

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 19, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

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

ABSENT/ EXCUSED: None

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.

MINUTES APPROVAL: **Senator Vick** moved to approve the Minutes of March 10, 2015. **Senator McKenzie** seconded the motion. The motion carried by **voice vote**.

HCR 17 **Representative Youngblood** presented **HCR 17** and said this Concurrent Resolution requests that the Legislative Council appoint a committee to study urban renewal and urban renewal agencies. He reported that the cost of the interim committee is expected not to exceed a total of \$10,000. That amount would be apportioned between the Legislative Account and the General Fund.

TESTIMONY: **Senator Winder** said that the city of Boise today reflects urban renewal. He shared his views on problems occurring in other parts of the State that need not occur in the Boise area. The community needs to do what is beneficial for its growth. **Senator Winder** said Idaho needs to take a look at all the issues and believes the interim committee is a good way to do that.

Senator Burgoyne asked about the appointment of non-legislative members to the committee. How does that work, what kind of people, and how many? **Representative Youngblood** said it would be a broad and diverse group of people who support and also find challenges with urban renewal. The committee would be comprised of non-voting members.

Senator Stennett asked if urban renewal committee (URC) members would need specific expertise for the non-voting members, and how long would the term be. **Representative Youngblood** said he is not sure how the non-legislative committee members would be addressed, but he hopes to attract people from around the State to serve on the urban renewal committee. There would not be compensation or reimbursement for travel expenses. There would also be various meetings throughout the State to hear input and then try to draw some conclusions as to what the best path might be.

Chairman Siddoway expressed a concern over the make up of the committee and non-legislative participants. **Representative Youngblood** emphasized that those non-legislative participants would have no vote.

Senator Burgoyne asked if it was permissible to have non-legislative members on the committee, and if there is any provision for a minority party to be part of the committee. **Representative Youngblood** said to his knowledge there were no restrictions. It would be up to the Legislative Council whether a member of the minority party would be a participant, but he hoped that they would be.

MOTION:

Senator McKenzie moved to send **HCR 17** to the floor with a **do pass** recommendation. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

H 221

Senator Nuxoll explained **H 221** and said the purpose of this bill is to avoid taxing the end user twice by clarifying within the existing production exemption statutes a sales tax to be assessed only on a final product. Clarification to the statutes includes certain wildlife costs associated with an overall hunting and fishing activity when packaged and sold at retail as an all-inclusive product.

John Watts, Veritas Advisors, said the goal of this bill is to clarify in current production exemption language that intermediate purchases of inputs (birds, feed, and ammunition) used in a final retail output product (birds and shooting the bird with shells) are exempted from being taxed twice with a sales tax. This is consistent with Idaho tax policy, which currently holds that the end user retail fee on the output includes all products integral to the final activity such as hunting and hunting packages should be taxed once at the retail sale.

The Idaho Tax Commission (Commission) performed a sales tax audit of the Flying B Ranch (Ranch) hunting preserve for the period 2010-2014. The Commission determined the Ranch should pay a sales tax when it purchases game birds and ammunition at wholesale, and then the Ranch should charge a second sales tax to the end user hunter/customer for the same game birds and shells sold at retail as part of an all-inclusive price.

Birds are purchased wholesale exempt from sales tax from commercial farm operations and are raised and maintained in interim farm coops with netted enclosures. This maturation and growth period requires manual feeding and watering in constructed coops and pens, requiring the Ranch to pay the farm a sales tax during the wholesale purchase. Charging a second sales tax to the customer at the retail sale level is double taxation on the same product. The purchase of game birds and ammunition represents an input, an integral, intermediate part of the final product. Consistent with current production exemption policy, the hunting operation inputs should not be taxed twice nor should other intermediate bird raising supplies or steps including feed, netting, and ammunition.

The Commission audit is being finalized, and preliminary conversations between the Commission and Ranch accounting personnel indicate the assessment could cost the rural Idaho company \$68,000. The Ranch has never had to pay a sales tax twice prior to this audit.

Mr. Watts said that to require a new, second sales tax on heretofore untaxed items will cost the Ranch approximately \$15,000 to \$20,000 in taxes annually.

Senator McKenzie asked how the tax exemption would distinguish between shooting live animals versus targets. **Mr. Watts** said a key operative term in play is consumable. If it's consumed and used once in the process and becomes a component part, then it becomes taxable.

Joseph Peterson, Flying B Ranch Manager, said many shooting preserves in Idaho are small. The price they offer is inclusive with the exception of the birds. Because of their price structure, an auditor said the birds were subject to tax and they needed to start paying the tax. That part of the Idaho Code doesn't work well for the Ranch.

