

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 05, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Bayer, Guthrie, Werk and Burgoyne

ABSENT/ EXCUSED: Senator Vick, with a vacancy in District 17.

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 meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

Chairman Siddoway reported that **RS 23713** would be heard in another Committee.

H 75: **Kris Ellis**, Idaho Optometric Physicians, presented **H 75**. She reported this legislation is to align the sales tax of prescription eyeglasses and contacts with that of other prescriptions and medical devices. Taxes on prescription eyeglasses would be eliminated in the first year, and taxes on prescription contacts would be eliminated the second year. **Ms. Ellis** said the estimated fiscal impact would be \$1.42 million in 2016 and additional \$1.42 million in 2017, for a total of 2.84 million on going.

Senator Guthrie expressed concern about the consumers being over taxed. **Ms. Ellis** stated that taxes are being charged to the consumer on the full retail price.

TESTIMONY: **Dr. Jared Walker**, a private practice business owner from Twin Falls, said their office has been charging sales tax on the full retail amount to their patients and that in many cases this is not fair to their clients. He asked for the Committee's support of **H 75**.

Senator Burgoyne asked about vision insurance companies and the varying discounts given. He specifically wanted to know if the retail price fluctuated between insured and non insured patients and to that end what price was sales tax being charged. **Dr. Walker** said the retail price remains the same for all patients and the discount, based on the patients insurance, is what is determined. He explained that when a practice has a contract with an insurance provider the provider will give their members a percentage off the retail price

Senator Guthrie asked if insurance companies paid sales tax or was it solely a responsibility of the patient. **Mr. Walker** said that it was the responsibility of the patient to pay sales tax.

Dr. Randy Andregg, Retired Optometrist and Executive Director for the Idaho Optometric Physicians Association, spoke in support of **H 75**. He said he has been actively involved with the Tax Commission to try and come to a working conclusion that would treat the State and patients fairly.

Senator Guthrie asked if the frames would be taxable and if he knew of any times when there had been penalty of action taken towards any doctors for remitting tax revenue improperly. **Dr. Andregg** replied that frames are taxed, and yes, he has had multiple complaints of funds being handled incorrectly. This is the reason for several years of work with the Commission for a solution and this legislation.

Pam Eaton, President and CEO of the Idaho Retailers Association, said she was in support of this legislation and didn't know why prescription eyewear was ever taxed.

MOTION: **Senator Burgoyne** moved to send **H 75** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion.

SUBSTITUTE MOTION: **Senator McKenzie** moved that **H 75** be held subject to the discretion of the Chair. **Senator Rice** seconded the motion.

ROLL CALL VOTE: **Chairman Siddoway** requested a roll call vote. **Senators McKenzie** and **Rice** voted aye. **Senators Siddoway, Johnson, Bayer, Guthrie** and **Burgoyne** voted nay. The motion failed.

ROLL CALL VOTE: **Chairman Siddoway** requested a roll call vote on the original motion. **Senators Johnson, Rice, Bayer, Guthrie** and **Burgoyne** voted aye. **Senators Siddoway** and **McKenzie** voted nay. The motion carried.

A lengthy discussion ensued concerning **H 75**. **Senators Bayer, Rice, Guthrie, Burgoyne** and **Siddoway** submitted statements.

H 39: **McLean Russell**, the State Tax Commission, presented **H 39**. He explained that this bill deals with the production exemption in the Sales Tax Act which allows an exemption from sales and use tax for certain tangible personal property used in the production process. An exception exists for tools that cost \$100 or less, making these items subject to tax regardless of how they are used. The \$100 exception has been in place and fixed at that amount since the inception of the Sales Tax Act in 1965. The \$100 amount no longer meets the policy goals the exception was designed to address. The hand tool exception is becoming difficult for taxpayers to understand and comply with and for the Tax Commission to administer. To simplify the Sales Tax Act, the proposal repeals the hand tool exception. **Mr. Russell** said the original policy intent of the hand tool exception has been largely lost, and the administration and enforcement of the exemption is cumbersome both for taxpayers and the Tax Commission. The hand tool exemption needs to go and this bill achieves that. He reported this legislation would result in a decrease in sales tax collections of \$1.5 million.

Senator Burgoyne asked what the cost to the Tax Commission was to administer this exemption. **Mr. Russell** said he didn't know exactly what this exemption was costing the State, but certainly it has an effect.

Senator Rice asked what percentage of the sales tax goes to the General Fund and what percentage is distributed elsewhere. **Mr. Russell** replied that approximately 80 to 85 percent of sales tax collected goes to the General Fund, but that he didn't have those exact figures. The remainder goes to a variety of things, but primarily revenue sharing.

TESTIMONY: **Russ Hendricks**, the Idaho Farm Bureau, testified in support of **H 39** and said this bill not only relieves internal confusion and administrative burden for the Tax Commission, but also relieves a burden for those who purchase hand tools and those who sell hand tools. He said it is never good tax policy to tax items multiple times through the production chain. **H 39** helps to get back to taxing at the final consumer level.

Brent Olmstead, Idaho Food Producers, testified in support of **H 39** and said this bill would be a relief for the confusion surrounding hand tools.

Senator Rice made a statement about the fiscal impact and its effects on the General Fund and said he believed it was incorrect. He expressed his concern about an edit to the fiscal note.

Mr. Russell reported most of the sales tax distributions were a set amount to get the General Fund impact, and the Commission would be able to adjust the fiscal note to reflect the impact.

MOTION: **Senator Guthrie** moved to send **H 39** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

Chairman Siddoway and **Senator McKenzie** requested that they be recorded as voting nay.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 3:50 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary