

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, February 20, 2019

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Hill, Vick, Anthon, Lakey, Cheatham, Burgoyne, and Nye

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 Rice** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:07 p.m.

PAGE INTRODUCTION: **Chairman Rice** introduced new Committee Page Lauren Pattee, of Eagle, Idaho. **Ms. Pattee** stated she enjoys snowboarding, skiing, and running. **Senator Hill** requested she tell the Committee how she learned about the page program. **Ms. Pattee** responded that Representative Gayann DeMordaunt had originally informed her, and also Senator Grow who is her sponsor. The Committee welcomed Ms. Pattee.

H 86 **Legislation to Provide a Sales Tax Exemption for the Labor Cost of Adding Accessories to a New Vehicle.** **Representative Mike Moyle**, District 14, presented **H 86**. He reported on a business owner he knew who sells All Terrain Vehicles (ATVs) and was being audited. The owner was being charged sales tax on services to install accessories to the ATVs. **Representative Moyle** contacted the Idaho State Tax Commission (Commission) and was informed the way to fix the problem was to take the ATV home, bring it back the next day, and there would be no sales tax added. In his research, **Representative Moyle** discovered this was a common practice known by many businesses. Therefore, he believes the fiscal impact would be minimal. The bill simply states if you purchase accessories one day, there will be no sales tax on installation the same day.

TESTIMONY: **Pam Eaton**, President, Idaho Retailers Association, testified in support of **H 86**. Several dealers and retailers began being audited approximately five years previously and were told they needed to charge sales tax on labor. This started a conversation with the Commission to determine if the labor really was taxed, what the language was truly saying, and if the audits were legitimate. The Commission attempted to clarify the language, but this resulted in the tax being charged on the same day, not charged if they returned at a later date. The Idaho Retailers Association began telling their members how to get around the sales tax until it became common practice. **H 86** was written to clarify the issue.

DISCUSSION: **Senator Hill** asked anyone from the Commission to come forward for questions. **Tom Shaner**, a Tax Policy Manager with the Commission, came forward. **Senator Hill** inquired if the change was a result of audit, or had sales tax always been charged and we were now changing the policy. **Mr. Shaner** responded it was not a change as much as clarifying the definition of purchase price. Tangible personal property was taxable, and anything to prepare the product up to the sale date was included.

Senator Hill thanked Mr. Shaner and reminded him that the Commission has been requested to point out when definitions are not clear, where perhaps policymakers could provide clarification. When a change in interpretation occurs due to an audit or rule, the Committee needs to be aware in order to ensure the intent of the legislature is followed.

Vice Chairman Grow stated it is unfortunate when people are forced to learn how to get around the system. It is the Committee's responsibility to assure that the law is properly stated, and services are not charged.

MOTION: **Vice Chairman Grow** moved to send **H 86** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 87 **Clarifies Idaho Code § 63-602EE to Ensure that all Agricultural Operations are Treated Consistently and Equitably when Agricultural Personal Property is Assessed.** **Representative Mike Moyle** presented **H 87**, a bill dealing with hop equipment. In 2001, Representative Moyle, along with Representative Dolores Crow, brought forward a bill that exempted agricultural equipment from personal property tax. He explained that sometimes a bill's intent is not clear and will be settled through rules and policies. With 44 different counties, there is the possibility of issues being handled inconsistently throughout the state, and hops was an example of that. Senator Hill had encouraged him to find a solution that was equitable for all groups and solved issues before they occurred. **H 87** was the result, with clear intent and language. It removed the references to hops and clarified that harvest and production equipment are exempt, enabling every county to assess properly and equitably.

DISCUSSION: **Senator Burgoyne** questioned how we end up with such disparity across the state. Elected assessors at county level apply the law the way they believe it should be; they are elected officials and allowed to do that.

Senator Hill questioned some of the language, stating he did not see this type of language elsewhere in statute. **Representative Moyle** responded the intent was to broaden the description of harvest production equipment. When the language was narrow, the results were inconsistent with the hops production equipment; one county declared it exempt, while others did not.

TESTIMONY: **Olivia Schroeder**, Commissioner, Idaho Hop Growers Association, testified in support of **H 87**. She relayed that hops have been grown in Idaho since the 1940s.

Roger Batt, Executive Director, Idaho Mint Growers Association, testified in support of **H 87**. He stated they produce 1.8 million pounds of mint oil per year, which is sold in markets nationally and internationally. They had growers who received notification from their county that they would be required to pay taxes on their harvesting equipment. In one of the counties, they had never previously paid taxes on the equipment, and in another had not paid for 18 years. The Idaho Mint Growers Association supports **H 87** as it would create uniformity throughout the state, as well as conform to the statute.

Marv Patton, Executive Director, Milk Producers of Idaho, testified in support of **H 87**.

Bob Naerebout, Idaho Dairymen's Association, testified in support of **H 87**. He relayed that Senator Anthon's county is one of the largest dairy counties in the state, and what would be assessed there might be different than Canyon County. There is a great need for clarification and they believe **H 87** will provide that.

Russ Hendricks, Idaho Farm Bureau, testified in support of **H 87**. He detailed how tours had been set up for tax commissioners and personnel, legislators and assessors, to look at equipment and determine what was appropriate to receive the exemption under statute as originally envisioned. **H 87** is a collaborative effort among the state grower groups, the tax commission, and the assessors.

DISCUSSION: **Senator Burgoyne** stated he believed **H 87** to be consistent with the original intent and he believes uniformity is important. He pointed out that personal property tax should always be narrowly construed.

MOTION: **Senator Burgoyne** moved to send **H 87** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of January 16, 2019. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Grow moved to approve the Minutes of January 17, 2019. **Senator Cheatham** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Rice passed the gavel to Vice Chairman Grow.

DOCKET NO. 35-0101-1901 **To Avoid Taxing Repatriated Dividend Income that had Previously Been Included in Idaho Apportionable Income in a Prior Tax Year. Cynthia Adrian**, Tax Policy Specialist, Idaho State Tax Commission (Commission), presented **Docket No. 35-0101-1901**, a temporary rule that would expire when the legislative session ends. The Commission requested the rule be extended in order that a proposed rule be brought next session. The rule relates to water's edge treatment of dividends. Water's edge refers to a company that files a federal tax return with income from the Pacific to the Atlantic, including foreign subsidiaries. They would then be eligible to receive an 80 to 85 percent exclusion of foreign dividends. However, the current rule makes it unclear what happens to the remaining 15 to 20 percent. **Ms. Adrian** stated the Commission agreed the language was unclear and they would have a proposed new rule by next session.

TESTIMONY: **Jayson Ronk**, Director, State Government Affairs, Micron Technology, testified in favor of **Docket No. 35-0101-1901**. **Mr. Ronk** reported he had several meetings with the Commission discussing the conflict created by the statute. He asked the Committee to approve **Docket No. 35-0101-1901** in order to allow the Commission to bring a permanent rule forward next legislative session.

MOTION: **Chairman Rice** moved to approve **Docket No. 35-0101-1901**. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Grow passed the gavel to Chairman Rice.

ADJOURNED: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:43 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary