



# MINUTES

## State and Local Government Task Force

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Fourth Meeting  
2004 – 2005 Interim  
September 29, 2005

LCR 1  
State Capitol Building  
Pierre, South Dakota

### Thursday, September 29, 2005

The fourth meeting of the State and Local Government Task Force was called to order by Matt Adamski, Chair, at 9:15 a.m. on September 29, 2005, in LCR 1 of the State Capitol Building in Pierre, South Dakota.

A quorum was established. The following members were present: Matt Adamski, Chair, Kenneth Blanchard, Rod Bowar, Arlene Ham-Burr, Lyle Hendrickson, Susan Humiston, Patty McGee, Bill Peterson, Sam Tidball, Debra Vedvei, Will Walter, Dean Wink, and James Zweep.

Senator Garry Moore, Representative Mike Kroger, Tom Helland, Curt Jones, Jim Hutmacher, Christopher Maynard, Elizabeth Smith, and Jim Shaw were excused.

Staff members present included Tom Magedanz, Principal Research Analyst, and Reta Rodman, Legislative Secretary.

**(NOTE:** For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the master minutes.)

### **Approval of Minutes**

**BILL PETERSON MOVED, SECONDED BY ARLENE HAM-BURR THAT THE MINUTES OF THE JUNE 23, 2005, MEETING BE AMENDED. ON PAGE 4 IN THE SECOND TO THE LAST SENTENCE OF THE SECOND PARAGRAPH, DELETE “TO REPEAL” AND INSERT “AGAINST REPEALING” SO THE SENTENCE READS AS FOLLOWS: “IN 2004 THE COALITION LED THE EFFORT AGAINST REPEALING THE TAX ON FOOD.” MOTION TO AMEND PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

**ARLENE HAM-BURR MOVED, SECONDED BY JAMES ZWEEP, TO APPROVE THE MINUTES OF THE JUNE 23, 2005, MEETING AS AMENDED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

### **Opening Remarks**

**Mr. Matt Adamski**, Chair, welcomed everyone to the meeting. He informed the committee that Senator Napoli, who is on the agenda for a presentation on his taxation proposal, is unable to attend the meeting.

### **Red Tape Reduction Task Force**

**Ms. Julie Johnson**, Chair of the Governor's Red Tape Task Force, distributed two handouts entitled "2010 initiative Governor's Red Tape Task Force" (**Document 1**), and (**Document 2**). Ms. Johnson explained that the task force was created by Executive Order in December, 2004, with the goal of eliminating unreasonable or unjustifiable barriers to doing business in South Dakota. There are 22 members on the task force, with a cross section from around South Dakota. The Red Tape Task Force will conclude its work in December, 2006.

Ms. Johnson indicated that part of the task force's work is to find statutes that are outdated or need amendment, regulations and processes that need amendment or improvement, and federal/state items that need improvement. She said their work plan initially is to get the word out to as many businesses as possible. They have met with 50 groups to date, which has helped to identify many issues, and now they are creating a rolling database of those issues. Ms. Johnson said the list of issues will constantly change during the life of the task force. The kinds of issues they have received include individual business problem resolution, customer service issues, big picture issues, industry problems, lack of information or awareness, and legislative opportunities.

Ms. Johnson said the task force has found that electronic signatures and customer service/access issues are commonly mentioned issues. The Red Tape Task Force's marketing strategies include good press and visibility, participating in Capital for a Day, and follow-up with groups. She indicated that the Small Business Administration has accepted the task force's invitation to hold a hearing in South Dakota in April at the Governor's Economic Convention.

Dean Wink asked Ms. Johnson whether certain hurdles or issues come up time and again. She said that lack of information and awareness, electronic signatures, manufacturing franchise dealer issues, and lack of familiarity with certain rules and policies are recurring issues. Ms. Arlene Ham-Burr asked whether the task force has had any discussions about joint powers agreements, and whether they had seen that businesses were running into problems where communication was the factor. Ms. Johnson said the task force has not discussed the joint powers issue at this time. She also stated that there are economic tools that do exist; however, not everyone knows the tools and all the options available.

### **Telecommunications Taxation and Cellular Phone Tax Overview**

**Mr. Greg Dean**, South Dakota Telecommunications Association, distributed a handout entitled "Telecommunications Taxation in South Dakota – Then, Now and Whatever's Next" (**Document 3**). Mr. Dean indicated there are 29 incumbent landline telecommunication service providers, and they serve 79.5% of South Dakota. Their service area covers more than 61,000 square miles, and they employ 600 technically skilled people in rural South Dakota with a payroll exceeding \$30 million.

### **History:**

Mr. Dean noted that Deadwood established the first telephone exchange in South Dakota in 1878. The first municipal-owned company in the United States was the city of Brookings, and in 1907 the South Dakota Legislature created the South Dakota Telephone Commission. Mr. Dean gave a history of telephone taxation and the dates as shown below:

- 1915, First laws to tax telephone companies were passed.
- 1955, State imposed a 2% gross receipts tax in lieu of personal property tax for companies with less than 4 subscribers per mile of line.
- 1965, Introduction of graduated tax rates depending on subscriber density and gross revenues.
- 1974 thru 2002, Changes in the tax brackets.
- 2004, 4% rate instituted for all companies regardless of size.

### **Current Tax Structures:**

Mr. Dean explained that there are three types of taxation applied to telecommunications companies by the state of South Dakota. These include wireless gross receipts taxes (4% on company gross receipts), gross receipts taxes (against companies that supply voice services with less than \$50 million in gross receipts), and centrally assessed taxes (against local and long distance companies with more than \$50 million in gross revenue).

