

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

- DATE:** Wednesday, March 20, 2013
- TIME:** 3:00 P.M.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Siddoway, Vice Chairman Rice, Senators Hill, McKenzie, Johnson, Vick, Bayer, Werk and Lacey
- 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.
- CONVENED:** **Chairman Siddoway** called the Local Government and Taxation Committee (Committee) meeting to order at 3:03 p.m.
- H 243** **Chairman Siddoway** said the Committee would finish hearing **H 243** today as the Committee ran out of time Tuesday, when the Senate reconvened at 4:30 p.m.; the Committee was still taking testimony at 4:45 p.m. **Chairman Siddoway** invited Jay Larson, President and CEO of the Idaho Technology Council, to the podium to continue the presentation of **H 243**, relating to sales taxation and application software accessed over the internet. **Mr. Larson** said the bill clarifies cloud services 'are' a service, like legal or accounting services, hair cut services, etc. and as such should 'not' be subject to sales tax. He said this bill has been worked on diligently for the past six months to take out ambiguity and clearly define what a cloud service is. He said it is fair and consistent with other state tax policy.
- MOTION:** **Senator Hill** moved to send **H 243** to the floor with a **do pass** recommendation. **Vice Chairman Rice** seconded the motion.
- DISCUSSION:** In discussion, **Senator McKenzie** said he thinks this is a good bill and the right policy. He said the issue will become more and more important as businesses move more functions to online services. He said it is getting to the point where it will not be necessary for most businesses to have extensive servers and hard drives, especially small businesses because they can have data stored and services operated online. **Senator McKenzie** said his only concern is the language that seems to be an exception to the exception, where it says this exception does not apply if one can buy "comparable computer software that performs the same functions." He said he thinks one can get comparable software for most things these days, and when he tried to think of exceptions to that scenario, he thought of internet trucking. **Senator McKenzie** said while he thinks there may be an issue of businesses that erroneously think this may apply to them, he will still support this bill.
- Senator Rice** pointed out that in the language a little before the segment Senator McKenzie referenced, it talks about the exception to the exemption being for the 'vendor' that provides it online 'and' also sells the same or similar software at wholesale or retail. He said as long as the person who provides the online service doesn't sell it, the exemption applies. **Senator Rice** said he thinks it is good language and a great bill.

Chairman Siddoway said he would reiterate Senator Rice's point. **Chairman Siddoway** said he understands the language the same way Senator Rice just explained, in that there has to be some kind of a nexus for them to be obligated to collect that tax. If there is not that nexus, then they won't.

Senator Werk apologized for coming in late and asked for clarification of the motion. **Chairman Siddoway** said a do pass motion is before the Committee. **Senator Werk** said he would like to comment on the nature of how this bill has been presented. He said he views it, as he believes other people do, that the question is whether or not this is a 'service' rather than a physical product. He said his vote will be based on that, not on whether the bill will have business development impacts, which he felt was "off the mark." He said he did not want to offend anyone, but his vote is confined to whether or not this is a service.

Chairman Siddoway said in the development of this bill, there was much discussion as to whether it should be done by definition or exemption. He said it became evident that even in writing the exemption, there still need to be definitions of terms.

Motion carried by **voice vote**.

Chairman Siddoway said there was a bill on the agenda earlier in the day, but the sponsor, Senator Werk, requested that it be withdrawn from consideration, with plans to bring it forward next session. **Senator Werk** said he realizes this Committee has some important work to get done in the next few meetings. He said he felt wanted to spare the Committee the effort of hearing a bill, knowing it would need to go to the amending order and all the steps back and forth between the House before adjournment sine die. He said the bill will be cleaner next year.

MINUTES: **Senator Werk** moved to approve the minutes of March 5, 2013. **Senator Lacey** seconded the motion. Motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 3:13 p.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary