

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 09, 2012

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Corder, Vice Chairman Johnson, Senators Hill, McKenzie, McGee, Hammond, Siddoway, Werk, and Bilyeu

**ABSENT/
EXCUSED:**

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.

Chairman Corder called the meeting to order at 3:00 pm.

SCR113 PROCEDURE: **Chairman Corder** introduced **Senator Davis**. **Senator Davis** said there were small procedural issues with the process related to SCR113.

MOTION: **Senator Hill** made a motion to ratify the committee report of February 2, 2012 related to SCR113 with a Do Pass, Nunc Pro Tunc. **Senator Werk** seconded, and the motion carried by Voice Vote.

GUBERNATORIAL APPOINTMENT: **Senator Bilyeu** made a motion to send the appointment of **Linda Pike** to the Board of Tax Appeals to the floor with a recommendation that it be confirmed by the Senate. **Senator McGee** seconded, and the motion carried by Voice Vote. **Senator Bilyeu** will be the sponsor.

Senator Hill made a motion to send the appointment of **Rich Jackson** to the State Tax Commission to the floor with a recommendation that it be confirmed by the Senate. **Senator Hammond** seconded, and the motion carried by Voice Vote. **Senator Hill** will be the sponsor.

PRESENTATION: Related to the Streamlined Sales Tax. **Chairman Corder** introduced **Dan John** and **Commissioner Rich Jackson** of the State Tax Commission. **Mr. John** said there is a group of states that are trying to change sales tax so remote sales can be taxed. States have wrestled with the issue of remote sales for years. Long ago, there were issues with catalog sales, now it is internet sales. There have been two important court cases dealing with this issue: National Bellas Hess Inc, vs Illinois (1967) and Quill Corp vs North Dakota (1992). In the National Bellas Hess case, the US Supreme Court determined that Illinois cannot require the retailer to collect and remit the sales tax on sales made into Illinois because there is no nexus with the state. The US Supreme Court ruling on Quill vs North Dakota said North Dakota could not require Quill to collect sales tax. Under the Commerce Clause of the Constitution, this is considered unconstitutional; however Congress is allowed to govern what happens under the Commerce Clause. In the 1990's the Tri-state project was begun whose purpose was to simplify sales tax laws to make it easier for the taxpayers to comply with remote sales taxes.

When the US Supreme Court ruled that the lawsuit violated the Commerce Clause, it was on the basis of complexity; there was an unconscionable amount of work needed to be done for vendors to collect sales taxes for multiple states. The Federation of Tax Administration started looking into the issue to simplify the tax systems. In 1999, a streamlined sales tax project was created. States could then band together and once large interest was shown in the project, Congress might expand the states' nexus. The mission was to iron out the differences among state-level taxation, which is a major issue for recovering remote sales taxes. This would even the playing field between remote sellers who are not required to collect taxes and brick and mortar sellers on the street. The brick and mortar sellers have a 6% disadvantage.

Mr. John said the agreement that has been worked out requires state-level administration of all state sales and use taxes; uniformity in state and local tax bases; central electronic registration and uniformity of systems. A Central electronic registration system will allow a company to register in one place to collect sales tax throughout the country. State and local rates need to be simplified; states currently have different rates on different types of products. Every state would be considered "destination sourcing", which means the tax would be paid where the buyer is located, not where the seller is. There would be a simplified tax remittance system and all tax due to the state would be administered by one agency.

As of June 2011, there are 24 states who are full members of the streamlined sales tax organization. There are certified service providers whose software has been determined to work for this process. The purchaser can use a credit card and the software will know what the sales tax rate is for that state. The vendor will collect the necessary tax and the state will receive the money from the certified service provider. Because the states are certifying the software to be correct, if there is a mistake, the vendors are held harmless. There are already vendors who are voluntarily collecting sales taxes even though they are not currently required.

Chairman Corder introduced **Representative Nessel**, who has been working on the streamlined sales tax.

