

**MINUTES
PROPERTY TAX INTERIM COMMITTEE
FRIDAY, OCTOBER 7, 2005
JOINT FINANCE-APPROPRIATIONS ROOM
STATEHOUSE, BOISE, IDAHO
9:30 A.M.**

The meeting was called to order at 9:30 a.m. by **Cochairman Representative Dennis Lake**. Other members present were Cochairman Senator Shawn Keough, Senator Brad Little, Senator Monty Pearce, Senator John Goedde, Senator Tim Corder, Senator Elliot Werk, Senator David Langhorst, Representative Bill Deal, Representative Mike Moyle, Representative Gary Collins, Representative Eric Anderson, Representative Wendy Jaquet and Representative George Saylor. Legislative Services Office staff members present were Mike Nugent, Paige Parker, Jason Hancock and Toni Hobbs.

Others present included Robin Nettinga and Jim Shackelford, Idaho Education Association; John Watts, Veritas Advisors; Ray Stark, Boise Metro Chamber of Commerce; Freeman Duncan, Kootenai County Property Tax Relief Task Force; Dallas Chaney, Idaho State Grange; Joe Gallegos, AARP Idaho; Ken Robison; Russ Hendricks, Idaho Farm Bureau; Patty Bauscher, Gooding County Assessor; Tony Poinelli, Idaho Association of Counties; Tom Ryder, J.R. Simplot Company; Russell Westerberg; Martha Arcos, Congressman Otter's Office; Steve Ahrens, IACI; Representative Nicole LeFavour, District 19; Chuck Oxley, Idaho Democratic Party; Steve Purvis, City of Boise; Jerry Deckard, CapitolWest; Pam Eaton, Idaho Retailers Association; John Eaton, Idaho Association of Realtors; Randy Nelson, Associated Taxpayers of Idaho; Alan Dornfest and Dan John, State Tax Commission; Jayson Ronk, Building Contractors Association; Roger Sherman, United Vision for Idaho; Maureen Ingram, Legislative Services Office; Trent Wright, Ada County Association of Realtors; Brian Wonderlich; Ken Harward, Association of Idaho Cities; Dawn Hall, Division of Financial Management; Dar Olberding, Idaho Grain Producers; Representative Stan Bastian, District 14; Representative Frank Henderson, District 5; Mike Friend and Phil Homer, Idaho Association of School Administrators

After opening remarks from the cochairmen, **Senator Keough** moved that the minutes from the June 29, 2005 be approved. **Senator Werk** seconded and the minutes were approved unanimously.

Representative Lake said he thought the minutes for all of the hearings could be approved as a group unless there is an objection from the committee. Without hearing any objection, he said

the chair would entertain a motion to accept the minutes as they have been printed for the twelve hearings that were held around the state.

Senator Werk made a motion to approve the minutes with typographical corrections that had been discussed with the secretary. **Senator Keough** seconded and these minutes were approved.

Representative Deal moved that the minutes of the September 13, 2005 meeting be approved. **Senator Keough** seconded and these minutes were also approved unanimously.

Representative Lake explained that the first item of business for the committee today would be to review HB166 from the last session that deals with the circuit breaker.

Mr. Nugent said that this bill was prepared last year and was sponsored by **Representative Jaquet** and **Representative Moyle**. The bill would have provided a maximum income limitation of \$25,000 and a maximum tax reduction of \$1,200. He said that was basically all the legislation proposed. It had a negative fiscal impact of \$2.2 million that was calculated to accrue to the general fund because these moneys are paid out of the sales tax account and go back to the counties for property tax relief.

Representative Lake asked if the present circuit breaker law is indexed. **Mr. Nugent** said it is indexed to CPI. The present law moves the income limit up but it is capped below \$25,000. The new legislation would step up the circuit breaker from where it is now to \$25,000 and it will still remain indexed and move up from the \$25,000 based upon the CPI. The way the bill is written the maximum amount the state would pay would be capped.

Representative Jaquet said she would like to make changes for the committee to consider. In her opinion, the amount the state pays also needs to be indexed so it does not stop at \$1,200. She added that testimony given in Boise said that a couple living together with a combined income cannot qualify for the circuit breaker, although they would individually. She suggested revisiting this to include a combined income limit and possibly indexing that to the social security benefit rather than this cost of living index. She clarified that her suggestions include raising the benefit, indexing to the social security index and having a combined income possibly at \$30,000. **Representative Jaquet** commented that during the hearings across the state it was suggested that at some age seniors should not be required to recertify on an annual basis.

Representative Lake asked how many people qualify for the maximum tax relief under circuit breaker. **Mr. Dornfest** said that all his numbers are from the 2004 program. They are in the process of figuring this from the 2005 figures. **Mr. Dornfest** said indexing the maximum limit the state would pay is a little more complicated because if you raise the maximum \$1,200 limit and keep the current bracket structure, all of the brackets are stretched so, in fact, everybody would get a little bit more, even if they're not up to that \$1,200 maximum.

Senator Little asked how to propose this. He said one of the thoughts that has crossed his mind is not to deal with the circuit breaker in a vacuum particularly if there is any interest in adding

the land to part of the 50/50 homeowner's exemption. As was heard in the hearings, if the land is not included, a lot of the people that are currently using the circuit breaker that are living in lower valued homes would be taken care of. He said he would like to look at both options at the same time.

Representative Lake said the sense was to work through the circuit breaker by itself as well as the developer's exemption. It was agreed that the homeowner's exemption and the repeal of the M&O needed to be discussed together and then if there was still time in the day, impact fees would be addressed. He suggested that, if the circuit breaker issue does tie in with the other issues, it be discussed and held in abeyance until later in the day.

Senator Little said that before final action is taken on the circuit breaker he would like to get **Mr. Dornfest's** professional opinion about the overlap between tinkering with 50/50 homeowner's exemption as far as adding land into it and how that affects those who now qualify for the circuit breaker. If the committee is going to address modifications to the homeowner's exemption, in his opinion, it would be more prudent to look at the consequences of both the homeowner's exemption and the circuit breaker together.

Mr. Dornfest said he could not answer the earlier question of the number of people capped out on the \$1,200 benefit limit. He said he would try to get that information for the committee. He advised the committee that it is not really just people capped out at \$1,200, it is people capped out at all different levels. There are 36 brackets within the circuit breaker with some people who are only eligible for \$200 being capped out too. Their taxes may be \$250 or \$300 or \$400. The average person who qualifies for the circuit breaker gets 73% of their taxes paid. That implies that everybody is capped out or the average claimant is capped out to some extent. The number capped out at the \$1,200 cap only applies to about 25% of the claims. This is because those at the very lowest income level are those who are eligible for the \$1,200. This income level is quite a ways below that \$22,000 figure. It is a sliding scale. People are capped out throughout the bracket structure. **Mr. Dornfest** said that if the \$1,200 changed, it would change the capping effect everywhere.

Representative Lake asked for an estimate on what the cost would be to index the maximum amount the state will pay. **Mr. Dornfest** answered that in an analysis he did using \$28,000 as the income limit and \$1,320 as the maximum benefit limit, he came up to with an impact of \$5 million.

Senator Werk asked for information stating what percentage of people that are eligible for the circuit breaker actually take advantage of the program. He asked if there is something in the application process that is dampening participation in the program. **Mr. Dornfest** said from census data only, about 50% of the potential eligibles are actually receiving benefits. He stated that to make people aware of the program the tax commission publishes brochures and has various other outreach efforts including working closely with the counties. It is important to have direct help available. He said the Tax Commission conducts training programs for counties every year and the purpose of those training programs is so that the counties can work closely

with their claimants in their areas. Based on his discussions with AARP, it is his impression that 50% is a not a bad number nationally.

Senator Werk asked if there is information on how the percentage of participation change as the age increases. **Mr. Dornfest** said he has never done that but it is a scenario they could run to see if there are changes.

Representative Jaquet asked if it would be better to index the circuit breaker income level to the social security benefit increase rather than the cost of living.

Mr. Dornfest said the index used by law is the social security index based on the cost of living adjustment.

Representative Jaquet asked what would happen to the program if this benefit was extended to all low income households rather than just to the current beneficiaries that are 65 and over and the disabled veterans? **Mr. Dornfest** said they have done some preliminary research on this recently using 2004 data and it would appear to roughly double the program size.

Senator Corder said that he agrees that the circuit breaker cannot be considered without looking at the entire picture.

Representative Lake suggested the committee move on to discuss some other issues on the list.

Senator Werk said that there are many different scenarios on the circuit breaker that could be run and would like to encourage staff to do that for the next meeting.

The next item on the agenda is a discussion of the “developers discount.” **Mr. Nugent, Legislative Services Office**, reviewed HB488, As Amended, from 2002 that put this law into effect. **Representative Lake** clarified that the amendments to the original HB488 allowed the property to be taxed as agricultural property until the time that there is construction on the lot. **Mr. Nugent** said that was what the amendments did. He said if it is the desire of the committee to go to the original language of HB488, there would need to be a repeal of Section 63-603FF and then the original language of HB488 would be added with a January 1, 2006 effective date or January 1, 2007 effective date depending upon the will of the legislature given that is when the tax year begins. It would be a complete xerox of the original language of HB488.

Mr. Nugent explained that HB254 from last year attempted to correct the problem the amendments to HB488 caused. This legislation repealed the developers discount and replaced it with a new section that provided a 10 year phase out of the exemption. Qualified lots would be appraised at full market value and receive a 95% exemption for assessment purposes for the first five years after approval and recorded and then would decrease to 80%-60%-40% and 20% respectively for years six through nine and in year ten the parcel would be appraised at full market value for assessment purposes. If a house was to be built, it would be taxed at fair market value as residential property. An amendment was approved to this that extended the phase out to 14 years. This version of the legislation passed but was vetoed by the Governor. It was stated in

the Governor's veto message that he vetoed it because there was not enough time for counties to implement it because of the effective date of April 15 that was put in the bill and its relatively late passage date.

Senator Little said he thought the last time the committee met there seemed to be more or less uniform acceptance of repeal of the developers exemption so he is a little puzzled by the discussion.

Representative Lake said the reason HB488 was introduced was because there were assessors that were valuing rural farm land as rural residential as soon as it was platted regardless of whether the land was continuing to be used for agricultural purposes. The original bill said that the owner was entitled to maintain his agricultural exemption taking out the speculative value of the land until he sold the lot. That bill was amended and the amendments were interpreted and all these things happened and all of a sudden a developer was claiming the agricultural exemption until the time he sold the lot. There was a lot of discussion at the hearings around the state about this. Also due to testimony in some of the hearings, **Representative Lake** said there may be a need to create an exemption of some kind (not the ag exemption) for the developer until he can start selling the lots.

Representative Deal said that in his opinion this is an important issue that needs to be dealt with. The original intent of HB488 and 63-603FF simply said that there would be a continuing agriculture exemption until the individual parcel was transferred to an intended occupant. This would mean that when a developer developed land, he would get that exemption until he sold the property and the new owner then would have his property assessed at the comparable market value of resort property or whatever it would be. Of course, this has not been the case because of some of the changes that were made to this legislation. He stated that Black Hawk subdivision in Valley County is getting the agriculture exemption on the land. Before the exemption the property valuation would have been about \$1.7 million and after the exemption that goes down to about \$2,500 with a tax of about a \$105. This causes a terrible tax shift.

Representative Deal offered the following solution:

- C (a) Go back to the original intent of HB488. That would be to give some protection for those developers that are in this particular situation to give them the ag exemption; and
- C (b) once that property is sold then that speculative property would be assessed as comparables in those particular areas.

Representative Jaquet said she would like to remind the committee that when they were in Gem county, the officials said that the real costs to local government are doing the platting process and that the county does not really recover any of those costs until property taxes are paid or the land is developed. By delaying the recovery of the property taxes, the other property tax payers in the county are subsidizing the platting process because they are paying for the planning and zoning department.

She said when this bill was first introduced, she thought it was interesting that the state was

going to help a developer when in a free market economy the developer takes a risk and goes to the bank, gets up front financing and passes on the cost such as the property taxes to the people who buy the homes. It should be an even playing field. If there is a growing area and you are a developer and you are going to develop adjacent to these areas such as Valley County or Rexburg, it seems to her that you figure out the risk and do your marketing plan and sell your lots and you pay the property tax on those lots. It has been suggested that property tax should only include land not improvements. If you follow through on that discussion, the people in Valley County should not be paying such very low property taxes on that bare land. It sounds like it has been a great boon for marketing land. The advertising message is basically come buy a lot near Tamarack and do not pay any property taxes. She finds that really unfair to the people who live in that county.

Representative Moyle said he does not have a problem with property receiving the agricultural exemption if it is platted as long as it is being farmed. We do have developers that are buying up some of this farm ground and platting it but not farming it. The land goes out of production. The key is once it leaves production, it should no longer get the ag exemption. If it is still in production and still being farmed, the developer should receive the agricultural exemption. When they take that next step is when they should lose that agricultural exemption.

Senator Corder interpreted that HB254 made a distinction between sizes of counties. There were three counties larger than 100,000 population and that distinction was made because the counties that are growing fast have no problem. The land that is developed gets sold so quickly that it is not an issue anymore. The protection is there, as the original intent of HB488 says, to provide a good development philosophy. He said the argument was what is “good tax policy”. He struggled to learn what that was and in his mind, “good tax policy” is a policy that encourages orderly development. HB254 struggled to do that but it did achieve it. It achieved it because it provided for a slow down of that process. It allowed people in rural areas that knew they could not sell their lots as quickly as they might, to plan for the entire development and pay taxes accordingly as they were sold. It also required qualification of ag land and if it is no longer being farmed, the exemption went away. He said there were some other provisions that made people nervous about HB254 including the distinction between the number of lots a person might buy and the number of years for the exemption to be phased out. He said his interpretation of HB254 and the amendments is that neither one was perfect and would require work to fix. He said going back to HB488 before any amendments is not the fix.

Senator Corder said this legislature can put a compromise together that will satisfy the concerns and needs of orderly development and needs of the counties to bring these properties under taxation as quickly as possible in an orderly fashion. He added that this is one of those exemptions that needs to be looked at with all of the other property tax exemptions.

Representative Lake said that he agreed but feels that this is a standalone issue.

Representative Jaquet said at Valley county people talked about how the land was not being farmed and asked why that is happening. **Mr. John** said that the way the bill is written, if land

ever had an exemption, it remained in place until there was a building on it. **Representative Jaquet** clarified that as meaning that if a farmer and developer get land platted that used to be farmed, even if it is no longer being farmed, the developer gets the ag exemption until there is construction on the lot. **Mr. John** said that was correct.

Senator Corder said in the amendments of HB254 sought to correct that as well. It sought to make sure the ag exemption had to be certified. He said part of the problem is how aggressive assessors want to be in interpreting what ag land is and how much they want to take the risk of being sued if they interpret the other way.

