Francis?

20 MR. KIELBASA: Yes, that again, too. And we have
21 instructed in the draft that it has nothing to do with
22 the financial, fiscal or public policy issues in the tax.
23 It is a technical review of the legal aspects of it.

24 And we, again, by December 31, we will have it.

25 CHAIRMAN MILLER: Actually, I'm going to jump ahead

1 is to determine if there is a valid public purpose to the
2 exemption. If not, remove it.

3 The only charge we have, regardless of what is

4 out there for need, is not our bailiwick to get involved
5 in that.

6 CHAIRMAN MILLER: Mr. Vickers?

7 MR. VICKERS: Maybe I'm looking at the wrong copy
8 of the Act, but the one that I'm looking at says that
9 the Commission can review the public policy and fiscal
10 impact of the exemptions from the sales tax.

11 REPRESENTATIVE GARDNER: Mr. Chairman, if I could

12 follow up. It goes on to say that these exemptions should
13 be evaluated using the following criteria. And if you
14 are going to discuss fiscal impact, there are two kinds of
15 fiscal impact.

16 There's fiscal impact with respect to the new revenue
17 that's generated by the removal of a tax exemption.
18 But there's also fiscal impact by the removal of
19 that exemption on the continuing industry that might be
20 affected; i.e., whether it's an economic development issue
21 or not. That's the fiscal impact that I read into that
22 because of the specific criteria that are outlined for us
23 to follow.

24 CHAIRMAN MILLER: I don't --

25 REPRESENTATIVE GARDNER: I'm not an attorney, though,

so I don't --

CHAIRMAN MILLER: You're not hampered by --

REPRESENTATIVE BURKE: By law?

(Laughter)

CHAIRMAN MILLER: You know --

SENATOR MARGOLIS: Public policy is public policy, you know. And public policy dictates that we understand the public policy needs.

And certainly when we passed this legislation I

really believed it was to satisfy our growth management needs in the future.

Now, if we had a million dollars available to the

State of Florida immediately, we might not be taking care of that growth management policy and we would be, you

know -- we would be seeking in the future more dollars as a result of spending the dollars that we are now

anticipating as possibly collecting.

CHAIRMAN MILLER: Well, I would hope that this

Commission does not think that we are an appropriations

committee. I think as far as the charge goes, that, yes, we will be looking at the dollars involved with this

exemption, but I don't think we have any right to

prioritize or say we only want to take X, going down

through the list, and saying this is as much as we need

to do and we don't need to Sunset the rest of it.

1 REPRESENTATIVE BELL: Mr. Chairman, I think I

2 don't want to leave unchallenged Senator Margolis'

3 view of why we passed this bill last year. That may have

4 been her view of why the bill was passed, but I can assure

5 you there were other views.

6 One has nothing to do with the revenues before,

7 but the inelastic nature of the sales tax itself.

8 And certainly Senator Margolis in her experience

9 in finance and tax understands that. The other thing I

10 want to point out, and there are people I know who are

11 sensitive to this, there are some other needs to the

12 State, Senator Margolis, other than growth management.

13 And I would concur with those who said that our role here

14 is not that of an appropriations committee.

15 I think -- I really think there's a disagreement

16 as to what our role is, but I'm sure everybody agrees

17 that it's not going to be an appropriations committee.

18 CHAIRMAN MILLER: Mr. Demontmollin?

19 MR. DEMONTMOLLIN: I think the criteria that are

20 set forth for the economic impact supports Representative

21 Gardner's views.

22 What is the economic impact that exists? Is there

23 evidence that (a) additional jobs are created? (b)

24 businesses moved or expanded in Florida? (c) the removal

25 of the exemptions would cause a loss in jobs or make the

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business uncompetitive as compared to how much general revenue will be developed or available for distribution by the Legislature?

CHAIRMAN MILLER: Well, through that, we're still unclear on what we're doing.

(Laughter)

CHAIRMAN MILLER: I think we're going to have to understand that the statute did give us the charge and it told us what was intended for us to do.

Senator Margolis, I'd be happy to get you a copy of the Commission's report or any of the members, if you would like it. And we will make that available to each of the members. We will obtain that and get it to you.

SENATOR JOHNSON: I don't think we should do that. CHAIRMAN MILLER: We're not going to do anything officially with it, Senator.

SENATOR JOHNSON: It doesn't matter. In all due respect, it would be wrong for us to retain a sales tax that's inappropriate to fund something we believe ought to be funded just because that report is out there.

I know what the report says and so do the people sitting in this audience know what the report says. I've already got mine.

We know there is a big bill out there to pay. It is

not for us to recommend retention of the Sunset on sales tax that may be inappropriate just to try to fund a bill that's out there.

CHAIRMAN MILLER: I agree. I agree with that.

SENATOR JOHNSON: We shouldn't be trying to make an inference in any direction. The charge is right there in the law. Let's follow the charge.

CHAIRMAN MILLER: Do we have a consensus that the charge is in the law as to what we're going to do?

REPRESENTATIVE GARDNER: Sounds good to me.

(Laughter)

CHAIRMAN MILLER: Now, how we implement that is

going to be the difficult part. I would like to suggest we do this with the committee, is between now and

Christmas have the consultant, Dr. Hellerstein, come in and met with us, this Commission, and discuss various

issues.

Now, recognizing that it is a short time frame,

I would like to get a suggestion of a date. Now, Jeff, in our contract, we only had two trips. So this would

be outside the purview, but I believe we could scrape up enough money to bring the consultant in.

Have you had any opportunity, Jeff, to talk to

Dr. Hellerstein about an available time frame?

MR. KIELBASA: No, I haven't. I could call him.

I have not talked to him.

CHAIRMAN MILLER: What is the preference of the

committee for a report? The Legislature is not going to be meeting any more in December, other than this week?

Or are you going to have a special session that nobody

knows?

MR. VICKERS: Randy, before we set the next meeting, I think one of the things that would help me and the

rest of the members of the Commission is just a statement as to the difference -- the subject that we're to address in our report for the '87 session and those for the '88.

CHAIRMAN MILLER: Mr. Kiebasa?

MR. KIEBASA: What is that again?

MR. VICKERS: Well, this Commission is making

reports both in the '87 and '88 session.

MR. KIEBASA: That's correct.

MR. VICKERS: And I thought it may be helpful to distinguish the scope of this year's report from the subject to be handled after that.

MR. KIEBASA: That may be to the heart of the

matter. We have contracted with the consultants and we're looking at what the consultant is supposed to do.

He's looking at the laws that exist that's coming

into effect in July. He did not concern himself with

necessarily the specific exemptions in the future that

would be considered for sunseting and all of that.

In simplest terms, he has taken the notion of that sales tax on services and analyzed it in legal form and is reporting on it. I think you know one of the ideas that he's been guided by is that, read the law, what it says, and go ahead and follow that.

The issue of any exemptions -- in fact, I told him I personally believe that it is foolish to assume that no exemptions of any kind will ever be written.

Therefore, don't make it. When you consider verbage in the Act, don't make it difficult and clumsy to have exemptions part of the expression, like the existing Act has. 212 is an entwined conglomerate of provisions that exempt the tax. So, have some organizational aspects of what you're doing.

There is no attempt on his part to do any policy considerations like exemptions or nonexemptions or this type of thing. He may suggest a language that would allow certain exemptions, but that certainly isn't binding on anyone. What the consultant considers and takes a look at is absolutely nonbinding.

So, you know, the key is taking a look at -- again, he is taking a look at the legal aspect of it.

MS. BARNETT: Let me ask you a question about some of the economic aspects of the charge to the Commission;

1 such as, the jobs created or does it get businesses to
2 move to Florida, some of those aspects.
3 Is that what the Coopers and Lybrand study is
4 doing? Are they going to develop some kind of economic
5 model and address those questions?
6 MR. KIELBASA: Jim Francis will speak to that.
7 It's my understanding they are not.
8 MS. BARNETT: We are not going to address those
9 questions?
10 DR. FRANCIS: Coopers and Lybrand is not going to
11 address those questions. The instruction of the statute
12 was for DOR to examine legal, economic and revenue
13 considerations. The economic impact of these activities
14 in the state is very important, but it would take a whole
15 another round of money and time to do a professional study
16 of this.
17 How you all want to go into this is problematic in
18 my mind. I'm sure you will take testimony. I'm sure
19 you will hear the industry arguing that jobs will be lost
20 and this and that if they're taxed and people won't come
21 to Florida. Whether the testimony is accurate or not,
22 whether it's accurate for consideration or not, that's
23 something I think you can only judge and come to a
24 conclusion on.
25 I don't think there will be any absolute answer out

of any testimony presented to you or independent studies.

MS. BARNETT: Are those the appropriate type of

things that this Commission could hire consultants to

have something other than, you know, a parade of people

say it's good, it's bad or it's indifferent? I mean,

that's not -- that wouldn't be determinative to me.

I would rather see some professional analysis done of

creation of jobs, you know, what's the impact on the

business climate of Florida or, you know, is it

uncompetitive, et cetera. That appears to be our charge

in the statute.

DR. FRANCIS: An analysis of the cost benefits,

a rigorous economic approach would be appropriate.

Whether it's a possibility in the time frame, I'm kind of

doubtful.

MR. DEMONTMOLLIN: Chairman, I'm trying to figure

out where is the engine that's driving this machine.

Purulator came to me Friday and brought me a document

that's not signed, but it says that there was a project

team that was set up. They were going to act on behalf

of the Commission.

It is my understanding they were going to hire,

in the words of this author, highly credible consultants

to undertake expedited studies of the fiscal and legal

impact of the Chapter 86-166, Laws of Florida.

1 It spelled out how they were going to do it.

2 The last paragraph says, these reports will be

3 incorporated in the Department of Revenue's final report,

4 pursuant to Line Item 1588.

5 Dr. Francis just says, I don't know how you guys

6 are going to do your job, but I can tell you how we are

7 going to do ours. It seems we need consultants that

8 will be helping us with models of how to resolve this.

9 And who are these consultants and on whose behalf are

10 they working?

11 CHAIRMAN MILLER: Well, obviously, it's not a

12 case of them versus ours, I would hope. I would hope

13 that when we meet with the consultants that you are able

14 to give him or ask questions so that we have one set of

15 consultants. I would hate to have sets and sets with

16 conflicting information.

17 So, I think that would be solved, Mr. DeMontmollin,

18 when we bring the consultants in and you have an opportunity

19 to talk to them.

20 MS. KRAUSE: It sounds like the consultants do not

21 have the information that we've been charged to give a

22 good answer on to the people of the State of Florida,

23 that you cannot raise \$900 million worth of taxes on this

24 charge, were jobs created, if their report does not say

25 jobs were created.

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Were jobs lost? Did people move into our state?
Is it in like industry? Is that what our state is
supporting?
If the consultants don't have that information,
where are we going to get that information? Is that
going to come from people that are closest to us or
people that come in and give their opinion?
REPRESENTATIVE GARDNER: Mr. Chairman?
CHAIRMAN MILLER: Mr. Gardner.
REPRESENTATIVE GARDNER: If you look, I spent a lot
of time looking at the list of exemptions that were
repealed under this section. A lot of those exemptions
are obvious, whether they create new jobs or don't.
But there are only a few that fall into the gray
area as to whether or not they create new jobs or they
don't. And I'm sure there are going to be disagreements
within the group about what does or what doesn't, but
that is the democratic process.
And I think that we have to make a judgment call.
We don't have the luxury of a long time to develop an
independent study by an outside consultant as to the
types of fiscal impacts that Dr. Francis was talking
about.
I think that as we individually go through the
list ourselves, we can immediately identify a bunch of

these that are job types of issues.

We can individually identify them. The more that we can identify and eliminate, the better able we'll be to focus on those gray areas we don't have a good feeling for and make -- that's where we need the help from a consultant instead of a total shotgun effect. Concentrate on those that we do know the effect.

CHAIRMAN MILLER: The law legislates that the Commission may call on other agencies and their staffs to assist. The Department of Commerce has a lot of staff. We have Dr. Francis who has been assigned and the Revenue Estimating Conference. There are people around that can do some of the research and we will be able to answer those questions with the data.

MS. KRAUSE: Has there been a methodical program started of analyzing some of these questions based on each exemption?

CHAIRMAN MILLER: Yes and no. Our staff has been working and Dr. Francis has been working on it with the Revenue Estimating Conference. Various people are looking into trying to put a dollar on what this is. This Commission, the way I see it, is going to have to take into consideration the testimony and make a policy -- a policy recommendation to the Legislature, simple as that.

1 Ms. Woodall?

2 MS. WOODALL: Would it be the role of the staff

3 personnel, if we're talking about the Commission hiring

4 an executive director, to pull together the information

5 that's already out there, that's available to the

6 different agencies, and to coordinate that and to get it

7 to us to review that?

8 CHAIRMAN MILLER: That's correct.

9 MS. WOODALL: And then the gaps, the things that

10 are missing, you ask that staff person to go and pull

11 that together?

12 CHAIRMAN MILLER: That's right.

13 MS. WOODALL: Because I think that's what we're

14 all asking for. I know it's not realistic for me to say,

15 as an individual, I'm going to go out and find all the

16 information that's available. So, recognizing that we

17 have a person who will be paid to do that, it would be

18 helpful.

19 CHAIRMAN MILLER: As soon as we can get that

20 person's name and a phone number attached to that person,

21 we will let you know.

22 Steve?

23 MR. UHLFELDER: Has there been any discussion about

24 how we plan to proceed from this point in terms of

25 hearings and what subjects we'll take up first?

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CHAIRMAN MILLER: That was next on the agenda.

I think we are trying to get the consultant in here and that would focus on where we want to go from here and the testimony.

MR. UHLFELDER: I would like to suggest something.

We're already two months behind the time that was

started, October 1st. We've got about three or four

months to get this to the Legislature, if that long.

I think we should come up today with a list of

the subjects we want to take up first, schedule hearings

on that, direct our staff to start doing work on that.

Otherwise, we're going to waste a whole month to get

there. What we need to do is try to do that today, if

possible.

Maybe pick the largest ones and start alphabetically,

but do something today to get us going, rather than

waiting for a consultant. That's something if the

Commission is interested.

CHAIRMAN MILLER: We weren't going to meet and hear

the consultant. I think there are other things we need

to talk about. We are agreed -- let's try to set a date,

however, I think that's part of the problem at this point.

The Legislature may or may not be in town sometime

in mid-December. I would like to suggest either the date

of the 17th or 18th of December for this Commission to get

back together. Would that be agreeable? That is a

Wednesday and a Thursday, third week of December.

SENATOR JOHNSON: I would like to strongly suggest

we schedule meetings on Saturday. That's when the

people would be here and that's when we don't have to

make a living. People want to talk to us and listen to

us and they work, a lot of them, and especially some of

us have to try to make a living with all these

committee meetings.

MS. WOODALL: The flip side of that is I think

most of the people that are going to be talking to us,

it's a part of their business that they're doing that.

And they may prefer to do that on a weekday. I think

it's just a balance.

CHAIRMAN MILLER: I think that it might be

appropriate in the future agenda, Senator Johnson.

We have funds for approximately ten meetings and we can

hold those around the state or here in Tallahassee or on

a Saturday, wherever. But I think the next meeting,

it's important for us to get here and have our consultants

come in.

Does anybody have a conflict on the 17th of

December?

