

MINUTES  
**SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE**

**DATE:** Thursday, February 16, 2012

**TIME:** 3:00 P.M.

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Corder, Vice Chairman Johnson, Senators Hill, McKenzie, McGee, Hammond, Siddoway, Werk, and Bilyeu

**ABSENT/  
EXCUSED:**

**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.

**Chairman Corder** called the meeting to order at 3:02 pm. **Chairman Corder** introduced the page for the second half of the session, **Marc Christensen**. **Mr. Christensen** said he is from St. Anthony and will be going to college, majoring in Medicine.

**S 1316** Relating to Public Funds; to Authorize Treasurers for Public Hospitals and Treasurers for County Hospitals to Invest Funds Generated From Operational Revenues in Certain Investments. **Chairman Corder** introduced **David Lehman** of Principle Strategic Advisors and the Kootenai Medical Center. **Mr. Lehman** said this legislation will allow hospitals to invest revenue generated from the operation of the hospital into investment-grade corporate securities. This legislation does not allow revenue generated from taxes or levy assessments to be invested. This change in the legislation will allow the hospitals to double return on investment.

**Senator Hammond** asked what the rules are for investments by the state of Idaho. **Mr. Lehman** said the sideboards used by the hospital are similar to those used by the State Treasurer. The hospitals are only allowed to invest in investment grade corporate tax of an A rating or higher and only US companies. The difference between the hospitals and the state treasurer is the hospitals have eliminated any reference to maintenance and options for stock ownership. Investment possibilities are very limited in scope.

**Senator Siddoway** asked what the current restrictions on investments are. **Mr. Lehman** said the current restrictions are based on the section of statute that regulates all public monies, The county hospitals or hospital districts can invest in government-backed securities and securities from state organizations such as county bonds. Kootenai Medical Center has opted for more conservative US-based treasuries because the rating for those bonds can be significantly higher than that of a political subdivision. **Senator Siddoway** asked if the long-term savings accounts are utilized by districts as well. **Mr. Lehman** said 30-40% of the money that is used in the operations of the hospital are in bank accounts.

**MOTION:** **Senator McGee** made a motion to send S 1316 to the floor with a Do Pass. **Senator Hammond** seconded, and the motion carried by Voice Vote. **Senator Hammond** will be the floor sponsor.

H 438

Relating to Income Taxes; To Revise the Income Tax Credit for Capital Investment. **Chairman Corder** introduced **Dan John** of the State Tax Commission. See attachment #1. **Mr. John** said the change in this legislation is to eliminate a potential problem that has never occurred. Idaho has a tax credit for qualified properties which is 3%. There is a fourteen-year period in order to carry this over. There is a recapture period of five years. The legislation relating to the carryover period says the credit is valid as long as there is an Idaho situs. After the fifth year when the recapture ends, the property does not even need to be owned by the original purchaser for them to keep the carryover.

**Senator Hill** said the carryover was only originally five years, when the capture time and carryover time were equal, there was no problem. **Mr. John** said early on, that was true.

MOTION:

**Senator Werk** made a motion to send H 438 to the floor with a Do Pass. **Senator Hill** seconded, and the motion carried by Voice Vote. **Senator Werk** will be the floor sponsor.

S 1315

Relating to Property Taxes; to Provide that Delinquencies on Personal Property Taxes Shall be First and Prior. **Chairman Corder** introduced **Suzanne Budge** representing John Deere. **Ms. Budge** said this is a change to current legislation and affects large multi-state companies that finance clients' purchases. It changes the lien position when a piece of equipment must be repossessed and the equipment has a delinquency in personal property taxes.

**Ms. Budge** introduced **Beverly Heird-Flores** of John Deere. **Ms. Heird-Flores** said the legislation pertains to personal property tax liens on construction equipment. When John Deere is doing a credit check to determine whether or not to finance a potential client, county personal property tax liens do not show as they are not reported.

If the equipment needs to be repossessed at some time in the future and there are any personal property tax liens; the liens will take precedence over the purchase money security interest (PMSI). The county tax lien will take the equipment dealer out of first lien position.

**Senator Hammond** asked if the financing company would bear the responsibility for the tax lien on the piece of equipment that is being repossessed. **Ms. Heird-Flores** said as the legislation is today, the financier would be responsible for the tax lien on any other personal property as well.