Senator Little said there were some significant problems pre HB488 in how different counties were assessing some of the development property. A developer's discount was passed but was declared to be unconstitutional. He said he it might be necessary to have some type of developer's discount. His preference would be if the Tax Commission could write rules that would clarify how these properties are assessed because before HB488 this was not an issue in some counties. **Senator Little** gave the following as an example of the differences. There was 100 acres divided into 10 acre lots and the first lot sold for \$100,000. Some counties were saying the remainder of the land was worth \$900,000 or \$100,000 per lot because that is what the first lot sold for. Other counties were not doing this. In reading the history of Idaho tax laws since 1865, we have been giving directions to assessors on how to evaluate ground since then. The issue is how to recognize reasonable absorption rates, to recognize the time value of money, and the fact that the first lot that sells in a development might be the best lot. He said that maybe the tax commission and assessors could look at the rules and propose new rules or legislation that addresses this. In his opinion it is not good land policy that there is no penalty for platting ground. If he looks at two different 80 acre parcels and one of them is split into 80 one acre lots and the other one only gets two 40 acres, there is a difference in the value even though the value is not captured until the land is sold. He said that is the argument about Proposition 13; the land has more value. **Senator Little** added that he does not like the three county exemption especially the fact that it is affiliated with the ag exemption.

He asked if it is not possible, even today, to have ground platted and get the ag exemption exclusive of 63-603FF. **Mr. John** said in the minds of the tax commission, even if land is platted and it is still being farmed, it should still get the ag exemption. **Senator Little** asked, if this is the case, why is there such a problem. **Mr. John** answered by saying that there was not uniformity in this application throughout the state. Some areas of the state were changing the land from ag to residential and increasing the value. This is what triggered HB488. **Representative Lake** asked if HB488 in its original form solved the problem. **Mr. John** said that HB488 did have some issues that may have raised constitutional questions and during the amendment process some of those were taken out and other issues were created. If you want to allow someone to develop land that has been classified at some time as farm land, legislation could be drafted in such a way that it is clear that just platting the land does not take the exemption away. It could also be drafted in such a way that it would retain the exemption even as some of the plats are sold until a certain percentage have been sold or just put the land in as residential when one lot has been sold even before there has been any improvements made to it. It could be drafted

several ways that would mitigate to some extent the impacts of HB488.

Senator Little said there is still a difference in parcels and some of the ground that is getting the exemption but does not have a plow, cow or sheep anywhere close to it. It is not ag, it is development ground that is getting taxed as ag land. **Mr. John** agreed.

Senator Langhorst said there's general agreement from the committee and the public, based on all the discussion and hearings, that nobody really supports the exemption remaining on land that has been subdivided and sold to individuals. He suggested that in the next month or two before this committee ends its work, forming a subcommittee with members of this committee, the tax commission, agriculture interests, developers and appraisers, to come up with some language that this committee could support that would address the issue originally intended to be addressed by HB488 while getting rid of some of the erroneous parts or the unintended consequences of it.

Representative Lake said if the committee agrees the chairmen would appoint a four member subcommittee that would create the legislation. This was agreed by the members and the committee will be notified who will be on that subcommittee. The next item for discussion was replacing school M&O with general fund money.

Mr. Hancock referred to his handout and electronic presentation. He said the first thing is the basic line item breakout of the public schools budget. The funding sources for FY06 include \$987 million dollars or so in general funds, \$45 million in dedicated funds, \$165 million in federal funds for a total of about \$1.2 billion dollars going to schools. Of that, \$75 million is for property tax replacement that is a capped amount in FY06 and would otherwise be in the ballpark of \$83 million if it were not capped. Each school district is getting their proportional share of the \$75 million right now. **Mr. Hancock** explained that part of equalization funding is salary based apportionment. He said this is the center piece of the school funding formula where various factors are multiplied together to arrive at the funding for school staff salaries that the state provides. He said that state paid employee benefits are not part of the equalization formula. In other words, however much money is being distributed for school district salaries by the state, there is a percentage that is added on to that to cover state paid employee benefits.

Mr. Hancock compared the public school budget to an irrigation system consisting of about \$1.2 billion with a series of diversions as to where that money goes. These diversions include statutory requirements of about \$981 million, other ear marked distributions that are made in the appropriation bill at \$192 million for a total of \$1,174,000,000. He noted that does not spend all the cash that is available, it leaves about \$23 million in state discretionary funds. These are also equalized under the funding system.

Regarding funding per support unit, **Mr. Hancock** said that a support unit is basically like a classroom but it is the basic funding unit for schools. Bigger school districts like Meridian have a lot more support units than Butte county. Using a formula it is figured that there is \$1,760 in state discretionary funds per support unit. Included also is a local contribution that consists of

the M&O money that the districts are raising as well as those \$75 million state property tax replacement dollars under the equalization formula for a total of \$24,695 in discretionary funds per support unit. This does not include the salary based apportionment but both are part of equalization.

His presentation includes charts showing this in more detail. This is available at the Legislative Services Office.

Mr. Hancock explained that the basic way that equalization works is by looking at the level of funding that each school district is entitled to get under formula and then filling up that bucket with local M&O money and the \$75 million in property tax replacement. Local money is used to fill up the bucket as far as it will go with local money and the state simply tops it off. The state is going to give more money to a poorer district than it does to the average school district.

Mr. Hancock noted that Blaine county is one of four school districts in the state where the level of property wealth is so high that the .003 M&O levy plus their share of the property tax replacement adds up to far more dollars than the formula says they ought to receive. The school district is allowed to keep this extra money. The state equalizes up to the point of funding that districts are entitled to receive, if a district happens to raise more than that because their property values are so high they get to keep it.

Mr. Hancock stated that charter schools are essentially funded the same way as all other schools. Their level of funding is about the same as everybody else on a per support unit basis, the only difference is that charter schools, since they have no property tax levying authority get all of their funding from state money. He said that this does not actually in and of itself create additional burden to the state because if the students coming to a charter school are from one of the other school districts, it reduces the number of students in that district, thus causing a decrease in support units and so the level of local funding that would be available on a per support unit basis would grow.

Senator Little asked if this is a one to one shift. **Mr. Hancock** answered by saying provided that the average daily attendance divisors are the same in the charter as they are in the school district that the student left, yes, it is one to one. What can create some additional costs is charter schools tend to be smaller than school districts and so it does not take as many kids to generate a support unit of funding.

Mr. Hancock went on to discuss the cost to the state of replacing the public schools M&O levy. He said that \$256 million is generated for public schools in FY06 by the M&O levy. (He noted that this dollar figure does not include the additional money that the Boise school district raises on the revenue that they receive from having a higher M&O rate.) The amount of state funds to public schools for FY06 is \$98 million. **Mr. Hancock** said that replacing the M&O levy for FY07 would cost the state roughly \$244 million more. This is assuming that the Legislature would fund enrollment growth and provides a discretionary funds budget increase of 3% over the FY06 funding level. As an aside, **Mr. Hancock** said that a 6% sales tax would raise

approximately \$210 million in FY07.

In response to a question from **Representative Lake**, regarding why the \$244 million is not equal to the \$256 million generated in FY06, **Mr. Hancock** said this has to do with the way replacing M&O will affect the few very wealthy school districts. The extra dollars the counties such as Blaine County are generating must be taken out of the \$256 million because those are not shared. They are part of the revenue stream but not part of what the state equalizes. The money the state would pay if M&O is replaced with state funds, does not include replacing the extra dollars raised by these school districts. **Mr. Hancock** said a possible solution would be for those four school districts that are raising more than they are entitled to receive could be to replace that money with a supplemental levy or convert the additional money raised by their M&O to a fixed dollar amount and levy for that. He said over time this levy amount would diminish as development occurs and property values increase.

Representative Jaquet noted that although Blaine County raises this extra amount of money, the cost of recruiting and paying teachers in the area also impacts the school budget. **Senator Goedde** said this is just a snap shot in time and that the four districts that raised more money than entitled to are not always the same. **Mr. Hancock** said that was true but since the replacement would take place at a certain point in time, the replacement would only be relevant to these four districts. If the state does a full replacement of the M&O, the funding system for schools becomes uncoupled from property values. He said that if in the future another area becomes like Blaine County, in order to make up some funding they might have to go to the voters for a supplemental levy. The level of funding the state provides is based on the number of students, experience and education of the teachers and so on. It does not take into account the cost of living. **Senator Goedde** commented that he has some trouble setting this at a certain point in time and the fact that if another area becomes like Blaine County, it has to approach the issue differently than these four counties that were grandfathered in.

Mr. Hancock went on to explained that the Boise School District operates under a charter granted by the territorial legislature of Idaho that allows them to levy at a substantially higher M&O levy rate. Essentially this is like a very large supplemental levy. He said if the state was going to do a full M&O property tax replacement (at a point in time), it would essentially be buying down the Boise district's levy rate. **Representative Lake** asked how Boise is handled in the equalization formula. **Mr. Hancock** said that Boise is only equalized as if they were levying at .003 plus their share of the property tax replacement money.

Representative Jaquet said that the property tax replacement cap has hurt places like the Weiser School District. She said she is concerned that if the state decides to pay for this and the economy slows down in the future, what happens if down the road another cap is considered. She said the committee needs to address the safety net issue for the school districts. She said if the M&O is going to be replaced with state funds, she would feel better if it did not replace all four mills and if, in fact, the state does not meet its obligations, there would be something in the legislation that would allow districts to pick up the difference without have to ask the voters to vote on it.

Representative Lake said he would be in favor of eliminating M&O taxes entirely in order to provide property tax relief. His vision is that M&O be eliminated and become a general fund item and the school districts get their money through the appropriation process. He said that the state is constitutionally bound to provide for the education of the students. In his opinion it is very archaic for the state to continue to rely on property tax to fund schools. **Representative Jaquet** said she has concerns about that because, in her opinion, this legislature has not always done the right thing for local school districts which is why there are so many supplemental levies in place. **Representative Lake** said the current system is causing a huge disparity between counties due to their abilities to raise money through M&O. He said it is equalized to some extent but places like Blaine County have a lot more money to spend on their students. He said it is his view that the legislature has the responsibility to treat students essentially equal, regardless of where they live. That is what this will help do.

Senator Corder said he agrees with **Representative Lake** but asked how this alternate source of funding will provide the stability that is necessary to alleviate the concerns of **Representative Jaquet**. **Representative Lake** said it would require a larger stabilization fund. **Senator Werk** pointed out that Idaho's equalization fund is widely regarded as an excellent model. Many other states use it. He added that the equalization formula takes care of the disparity between school districts. **Representative Lake** said there are districts that have a lot more to spend than others because counties are entitled to keep any extra money raised above the amount the state says they are entitled to.

Senator Goedde asked if sales tax is used to fund education, how big a stabilization account would have to be to fund this cushion. **Mr. Hancock** said that in looking over the history of education, the state has had holdbacks about one out of every five years. If there were a 3% holdback for public education, the public education stabilization fund balance would need to be \$30 million. Currently there is only about \$2 million in it. The public education stabilization fund serves two purposes. One is to guarantee that each school district will get the exact amount the legislature decides on per support unit in equalized discretionary funds. The other purpose is to stand behind the public school budget in the event of a holdback. If there is a holdback, the schools share of the holdback is automatically drawn out of the stabilization account before their actual budget is affected.

Senator Goedde asked about a provision to secure school funding if there was a holdback two years in a row. **Mr. Hancock** said the state could create larger stabilization fund but would have to review the statute in order to change the cap. Currently it is capped at 3% of that year's general fund appropriation to schools. **Senator Goedde** said that regardless what is done to replace M&O, the committee or the legislature will have to figure out how to increase the stabilization fund.

In response to **Senator Goedde's** earlier comment regarding the unfairness of allowing certain districts to levy for the difference between what they are raising now and what they will get from the state, **Mr. Hancock** said the committee could allow that for all school districts in case they ended up in the same situation.

Senator Werk asked if the state were to replace all of the M&O, would the increase in property value be used to keep track of how much money would be raised by the M&O. **Mr. Hancock** said his scenario is that replacement takes place at a point in time and after that the state would no longer look at the increase in property value to fund education, it would be based on a formula. **Senator Werk** said that currently many school districts stay afloat due to increasing property values and growth. **Mr. Hancock** noted that state general fund expenditures have kept up with growth to school districts. He said increases in M&O have just served to offset the reductions in endowment distributions over the last few years. The level of funding being provided on a per unit basis for schools has remained essentially flat. In response to another question from **Senator Werk**, **Mr. Hancock** said that the increases in this funding over the last four years have been 0%, 0%, 0% and 1%. **Senator Werk** said that with the increases in gasoline prices and health care it is hard to believe that districts are not relying on other funding sources to keep themselves whole. He would be very concerned about this in the future.

Senator Langhorst said that it seems like there is a plan being discussed and asked where the money to replace the M&O will come from. **Representative Lake** said this idea was discussed in hearings across state but where the money will come from has not been specified. It is his sense that this money will go to general fund revenues. In his opinion, local control does not really exist today because the state set the levy at 3 mills. In response to another question from **Senator Langhorst**, **Representative Lake** said that local school boards would still have control over the ability to do supplementals. **Senator Langhorst** said he just wanted the committee to be aware that some local school districts might have an issue with local control.

Senator Goedde said it has been estimated that the 3 mill levy would increase funding between 8% and 9% in the next fiscal year. **Mr. Dornfest** said that would be true for next year including the Boise multiplier. **Mr. Dornfest** said the increase would actually be lower if the 4th mill was included.

Senator Keough asked what the impact of a 1% initiative compared to putting schools under a 3% budget cap would be in order to compare what would offer the most property tax relief while at the same time funding public schools adequately. **Mr. Hancock** said he has looked at putting M&O under a 3% cap and that he will get that information. He said he has not looked at the impact of a 1% initiative. **Senator Keough** said that as the debate continues, the committee needs to include all of the possibilities. She added that removing the M&O would provide a significant amount of property tax relief and put school funding under the responsibility of the state which is what our constitution requires. She said that everyone needs to understand that initiatives are waiting in the wings and the pros and cons need to be studied.

Representative Saylor said he shares **Senator Langhorst's** concern about local control. The issue of where the money comes from has a lot to do with control. In his opinion moving the M&O to the general fund sounds like shifting funding from a certain stable source to a rather uncertain, unstable source. If the intent is to continue to provide the current level of funding, this would seem to be a tax shift. **Representative Saylor** said he would rather see the state only fund part of the M&O and allow the districts to still have some control. He also said, if the

M&O is removed completely, he would like some kind of guarantee that the state would meet the obligation and if not, the districts could go back to their tax rolls.

Representative Jaquet asked, regarding Grangeville, if the assumption is that by the state paying their M&O it would make it easier for them to get supplementals approved.

Representative Lake said yes, this would give them at least a 25% savings in property taxes and might make them more inclined to support supplementals.

Representative Jaquet asked how many districts have supplementals and what that total amount is. **Mr. Hancock** said about ½ of the school districts have supplementals and that he would get the dollar figure for the committee. For last year it was \$68 million and will be approaching up to \$80 million for the current school year. **Senator Goedde** asked how many supplemental requests failed. **Mr. Hancock** said he would get that information.

Senator Little said that the bulk of the complaints received were about the unchecked inflation as a result of the totally automatic aspect of the 3 mill M&O. He asked why changing the M&O to the budget model could not be done. He also asked if the equalization problem could be quantified if the 3 mill aspect of M&O were changed. **Mr. Hancock** said if the fixed rate M&O levy were removed and made budget driven and let the school district figure out how much it is going to raise, it would create an awkward situation because districts will set the dollar amount really high or will go the other way and levy nothing and have the state pay the entire amount allowed under equalization. **Senator Little** asked if there are models used by other states requiring districts to raise a certain amount and that the state would only fund up to a certain amount. **Mr. Hancock** said equalization, as it exists today, would seem to render that approach moot. In his opinion, Idaho's equalization system is quite good and creates a great deal of equity across the state. **Representative Jaquet** commented that equalization solved a lot of these inequities.

Senator Corder asked what confidence is there that, ten years from now, if this is changed, another legislature will not be dealing with the fact that the state is not providing enough funding. **Representative Lake** said experience is that schools are never funded adequately, no matter where the funding comes from. This change would just provide property tax relief.

Mr. Dan John, State Tax Commission was introduced to discuss homeowner's exemption changes and how that would affect property taxes. He explained that the numbers used in gathering this information were from the 2003 census. The numbers have been analyzed in two ways. One is by simply increasing the dollar cap on what is now the 50/50 homeowner's exemption and the other is by increasing the dollar cap and extending the exemption to the 100% of the land. These two methodologies result in significantly different numbers. The table below shows this.

Maximum Value of Exemption	Residential Land Eligible	Only Improvements (House) Eligible
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	1st year tax shift \$ millions	2nd year tax loss to schools \$ millions	1st year tax shift \$ millions	2nd year tax loss to schools \$ millions
\$ 60,000	57	13	21	5
\$ 70,000	81	18	34	8
\$ 75,000	88	20	38	9
\$100,000	120	27	55	13
\$125,000	142	32	66	14
\$150,000	150	34	75	17

According to **Mr. John**, this shows that adding the value of the land to the exemption causes a much greater loss to schools than just increasing the homeowner's exemption on property alone.

Mr. John said he asked DFM for a CPI number from 1982 to 2006 to see what that would have done to the homeowner's exemption had it been indexed and it would have resulted in a slightly lower number than the chart shows. He said if the homeowner's exemption had been indexed from day one, the exemption cap would be about double today to what it was in 1982.

Senator Werk asked how the numbers would change if the increase was phased in and how would that affect the loss to schools. **Mr. John** said that he can not give a definitive answer on that because the numbers used were 2003 and once better data is available these numbers will change.

Representative Jaquet said that she is uncomfortable with the use of the word shift and suggested this be consider as restoring equity from the initiative that was passed in 1982. **Mr. John** said the numbers would not change but said it could be called a reallocation of who pays.

Mr. Hancock next presented the committee with information that attempts to quantify, by class of taxpayer, the impact of the proposals that have been discussed beginning with a baseline analysis.

The scenarios include:

- C 1. Replace M&O levy
- C 2. Increase homeowner's exemption to \$60,000 and include land
- C 3. Replace M&O and increase homeowner's exemption to \$60,000 include land
- C 4. Same as 3 but also repeal personal property taxes

These charts are available from the Legislative Services Office.

Scenario 1. Replace M&O levy.

Mr. Hancock explained that this shows the amount of savings that would be given to property taxpayers by class if the M&O levy was removed.

In response to a question from **Representative Lake** regarding the first scenario, **Mr. Hancock** said essentially this demonstrates that the more property tax a person pays, the more relief they will receive. He said this is basically because of the M&O fixed levy rate.

Senator Corder said that in his opinion if the tax is shifted to sales tax, the owner-residential group would still be paying the most tax. **Mr. Hancock** said he did not have any analysis of that. **Mr. John** said that a study done by the state of Utah showing what sectors pay the most sales tax between individuals and businesses gives that ratio to be about 70/30. **Senator Corder** said in making this change to relieve property taxes it is important to understand what effect the replacement taxes will have. **Mr. John** said that the amount residential property taxpayers would save if the M&O is removed would be \$170 million. He said that a lot of sales tax revenue is paid by people that would not benefit from a change in M&O. **Representative Lake** said those who would benefit the most by this change would be those that do not spend all of their disposable income.

Scenario 2. Increase the homeowner's exemption to \$60,000 and include land.

Mr. Hancock said this scenario is decreasing the owner-residential component of property taxes and increasing the amount the other components would pay. It results in \$30 million in property taxes being taken off of the owner-occupied residential taxpayers and being allocated back out to the remaining classes of property taxpayers.

Representative Saylor asked, since this scenario increased the homeowner's exemption from \$50,000 to \$60,000, if every \$10,000 increase would have the same effect. **Mr. Hancock** said that as the amounts go up, the amount of change would not be one for one due to the fact that a person can only utilize the homeowner's exemption for up to half of the value of their home. The impact of the increases starts to reduce the higher the exemption cap.

3. Replace M&O and increase homeowner's exemption to \$60,000 and include land.

Mr. Hancock explained that compared to the baseline the dollar amount change this would provide is about \$141 million in property reduction for owner-occupied residential, \$48 million for other residential and \$42 million for commercial-industrial. He said that even though the homeowner's exemption has the effect of shifting some of the property tax burden off of owner-occupied residential and onto other taxpayer classes, the increase to the other classes is more than made up for by the reduction in property taxes they would have by replacing the M&O.

Scenario 4. Same as Scenario 3 but also repeal personal property taxes.

Mr. Hancock said this results in a different set of shifts because personal property taxes are not found in all of the categories represented. He said the biggest dollar amount reduction using this scenario occurs for commercial-industrial taxpayers thus reducing the amount of reduction owner-occupied residential taxpayers receive by about 50%.