Commissioner Jackson said there are new issues such as taxing software purchases and purchases through internet downloads. If software is downloaded into the internet cloud, what location should be used for sales tax. The state needs to determine how they want to react to this because it will affect the tax base moving forward.

Chairman Corder introduced **Commissioner Langhorst** of the State Tax Commission. See attachment. **Commissioner Langhorst** said there was a meeting of multiple states to discuss the streamlined sales tax. There was a large discussion on the creation of incentives for businesses; however, local businesses have a built-in disadvantage because of the sales tax. It is very difficult to enforce the gathering of sales tax when it is related to remote sales. Support for the streamlined sales tax is building at the federal level.

Senator Hill said it seems there is a high percentage of states already on board, considering twenty-four states are already working on this and there are some states who do not charge sales tax at all. What efforts are being made at the federal level. **Commissioner Langhorst** said the Multi-State Tax Commission is working for uniform state laws so fraud will be easier to discern. There has not been much lobbying on the federal level for this issue, but that is starting to occur. **Senator Hill** asked for an estimate on how much is being lost through internet and catalog sales. **Commissioner Langhorst** said the best source two years ago showed \$30 million; that number was strictly oriented to e-commerce, but the loss could be up to three times that.

Senator Bilyeu said there was a potential bill last year to educate citizens and accountants to voluntarily pay sales tax for remote sales. Have any states put an information program in place. **Commissioner Langhorst** said the only state is Illinois, but there has been no monitoring of the results. **Senator Bilyeu** said she supports a streamlined sales tax; however, it is moving very slowly and it will be a long time before any benefits are felt. **Commissioner Langhorst** said there are between 1200-1400 vendors who have volunteered to collect the sales tax and Idaho has received several million dollars already from remote sales.

Chairman Corder said according to the handout, www.amazon.com is a pretty significant player in opposing the streamlined sales tax. **Commissioner Langhorst** said amazon has asked for incentives and gotten them in some states, and in other states they have fought against new legislation. They are in support of the mainstream fairness act.

RS 21152C1 Clarifies that Public Hospital Districts and County Hospitals may Invest Funds Generated from the Operational Revenues of the Public Hospital in Prime Commercial Paper, Bonds, Debentures or Notes. **Chairman Corder** introduced **David Lehman**, Principle Strategic Advisors. **Mr. Lehman** said in the current Idaho Code, there is no distinction made between tax revenue and other taxable revenue for public hospitals, which limits the investment strategies for hospitals.

MOTION: **Senator Hammond** made a motion to send RS 21152C1 to print. **Senator Siddoway** seconded, and the motion carried by Voice Vote.

RS 21154 Relating to Property Taxes; To Provide that Delinquencies on Personal Property Taxes Shall be First and Prior, Perpetual Liens on Specified Property. **Chairman Corder** turned the gavel over to **Vice Chairman Johnson**.

Chairman Corder said this legislation is from the equipment dealers. Currently, a dealer can have a security interest lien filed against a piece of property and that piece of property may also have a personal property tax liability and the liability would take precedence.

Senator Bilyeu asked if this affects mobile homes that are considered personal property. **Chairman Corder** said he does not believe so.

MOTION: **Senator McGee** made a motion to send RS 21154 to print. **Senator Werk** seconded, and the motion carried by Voice Vote.

Vice Chairman Johnson turned the gavel back to **Chairman Corder**.

MOTION: **Senator Werk** made a motion to approve the minutes of January 31, 2012. **Vice Chairman Johnson** seconded, and the motion carried by Voice Vote.

MOTION: **Senator McKenzie** made a motion to approve the minutes of February 1, 2012. **Senator Bilyeu** seconded, and the motion carried by Voice Vote.

MOTION: **Senator Siddoway** made a motion to approve the minutes of February 2, 2012. **Senator McGee** seconded, and the motion carried by Voice Vote.

Senator Werk said the joint meeting was fairly historic; however presentations based on objective information would be preferable to self-fulfilling ones.

ADJOURNMENT: The meeting was adjourned at 3:55 pm.

Senator Corder
Chairman

Jo Ann Bujarski
Secretary