

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, March 10, 2021

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Rabe

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 3:02 p.m.

MOTION ON GUBERNATORIAL APPOINTMENT: **Senator Nye** moved to send the Gubernatorial appointment of Jefferson McCray to the State Tax Commission (Commission) to the floor with recommendation that he be confirmed by the Senate. **Senator Souza** seconded the motion.

DISCUSSION: **Senator Rabe** related to the Committee that she was impressed with Mr. McCray's background but was concerned regarding his lack of experience. She reminded the Committee of Senator Grow's apprehension from the prior meeting, during which he expressed concern regarding the lack of Certified Public Accountants (CPA) on the Commission. **Chairman Rice** informed the Committee that there currently was not a CPA on the Commission.

VOTE ON GUBERNATORIAL APPOINTMENT: The motion to send the Gubernatorial appointment of Jefferson McCray to the State Tax Commission to the floor with recommendation he be confirmed carried by **voice vote**.

H 210 **Relating to Sales and Use Tax; Regarding the Applicability of the Sales and Use Tax to Certain Nonresidents Purchasing Vehicles in Idaho.** **Representative Terry Gestrin** presented **H 210**, explaining that it was written due to a change in practice by auditors of the Commission. **Representative Gestrin** gave each Committee member a copy of form ST-104NR, Sales Tax Exemption Certificate, Nonresident Vehicle/Vessel (see Attachment 1). **Representative Gestrin** explained to the Committee that Form ST-104NR is used when an out-of-state person or entity purchases a vehicle/vessel in Idaho. The purchase is made in the State of Idaho and the item is taken to the state of residence or operation where the fees are paid. **Representative Gestrin** stated that Form ST-104NR details what a nonresident is, and clarifies what vehicles/vessels are included. **H 210** was drafted due to properly exempt out of state individuals or entities receiving a tax bill after making an Idaho purchase. **H 210** includes a simple requirement that corporations and other organizations are treated as nonresident individuals for the purpose of sales tax collection.

DISCUSSION: **Senator Souza** questioned what had created the circumstance in which sales tax was being charged to out-of-state individuals. **Representative Gestrin** responded that confusion was created when an out-of-state business had an online presence in Idaho. The internet allows business to be completed across state lines, creating the perception of a state-based business, he said.

MOTION: **Senator Vick** moved to send **H 210** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

H 171

Relating to Sales Tax; Regarding Sales Tax Exemption and Resale Certificates. **Senator Mark Harris** presented **H 171**, explaining that it shifts the obligation of proving a sales tax exemption from the retailer to the purchaser. **Senator Harris** added that **H 171** also provides that the purchaser bears the liability of any subsequent audit of the transaction and the seller shall remain harmless. **Senator Harris** explained that currently, retailers must prove why they did not charge sales tax on an item. This has forced retailers to act as state tax collectors, for which they are not compensated. **H 171** will place the burden of proof on the purchaser. **Senator Harris** clarified that if there is any loss of revenue to the Commission from **H 171**, it would be a result of the Commission currently collecting more than it should. **H 171** does not increase the amount of exemptions allowed by the Commission.

DISCUSSION:

Senator Rice informed the Committee that the Commission desired **H 171** be amended to include the federal employer identification number, or driver's license number and state of issue, to the exemption certificate. **Senator Harris** replied that amendment could easily be made.

Senator Ricks questioned how **H 171** would be enforced, as it is easy to go online and fill out a form for sales tax exemption. **Senator Harris** explained that it may create more work for the Commission, but the goal was to remove responsibility from the retailer. Enforcement and any resulting fine would be focused on the individual involved in the transaction, he said.

MOTION:

Senator Souza moved to send **H 171** to the 14th Order of Business for possible amendment. **Senator Nye** seconded the motion. The motion carried by **voice vote**.

H 217

Relating to Income Taxes; Regarding Evidence of Taxpayer Expenditures. **Representative Dustin Manwaring** explained that **H 217** is a new section of taxpayer-friendly code and introduced Representative James Ruchti to present it to the Committee. **Representative Ruchti** related how helpful the legislation would be to taxpayers, bringing evidence of expenditures into today's world of technology. **H 217** creates a rebuttal presumption for claiming deductions from credit card receipts. Rebuttal presumption is an assumption taken to be true unless someone contests it and can prove otherwise. **H 217** shifts the burden of proof of expenditures to the Commission.

DISCUSSION:

Senator Grow indicated to the Committee members that he strongly supported **H 217**. **Senator Vick** questioned if the information required was sufficient for federal taxes. **Representative Ruchti** replied that **H 217** applied to Idaho taxes only.

MOTION:

Senator Grow moved to send **H 217** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:38 p.m.

Senator Rice
Chair

Machele Hamilton
Secretary