(No response)

CHAIRMAN MILLER: Okay. Let's set the time for

10:30. Was that agreeable? Could everybody get here?
 All right. We'll let you know of the room.
 Hopefully, we will get a better room than this.
 So, December 17th, 10:30, and we'll notify you of
 the room.
 Now, the agenda item primarily will be a discussion
 with our consultants. Mr. Uhlfelder, you had some
 suggestions of other things you wanted to discuss before
 the Commission; is that correct?
 MR. UHLFELDER: It was a suggestion. I mentioned
 going to at least take one or two areas of the two-page
 list and set that as a topic.
 Maybe after the consultant's finished, allow the
 people that are most affected to come in and testify
 about that, as long as we're all getting together that
 day anyway. And we can let the staff or subcommittee or
 whoever you want come up with a list of what you think
 we're most prepared to go on and have maybe the most
 interest at that time.
 CHAIRMAN MILLER: What about some type of sense
 from the Committee? What would you like to do? Would
 you like to take up some substantive issues, I guess,
 after the consultant's report? What do you have in mind,
 Mr. Uhlfelder?
 SENATOR JOHNSON: I would like to suggest one thing

1 and that is we do bring the Department of Commerce to tell

2 us where we're creating new jobs. Is it Florida?

3 We are, I think, the third highest state in

4 creating new jobs. We need to know where the jobs are

5 being created, how they're being created, who's the

6 employees, what kind of people. That is part of the job

7 to figure out where the economic issues is. And along

8 with --

9 REPRESENTATIVE BELL: And whether the sales tax

10 exemptions has any bearing on whether that job would have

11 been created anyway. Obviously, health care is one of

12 those that creates a lot of those jobs. It is my mind

13 whether we should continue to exempt health care.

14 SENATOR MARGOLIS: The list has service and non-

15 service Sunset exemptions. I would assume that the

16 non-service Sunset exemptions would be at this point less

17 controversial and we could probably start taking

18 testimony as to the economic validity of the non-service

19 exemptions.

20 MR. TOWNSEND: Senator Margolis, I'm not sure how

21 many you would credit as being noncontroversial.

22 SENATOR MARGOLIS: I didn't say "noncontroversial".

23 I said "non-service."

24 MR. TOWNSEND: A lot of the public housing,

25 Chapter 15(a), municipal bonds, and that sort of thing.

CHAIRMAN MILLER: Is there a sense to go ahead and

schedule that discussion first? I think that is a good

starting point.

REPRESENTATIVE GARDNER: Yeah.

CHAIRMAN MILLER: So, we will concentrate on the

non-service Sunset exemptions next meeting. And,

Senator Johnson, I will have the Department of Commerce,

we will get some staff from there to come make a

presentation dealing with what we'll be looking at in

the future as far as the policy determinations on whether

the exemptions should exist.

Other suggestions, Mr. Uhlfelder?

MR. UHLFELDER: There are several states that do

have tax on services, South Dakota being one.

Is it possible to have available somebody from

their Department of Revenue to talk about how they've

implemented it in their state and the problems and those

types of things? And pay for the expense of a staff

person to come from a state that you think is comparable

or similar to testify to that.

CHAIRMAN MILLER: I don't see any reason why we

can't do that.

MR. UHLFELDER: Or at least get written comments

from them.

CHAIRMAN MILLER: Okay. So for the next meeting,

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we're going to have the consultant's report. We will

have the report by the staff from the Department of

Commerce and start with dealing with nonservice Sunset

exemptions.

And do you want to take any public

testimony at that time or just an internal discussion?

REPRESENTATIVE GARDNER: Get on with it.

CHAIRMAN MILLER: We'll take public testimony at

that time regarding those nonservice Sunset exemptions.

At that time, we will also set another meeting and we

will be looking at available times and what have you.

MS. WOODALL?

MS. WOODALL: What's the procedure going to be for

advertising or getting notice out that public testimony

will be taken?

CHAIRMAN MILLER: We will publish the meetings in

the Florida Administrative Weekly. We will notify the

press. If there is anybody in particular you would like

notified, if you will contact our office, we will make

sure they're contacted.