Chairman Siddoway asked him to clarify what he is currently paying in tax and also confirm that he hasn't yet done what the auditor is asking. **Mr. Peterson** explained what taxes he was paying and how the Ranch was currently in protest.

Rick Smith, Tax Attorney with Hawley Troxell and representing Flying B Ranch, said this legislation is intended to address hunting and fishing operations.

Senator Burgoyne asked whether this is an issue to be addressed in the Legislature or the courts. **Mr. Smith** said it is better to get the statute clarified rather than have it litigated because the problem is reoccurring.

MOTION: **Senator Rice** moved to send **H 221** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

Chairman Siddoway stated he had a conflict of interest pursuant to Senate Rule 39(H) and will not vote.

H 236 **William VonTagen**, Deputy Attorney General, presented **H 236** and said it would create two new code sections, Idaho Code §§ 63-3077G and 63-3077H. These proposed code sections authorize the State Tax Commission (Commission) to exchange certain specific information with the Department of Health and Welfare and the Department of Correction. The information authorized to be exchanged relates to eligibility for the food tax credit found in Idaho Code § 63-3024A, which deals with the eligibility for Idaho's food tax credit. The food tax credit is commonly referred to as the grocery tax credit. All Idaho residents qualify for this credit except for taxpayers who are: (1) not in the country legally, (2) incarcerated, or (3) receiving food stamp benefits through the Idaho Department of Health and Welfare. It is up to the Commission to discover individuals who are not eligible for the credit and to disqualify them. The Commission is able to do this with respect to individuals who are not in the United States legally, but currently is unable to disqualify individuals on food stamps or individuals who are incarcerated because information about those individuals is in the hands of either the Department of Health and Welfare or the Department of Correction. Those agencies are currently unable to provide the information to the Commission because of lack of authority.

This bill will allow those two agencies to provide information to the Commission concerning individuals who are not eligible for the grocery tax credit. An individual who is on food stamps for a portion of the year will not receive the grocery tax credit for that part of the year he or she was on food stamps. Likewise an individual who is incarcerated for a portion of the year will not receive the grocery tax credit for the portion of the year that he or she is incarcerated.

The Commission, Department of Health and Welfare, and Department of Correction all deal with confidential personal information and have restrictions in place prohibiting the disclosure of information to the public or to other state agencies. The State has a grocery tax credit and the eligibility requirements for it are already in law. This bill allows the Commission to audit and determine individuals who are ineligible for the credit in an efficient and non-intrusive manner.

Senator Rice asked why the bill says the information is to be provided by the Department of Correction. **Mr. VonTagen** said that one of the reasons is to be able to go directly to the Department of Correction. **Senator Johnson** asked when the bill would take effect and if there is a retroactive clause. **Mr. VonTagen** said it would take effect on July 1, 2015, and it would not be retroactive.

TESTIMONY: **Darcy James**, representing the Idaho Interfaith Roundtable Against Hunger, testified against **H 236** saying they question how much money will actually be saved. She said the fiscal note doesn't allow for any administrative cost, and she also questions the assumption that the food stamp recipients would claim the \$100 that they are not entitled to. **Ms. James** asked that **H 236** be held in Committee.

MOTION: **Senator Burgoyne** moved to hold **H 236** in Committee. **Senator Stennett** seconded the motion. The motion failed by **voice vote**.

MOTION: **Senator Rice** moved to send **H 236** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**. **Senator Burgoyne** and **Senator Stennett** request to be recorded as voting nay.

H 237

Pam Eaton, President Idaho Retailers Association, presented **H 237** and reported that this legislation exempts from the use tax food or beverages given to employees free of charge by businesses that prepare food in their normal course of business. This would include restaurants and full service deli's in grocery stores. Generally employees are given discounted meals and the sales tax is paid on that discounted meal. When an order is incorrect or there is food left over, employees are allowed to eat that.

Some employers allow their employees to eat free during their shifts as a perk to the job. Unless it's an actual meal ordered directly from the menu, who's eating what and when, and what the actual cost is of what they are eating, is extremely tough to track and calculate. This puts employers in a tough situation since the Commission is interpreting that use tax is owed on anything the employee eats for free. Most restaurants and grocery store delis donate their leftover food at the end of the day, and it was exempted from the use tax in 2014. Beverage and food tastings were exempted from the use tax in 2012 and 2013. All of these issues on use taxes owed came from audits from the Commission, although it was never clearly stated in law.

MOTION:

Senator Johnson moved to send **H 237** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL:

Senator Stennett moved to approve the Minutes of March 12, 2015. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman Siddoway** adjourned the meeting at 4:02 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary