MINUTES

HOUSE REVENUE & TAXATION COMMITTEE

DATE: Wednesday, March 04, 2020

TIME: 8:00 A.M.

PLACE: Room EW42

MEMBERS: Chairman Collins, Vice Chairman Stevenson, Representatives Moyle, Anderst, Chaney, Gestrin, Addis, Dixon, Furniss, Giddings, Nichols, Ricks, Kiska, Ellis, Mason, Necochea

ABSENT/ EXCUSED: None

GUESTS: Hollie Ann Strang, Gem County Assessor; Josh Dison, Elmore County Assessor; Justin Baldwin, Gooding County Assessor; Dennis Fuller; Jeremy Pisca, Idaho Realtors; and Sancha Mitchell, IRC.

Chairman Collins called the meeting to order at 8:05 a.m.

MOTION: **Rep. Stevenson** made a motion to approve the minutes of the February 14, 2020 meeting. **Motion carried by voice vote**.

SCR 134: **Senator Jim Rice** said **SCR 134** is for the appointment of an interim committee to take a deeper dive into property tax. There are ongoing problems with property tax in Idaho, including shifts between commercial to residential property, rapid increases, and different behaviors in different parts of the state.

In response to committee questions, **Senator Rice** informed the committee that minority membership is usually a part of committees appointed by Idaho's Legislative Council.

MOTION: **Rep. Stevenson** made a motion to send **SCR 134** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote**. **Rep. Moyle** will sponsor the bill on the floor.

H 589: **Rep. Robert Anderst** introduced **Max Pond**, Idaho Realtors, to reiterate the changes made to **H 589** in response to committee concerns. Mr. Pond said requirements were added that account holders must reside in Idaho, have never owned a home in any location, and their annual contributions cannot exceed deductible limits. A cap of $100,000 for the lifetime of the account was also added.

In response to committee questions, **Rep. Anderst** said a town home is a legal distinction, and the definitions include all types of dwellings used for residential purposes. **Rep. Anderst** will sponsor the bill on the floor.

MOTION: **Rep. Stevenson** made a motion to send **H 589** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote**. **Reps. Nichols** and **Necochea** requested to be recorded voting **NAY**.

H 590: **Rep. Jim Addis** said **H 590** deals with assessments to business or commercial property, and is part of the larger tax question of how to reduce property taxes. For commercial property owners, assessment valuations are based on three approaches: market, income, and cost, which are subjective. This legislation looks at the cost value and eliminates some of the subjectivity that goes into valuing commercial properties. **H 590** sets forth a provable, actual and real assessed cost moving forward. Certain businesses have intrinsic income that is very hard to calculate. Non-paper 'blue sky' values of a business based on the worth of the business if it were sold and assessment methods that look at income but don't take costs out do not produce a true picture of worth. Then when budgets are mixed with the truer assessed values, the levy rates and property tax propositions are much simpler and accurate.

In response to committee questions on whether the commercial property values would harm residential property and whether there would be a tax shift, **Rep. Addis** said **H 590** provides a cornerstone based on fact through an accurate assessment process, and it is a policy maker's decision on how to look at budgets and levy rates. He further stated lower taxes are not the function of the assessment process but to get the right data that starts from a reality basis and simplifies the assessment process. In response to further questions, he informed the committee that an Idaho Attorney General Opinion had not been sought.

Committee members discussed how an improvement would be valued based on its actual and functional use; how to figure a value no more than depreciated costs; valuations on empty properties; the different methods of accessing value; the disallowance of expense deductions on the income method; how depreciation would be valued; the possibility of redefining market value; the cost approach and shielding residential values; and setting a uniform policy for the state.

Speaking **in opposition** to **H 590** were **Holly Anne Strange**, Gem County Assessor; **Josh Dison**, Elmore County Assessor; and **Justin Baldwin**, Gooding County Assessor; who said assessors are charged with establishing a market value of property, and they adhere to the standards of the International Association of Assessing Officers, who use three methods which help them to be fair and upon which they have not had many appeals. If **H 590** passes, there will be a tax shift; all properties will be assessed at the market level; appraisals will come in higher than the assessed value; depreciation is not used; taxes will shift to new property; assessments will be significantly higher using the cost approach only; the location of commercial property and implementation are not addressed in the legislation; most property would not see a benefit unless they are a larger box store; the most fair way to asses is based on the income a property can derive; taxpayer rights are missing in this legislation; it does not work with market law and violates other laws; they want assessed value to be close to a market value, but market value is the most important; it doesn't work according to market logic, violates assessment practices and the rule intended to properly equate value would conflict with Idaho Code § 63-109 where the ISTC equalizes value.

In response to committee questions, **Mr. Dison** replied they are familiar with their communities and weigh whether the cost, income or market approach and whether to average the three or leverage the lower or higher of the three would be most appropriate to the property. When buildings get older and the cost is not as true, they send out questionnaires asking for costs, expenses and development per square foot. They look at a building's highest and best use, and if they are a retail store, they look at square footage, structural components and the way it is designed. He further responded to committee questions about depreciation cost being set in federal regulations by saying there is more than one factor affecting depreciation. The values of commercial properties are indexed annually.

In response to committee questions **Mr. Baldwin** replied that he would try and find a market vacancy using the best information available to appraise un-rented storage units. He further responded to questions concerning calculations establishing an income stream where the income has not been established by saying market value and what a buyer would pay for the property is most important. He said he considers all three valuation approaches and tries to decide what the market would do, not what the property is reflecting.

Committee members commented the cost approach should not always be the approach, but in a situation where an income stream cannot be established, it is not a good practice to just make assumptions. The establishment of an income stream where one may not exist is subjective. Market value is where you start with no assumptions figured into what a property is worth. Decisions markers should be limited when valuing a property.

Rick Smith, Hawley Troxell Ennis and Hawley, appeared on his own behalf and **in support** of **H 590** and said no matter the type of business, when an income or comparable sales approach is used, the value of the entire business is captured. If a cost approach for a nursing home is $1 million and the income approach is $2 million, the appraiser may consider all the approaches and may average them to arrive at $1.5 million. The problem is that the income approach is the entire value of the business which, for a nursing home, is the value of the patients, the customers, the food service. **H 590** recognizes the cost approach of $1 million is the maximum amount any investor would pay if they could build the same property for that value. Depreciated cost is not a new approach but is the approach county assessors use. Current Idaho law says assessors can use reproduction costs and replacement costs, and this legislation changes statutory language to recognize it is going to be a depreciated cost. Property tax depreciation is different from income tax depreciation. This legislation separates business value from property value. The difference is intangible value, whether it is good will or customer relationships or some other type of intangible that is exempt under Idaho Code § 63-602L. It is very difficult for assessors to deduct that intangible value. This legislation puts a cap on the cost approach which would eliminate the need to try and get intangibles out of an income or market approach value.

In response to committee questions, **Mr. Smith** said he thinks **H 590** affects commercial property at the margins that have a lot of income relative to tangible property value. He guaranteed businesses like fast food establishments or car dealers are not being assessed using an income approach but a cost approach. It would be an impossible task for assessors to use an income approach then back out the franchise value and the good will. **H 590** will take care of the balance of those and make it more consistent and fair for everyone. He further responded to committee questions by saying the actual and functional use under current Idaho code is not addressed in **H 590**.

Rep. Addis closed by saying **H 590** makes commercial values more data driven and fact based for the purpose of clarity in assessments so that the worth of an assessed business property is clear. The current process is fraught with variability and subjectivity, and this legislation is seeking more certainly.

In response to committee questions, **Rep. Addis** stated depreciation methods are different for property than income tax.

MOTION: **Rep. Anderst** made a motion to **HOLD H 590** in committee.

Reps. Moyle and Necochea spoke **in support** of the motion saying the impact and constitutionality of **H 590** needs further review.

VOTE ON MOTION: **Motion carried by voice vote**.

RS 27740: **Rep. Tammy Nichols** informed the committee the framers of our nation established that gold and silver are money. In recent decades, federal taxing authorities have required taxpayers to report nominal capital gains and losses when exchanging this form of federal reserve notes. Idaho already exempts precious metal bills from sales tax, and **RS 27740** exempts the sale of precious metal bullion from being subject to capital gains. Under Idaho law, a taxpayer who sells precious metals may end up with a capital gain in terms of federal reserve notes, which is not necessarily a real gain but a nominal gain that results from inflation increased by the Federal Reserve and the attendant decline of the dollar's purchasing power. Because Idaho uses federal adjusted gross income as a starting point for Idaho income calculations, the nominal gain is taxed again by Idaho which creates a double tax. Investments in precious metal coins and bullion are exempt from sales tax. This legislation would incentive citizens to purchase gold and silver.

MOTION: **Rep. Moyle** made a motion to introduce **RS 27740**. **Motion carried by voice vote**.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 9:47 a..m.

Representative Collins	Lorrie Byerly
Chair	Secretary