Mr. Dean described to the committee the eight taxes and surcharge fees that appear on the bottom of your telephone bill. They are sales tax, local sales tax, 911, tty, Federal excise tax, universal service, monthly federal subscriber line charge, and franchise fee to municipalities paid by cable companies. Mr. Dean explained that because wireline voice communications is one of the most heavily taxed services in the United States, the rates and service can remain affordable and available throughout much of South Dakota.

He stated that the Federal Communications Commission is currently discussing new regulations on how companies pay each other to access their networks. Also, Congress is in the process of rewriting the 1996 Communications Act. Mr. Dean emphasized that a major rewrite of state tax laws to reflect industry changes will be needed sometime in the next several years. He also stated that from a revenue standpoint, broadband connection will be a key revenue source for most companies, and a wide variety of services will flow over those connections. Sweeping changes in the communications, especially in Internet-related services will necessitate changes in the existing taxation system for telecommunications, which will likely threaten revenue sources for state and local governments.

Mr. Bill Peterson asked what are the options for local governments with revenue stream related to telecommunications. Mr. Dean responded that there is no specific answer yet and much depends on what the FCC and Congress do. He said that the Internet knows no boundaries, and it is unclear who has the ability to regulate and tax the Internet. Any regulation or legislative relief will probably have to be done at the federal level.

In response to questions from the committee, Mr. Dean stated that he believes the 35 and younger generation is going to the wireless (cell phones), and they will eventually no longer have a hardline telephone. As people move away from landline phone service, he is

concerned that the 911 surcharge and other taxes will no longer provide sufficient revenue. He also indicated that satellite communications will play a major role in the telecommunications industry. Mr. Dean also emphasized that one challenge is the location of the telecommunications companies and properties, which determines who have jurisdiction over them for regulatory and taxation purposes. Many are located overseas, even though they provide services in South Dakota. Major changes are coming in this industry, and they will affect state and local government revenues.

### **Committee Discussion**

Tom Magedanz, Principal Research Analyst, Legislative Research Council, distributed a document entitled "Member Recommendations for Further Action" (**Document 4**). Members suggested that the following recommendations be added to the list of recommendations: look at the financing of the storm water portion of the Clean Water Act and how it will affect cities in South Dakota, review changing the size of a school board's membership to three if the school district has 200 students or less, issues related to law enforcement and the court system, allow county commissioners to set fees, and pass a liquor tax to defray the cost of alcohol-related crimes.

Mr. Bill Peterson asked LRC staff to go through the list of recommendations and categorize them into topics to be finalized for the report given to the Executive Board in November. Mr. Magedanz responded that the list would be available after the lunch break.

Mr. Adamski suggested that the committee break the recommendations down to three or four categories and analyze specific issues within categories. Issues can be analyzed both by subject matter and by level of government.

Mr. Peterson suggested that many of the recommendations have come from the associations; therefore, it should be the responsibility of the associations to actually pursue legislation on the various issues. The committee discussed the possible impacts of inflation. Mr. Peterson stated that in the 1980's the state ran out of money, and with the repeal of the personal property tax the state had to come up with \$40 million to give to the counties. One solution was to change the way sales tax was collected and distributed. He noted that should we go through another period of higher inflation, it will be very challenging.

Ms. Humiston stated that if we suffer higher inflation again it would be extremely difficult for the school districts. At the present time 80% of school district budgets is for employees and payroll. The state would have to help if inflation returned to double digits. Mr. Lyle Hendrickson stated that there is consolidation of services between counties existing now in Pennington County such as highway maintenance and law enforcement on a contract basis.

The committee recessed at 11:55 a.m. and reconvened at 1:00 p.m.

### **Public Testimony**

No individuals appeared at the meeting to offer public testimony.

## **Task Force Discussion and Prioritization of Recommendations and Issues**

Mr. Fred Baatz, Legislative Research Council, distributed a handout entitled "Home Rule" **(Document 5)** which means essentially the freedom for local governments to do anything not prohibited by the state rather than only those things authorized by the state. Mr. Tom Magedanz distributed a handout entitled "State-Local Government Task Force Recommendations – Categorized for Discussion 9-29-05" **(Document 6)**.

Committee members discussed home rule. Mr. Zweep suggested that the law should be changed so that home rule could be established without requiring an election, but be referable. Ms. Yvonne Taylor, South Dakota Municipal League, informed the committee that there are ten home rule cities at the present time. The committee discussed reasons why more cities do not have home rule charter. Mr. Peterson stated that granting home rule to all municipalities and counties would probably require a constitutional change.

Mr. Matt Adamski, chair, commented that after listening to the task force members, the areas of interest keep coming back to four general categories which are:

1. Flexibility;
2. Funding;
3. Communication; and
4. Law Enforcement.

Mr. Peterson asked the organizations that represent local government about how this effort should be organized. Mr. Bob Wilcox, Executive Director, South Dakota Association of County Commissioners, stated that the endorsement of the State and Local Government Task Force and their recommendations help them in pursuing legislation. He also commented that a change in county fee structure is long overdue and would be helpful. Ms. Taylor stated that home rule is her organization's top priority.

After further discussion about how to structure the final report and how to proceed, Chair Adamski appointed six members to a subcommittee which will consolidate the issues and recommendations to bring to the next meeting. Members of the subcommittee include Sam Tidball, Kenneth Blanchard, Susan Humiston, Dean Wink, Matt Adamski, and Lyle Hendrickson.

## **Task Force Determination of Future Meetings, Actions, and Recommendations to the Legislature**

Staff will prepare a draft report to be reviewed by the subcommittee. The report will include narrative describing the creation of the task force and the issues addressed, as well as categorization and ranking of committee recommendations.

Mr. Matt Adamski, Chair, announced the next meeting will be November 16, 2005, at 1:00 p.m. in Room 412.

**Adjourn**

**MEETING ADJOURNED AT 3:30 P.M.**



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