

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, February 01, 2017

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Johnson, Vice Chairman Bayer, Senators Hill, Siddoway, Vick, Patrick, Bock(Burgoyne), and Nye

ABSENT/ EXCUSED: Senator Rice

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Johnson** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:05 p.m.

MINUTES APPROVAL: **Vice Chairman Bayer** moved to approve the Minutes of January 18, 2017. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

Senator Patrick moved to approve the Minutes of January 19, 2017. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

H 22 **Relating to Spousal Tax Relief. Tom Shaner**, Income Tax Policy Specialist with the Idaho State Tax Commission (Commission), presented **H 22**. This legislation moves the statute for spousal relief from the income subtraction section to the collections area of the Idaho income tax act. Idaho Code § 63-3022T is being stricken and replaced with § 63-3050A, which contains identical language. **Mr. Shaner** explained that if the Internal Revenue Service (IRS) grants spousal relief from a tax liability, the Commission will follow suit. Because the tax liability does not change in this regard, the code section is being moved to the appropriate area. **Mr. Shaner** commented that this bill provides transparency and clarity for taxpayers, tax professionals, and software developers.

Senator Patrick asked Mr. Shaner to explain the fiscal note. **Mr. Shaner** stated there is no fiscal impact because the function of the statute remains unchanged; the bill simply renumbers and corrects code references in statute.

Senator Hill explained that due to changes in Senate rules, fiscal notes must now contain an explanation as to why no fiscal impact is projected. He indicated that a do pass recommendation would be contingent upon revision of the fiscal note. **Chairman Johnson** reiterated the need for revisions of the fiscal notes prior to legislation being sent to the floor.

Senator Siddoway sought clarity regarding the tax liability, asking if the tax burden shifts in situations of divorce or death. **Mr. Shaner** responded that the tax liability does not change but shifts to the responsible party.

Senator Nye asked if spousal tax relief applies to same-sex marriage in this regard. **Mr. Shaner** replied that the Commission will honor spousal tax relief granted by the IRS.

MOTION: **Senator Siddoway** moved to send **H 22** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

H 23

Relating to Taxes, Perfected Protest. **Mr. Shaner** presented **H 23**, which amends Idaho Code § 63-3045B, to clarify that if a taxpayer files a protest but does not perfect the protest within 28 days after notification, the notice of deficiency becomes final. **Mr. Shaner** explained that this bill provides clarity for taxpayers appealing a notice of deficiency determination issued by the Commission. He detailed changes in code references and clarifying language. **Mr. Shaner** stated there is no fiscal impact because the function of the statute remains unchanged; the proposed changes are technical in nature and simply provide clarification.

Senator Siddoway asked for a definition of the term "perfected protest." **Mr. Shaner** replied that "perfected" means complete and valid, and that basic information, such as identifying information and dates of deficiency, is required to make a protest valid. **Senator Siddoway** questioned how the proposed changes will impact taxpayers, expressing concern of undue burden. **Mr. Shaner** indicated that the proposed changes are intended to clarify the appeals process for taxpayers. Additionally, auditors will often clear up confusion regarding perfected protests with taxpayers during the course of their work.

Vice Chairman Bayer asked how many protests submitted to the Commission do not meet the requirements to be considered perfected. **Mr. Shaner** reported a low percentage and pointed out that auditors routinely engage with taxpayers to retrieve missing information; to the extent possible, missing information is not used to prevent a protest being processed.

Senator Hill asked if a definition of "perfected protest" is provided in statute or rules, and asked for assurance that the Commission is not placing undue burden on the taxpayer. **Mr. Shaner** referenced Administrative and Enforcement Rule 320 (see Attachment 1) regarding timeline requirements but was unable not provide a definitive source of the term "perfected." He did emphasize that the standards for perfected protests remain unchanged.

Senator Bock commented that the term "perfected" is commonly used in the context of real estate and that he is comfortable with the terminology.

MOTION:

Senator Bock moved to send **H 23** to the floor with a **do pass** recommendation. **Vice Chairman Bayer** seconded the motion. The motion carried by **voice vote**.

H 24

Relating to Taxes, Administrative Redetermination. **Mr. Shaner** presented **H 24**, which amends Idaho Code § 63-3045, to clarify that when a taxpayer requests a redetermination of a notice of deficiency, the redetermination will be performed by staff independent from the division that issued the notice. **Mr. Shaner** stated that following a protest, a taxpayer may request a hearing to address the deficiency; however, statute does not delineate who from the Commission should perform this redetermination. In an effort to provide transparency for the taxpayer during this process, this legislation clarifies that the auditor be independent of the originating division. **Mr. Shaner** noted the effective date of July 1, 2017, was established to avoid interfering with appeals currently in progress. He stated there is no fiscal impact because the function of the statute remains unchanged.

MOTION: **Senator Nye** moved to send **H 24** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion.

Senator Vick asked for clarification regarding the aforementioned independent audit group. **Mr. Shaner** explained that there is now a subgroup of tax policy specialists within the Tax Policy and Appeals division that will only process these types of appeals; no additional positions were added nor were job titles changed to avoid classification issues.

The motion carried by **voice vote**.

H 25 **Relating to Tobacco Permits, Terminology.** **Mr. Shaner** presented **H 25**, which amends Idaho Code § 63-2555, replacing the term "registration certificate" with the current term "permit". He stated there is no fiscal impact because the function of the statute remains unchanged.

MOTION: **Senator Vick** moved to send **H 25** to the floor with a **do pass** recommendation. **Vice Chairman Bayer** seconded the motion. The motion carried by **voice vote**.

H 26 **Relating to the Internal Revenue Code, Conformity.** **Mr. Shaner** presented **H 26**, the annual conformity bill. He stated that **H 26** conforms Idaho income tax statute to the Internal Revenue Code (IRC) and relieves the Legislature from creating and maintaining stand-alone tax code, simplifies tax preparation, and facilitates tax administration. The passage of this bill is essential for taxpayers and tax professionals to begin processing and filing tax returns. **Mr. Shaner** noted the fiscal impact is insignificant because unlike previous years, Congress is not expected to retroactively reinstate tax expense laws.

MOTION: **Vice Chairman Bayer** moved to send **H 26** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion.

Senator Bock sought clarification regarding the definition of marriage as it applies to this legislation. **Mr. Shaner** replied that the language in **H 26** is identical to language passed in the conformity bill during the 2016 Legislative Session.

The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Johnson** adjourned the meeting at 3:42 p.m.

Senator Johnson
Chair

Jennifer Carr
Secretary