MS. KRAUSE?

MS. KRAUSE: There is a computer term that I don't

know if you all are familiar with, but I will tell you.

CHAIRMAN MILLER: Quiet, please. The meetings

not over.

MS. KRAUSE: There is a computer terminology that

1 says, garbage in, garbage out, okay?

2 Since our charge is to look at this and there are

3 seven questions that need to be answered, seven questions

4 on each item of exemptions, okay. Impact, does the

5 exemption support our statutory policy, and it goes on.

6 Can we have any layman's language in the statutory -

7 a list of the exemptions, one, two, three, four, 86,

8 whatever? Can we have decided, the economic impact of

9 what we think it is in our state, okay? Can we have the

10 number of jobs in our state under that exemption area?

11 Can we get as listed by our charge, the information

12 for each exemption by charge? With these questions

13 answered as here?

14 CHAIRMAN MILLER: We will give you the list.

15 Dr. Francis has stated earlier, we have tentative

16 figures. We have a consulting firm working on what

17 we know about; that is, the work with the Department and

18 the Revenue Estimating Conference. We can give you an

19 estimate of what those are.

20 MS. KRAUSE: Under each of the categories?

21 CHAIRMAN MILLER: Some of those are much more

22 detailed than we would have and we will have, but we

23 will attempt to do that and get that to you before the

24 next meeting.

25 MR. MOORE: In connection to taking public testimony,

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I would strongly disagree with that with the notion

that asking the people, as Senator Johnson referred to, put together on a list of non-service Sunset exemptions a group randomly to come give testimony to us, I think is being unfair to them with a week and a half's notice.

And I would prefer instead that we as a Commission determine a listing for a group and then schedule the meeting at places that are convenient to the people affected. I was thinking of Fort Lauderdale when it gets a little cold up here, places like that.

But I just pulled the list out that Senator Margolis referred to and I've got a lot of industries in the state that want to talk to us and later on a Wednesday afternoon the week before the winter holidays may not be a convenient time.

CHAIRMAN MILLER: I'm sure that this will not be the only discussion. They will have an opportunity for anyone to come forth. We will ask various people for help. It was to come forward, that would be if you want to come and testify, come and register. This will be a first opportunity.

MR. MOORE: Okay.

SENATOR MARGOLIS: When you ask them to testify, I think you should specifically ask them to address the criteria that we have set out and not gratuitous.

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CHAIRMAN MILLER: In reference to testimony, we will

give them topics as the law requires to try to cover in

their presentation.

Any other questions?

REPRESENTATIVE GARDNER: Chairman, I might make one

suggestion along the line of your question. When a lot

of these sales tax exemptions were initiated, staff

analysis and statistical impact statements were made by

the staff and those are available in the archives. And

that would be a real good starting place to get the kind

of information --

MS. KRAUSE: Shouldn't we have a copy of them, then?

Should we have the information that you had when you

passed the law?

CHAIRMAN MILLER: We will get that.

Okay. If there's no further questions, thank you

for coming.

(Whereupon, the hearing was concluded at 12:14 p.m.)

C E R T I F I C A T E

STATE OF FLORIDA)

COUNTY OF LEON)

I, JULIE L. DOHERTY, Court Reporter, and Notary

Public in and for the State of Florida at Large, at

Tallahassee, Florida, do hereby certify as follows:

THAT I correctly reported in shorthand the

foregoing proceedings at the time and place stated in the

caption thereof;

THAT I later reduced my shorthand notes to

typewriting, or under my supervision, and that the foregoing

pages 1 through 71, both inclusive, contain a full, true, and

correct transcript of the proceedings had on such occasion;

and

THAT I am neither of kin nor of counsel to any party

involved in this matter, nor in any manner am I interested

in the result thereof.

DATED THIS

9th

DAY OF DECEMBER, 1986.

Julie L. Doherty
JULIE L. DOHERTY, Court Reporter
Notary Public, State of Florida at Large

My Commission Expires: November 5, 1989