**Senator Siddoway** asked what happens to the county's tax obligations, who pays it. **Ms. Heird-Flores** said if there is personal property that does not have a PMSI on it, the remaining taxes could be paid through that remaining property. **Senator Siddoway** said if there are fifty bulldozers and John Deere has financed one, what property tax would John Deere be responsible for. **Ms. Heird-Flores** said under current statute, before the John Deere equipment can be resold, all of the property tax liens would have to be paid, not only the one on the equipment they have financed. **Senator Siddoway** said the current legislation is not fair to the financiers, but a change has to be fair to the counties as well.

**Senator Hill** said with the proposed change, what would be the result if the equipment needs to be repossessed. **Ms. Heird-Flores** said it would depend on how the remaining machines are financed. If the tax lien existed first, it would stay first priority. If the tax lien was placed on the equipment second, the county would be responsible for getting the money from the owner of the equipment rather than the financing company. **Senator Hill** said with the current legislation the equipment company has to pay the tax liens on all equipment and with the new legislation, the financing company would have to pay none of the tax liens. Is there a compromise where the tax on the equipment that is financed by the company would be paid by the company, **Ms. Heird-Flores** said that is not one of the current options.

**Senator Hammond** said if the financier is in first lien position, they should stay there regardless of what happens after they have received that position. **Senator Hammond** asked how often this issue occurs in Idaho. **Ms. Heird-Flores** said there have been more repossessions across the country.

**Senator Werk** asked if the equipment would have equity when it is repossessed; does the financing company end up with that equity. Could the equity be used to pay off the tax liability. **Ms. Heird-Flores** said under the current situation, the equipment could not be sold at all. **Senator Siddoway** said if the equipment has been used hard and not maintained, there may not be any equity. **Senator Werk** said this legislation may leave the equipment company whole, but it leaves the counties with potentially nothing.

**Senator McKenzie** said there would be no way to know the equity of the property due to use and age. **Senator Werk** said there would be some residual value and perhaps it could be used to pay the tax lien.

**Chairman Corder** asked if once the lien has been paid, is there enough residual value in the equipment to satisfy the loan. **Ms. Heird-Flores** says there are many times they do not receive enough money to equal the outstanding loan.

**Senator Werk** said another way to solve this problem is to require the counties to disclose any liens they may have, which would allow the equipment dealers to make a more-informed decision. **Chairman Corder** said if the lien were to come after the financing has been established, the county lien will come first anyway.

**Chairman Corder** introduced **Colby Cameron** representing Caterpillar, who spoke in support of the legislation.

**MOTION:**

**Senator Werk** made a motion to hold S 1315 subject to the call of the Chair. **Senator McGee** seconded. **Senator McGee** said there are additional questions that need to be answered. **Senator McKenzie** said the bigger issues are when there is a property tax lien that is unknown; and the financial obligation is much greater than the value of the equipment, due to an unfair tax liability. **Chairman Corder** asked committee members to give him any additional questions. The motion carried by Voice Vote. **Chairman Corder** and **Senator Hammond** voted no.

**S 1314**

Relating to the Prudent Management of Institutional Funds. **Chairman Corder** introduced **Darin DeAngeli** of Ahrens, DeAngeli Law Group. **Mr. DeAngeli** said the current legislation specifies how charities manage and spend their funds, specifically endowments. In 1996 the law was changed to instruct endowments to invest the money in accordance with modern portfolio theory. This change uses total return concepts and this will work to underpay the charitable beneficiaries. There are two parts to the law, part one says here is how you invest and part two says here is how you spend. If the law requires you to invest using total return concepts, it must allow charities to disregard references to principal and income in spending the endowments.

**MOTION:** **Senator McGee** made a motion to send S 1314 to the floor with a Do Pass. **Senator Hill** seconded, and the motion carried by Voice Vote. **Senator Hill** will be the floor sponsor.

**MOTION:** **Senator Hammond** made a motion to approve the minutes of February 8, 2012. **Vice Chairman Johnson** seconded, and the motion carried by Voice Vote.

**ADJOURNMENT:** The Meeting was adjourned at 4:05 pm.

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Senator Corder  
Chairman

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Jo Ann Bujarski  
Secretary