In response to a question from **Representative Jaquet**, **Mr. Hancock** agreed that this could hurt some counties more than others because some counties rely on personal property for most of the property taxes received. In response to another question from **Representative Jaquet**, **Mr. John** explained that over the years there had been talk, when personal property taxes were eliminated, of a trade off of sales tax for personal property. When the bill for agricultural personal property was introduced a couple of years ago, that was not included and he said he does not know why. **Representative Jaquet** asked if that were to be done, would it be about equal. **Mr. John** said it was actually \$13.4 million which is pretty close to equal.

Representative Lake asked for information on what would happen if the homeowner's exemption goes higher than \$60,000. **Mr. Hancock** said that using scenario 2, the higher the exemption, the more money shifted to other categories. He said this is also true for scenario 3. **Mr. Alan Dornfest, State Tax Commission**, said that **Mr. John's** table shown above indicates what happens if the homeowner's exemption is raised higher than \$60,000. He pointed out regarding whether or not to include the land in the exemption, that it is estimated that 40% of properties are topped out on homeowner's exemption today. Not including land in the homeowner's exemption ends up shifting taxes to lower end homes that are not topped out. Raising the homeowner's exemption alone does nothing to help those with lower valued homes. **Representative Lake** asked what the land value component would be of an average home. **Mr. Dornfest** said it would be between 20% and 25%. He noted that setting the homeowner's exemption at \$100,000 would put it at same buying power as 1982 when the homeowner's exemption was first instituted.

Senator Little said in his opinion increasing the homeowner's exemption, due to the ever increasing property values, that would only be a one time benefit. **Mr. Dornfest** said that is true for some properties but for properties that are under the maximum cap amount it is not true. It would shield some of the increase. **Mr. Hancock** said this change does not include indexing the cap. **Senator Little** said that indexing the cap would result in a continual shift that takes place every time the cap goes up. He asked what the effect would be on the other classes of property taxpayers if the owner-occupied residential taxpayers portion is indexed. **Mr. Hancock** said that not indexing the cap would cause the property tax load to creep back to the owner-occupied residential taxpayer as has been happening since 1982. Indexing would keep that portion of taxes paid more steady. **Senator Little** said that if it is not indexed, non-owner occupied and renters will have a continual increase in property taxes. **Mr. Dornfest** said that an adjustment could be made by the average inflation of all property, not just residential.

Senator Langhorst asked if a balance point was found between residential and other property, rather than just looking at an index of property values, a formula could be used. **Mr. Dornfest** said that was correct. He said that Colorado locks in the residential share. He noted that this creates nonuniform rates between residential and other classes which would be unconstitutional in Idaho.

Representative Jaquet asked if it would be appropriate to use a different index than the CPI. **Mr. John** said there are housing indexes but they are not as accurate as the CPI. The CPI

number gives a lower amount even than using a national housing index.

Representative Jaquet commented that this scenario includes 100% of land in the homeowner's exemption. She said that in the legislation last year, only 20% was included and asked which would be more appropriate. **Mr. Dornfest** said administratively it is simpler to do 100%. There is a balancing point and if a large amount of the land is not included, it will hurt the lower end home more.

Senator Werk said that he had prepared legislation last session dealing with land and homesteading that included a certain size piece of land. He asked how that was defined. **Mr. Nugent** said he did not remember but it could have been taken from the circuit breaker definition. He said he would get that information for the committee. **Mr. John** said the circuit breaker has a definition that says homesite includes one acre and that is the definition that assessors already use.

Representative Lake said that there had been a request to tie the homeowner's exemption and circuit breaker together. He asked how this would work. **Senator Little** said that adding land to the homeowner's exemption takes \$1.8 million out of circuit breaker. **Mr. Dornfest** agreed that it does reduce some amount of the cost that the state is bearing to provide circuit breaker benefits. He explained that the overall value of property subject to tax is lower so the amount of tax the state would pay would be less. **Representative Lake** clarified that increasing the homeowner's exemption and including land decreases the amount of property taxes owed and if that person files for circuit breaker relief, it would decrease the amount of assistance the state would have to pay in taxes for that person. **Mr. Dornfest** said that was correct.

In response to a question from **Representative Jaquet**, **Senator Little** explained that from what he has heard, including land in the homeowner's exemption is another way to help those living in lower value houses with lower income and would also reduce the need to change the existing circuit breaker law.

Senator Little said in his opinion the best way to help renters is to lower property taxes in general and that he is not advocating circuit breaker for apartment owners. **Representative Jaquet** asked what would happen if property tax relief was given to landlords as long as they lower their rent as their property tax goes down. **Mr. John** said no study has been showing that landlords would lower their rents due to a decrease in their property taxes. **Representative Lake** said that information shows that rent is driven by demand, not taxes so this might not be of much benefit. **Representative Jaquet** said there has been discussion about other states providing property tax relief indirectly to renters by giving them credits or some type of exemption on their income tax.

Senator Werk said that in his opinion changing the homeowner's exemption does not really help those families that have had homes on lakes that have increased in value so much they can not afford to pay the taxes. He asked what can be done to help these people. He asked if it is possible to have different homeowner's exemptions in different areas. **Mr. John** said the

problem with a local option homeowner's exemption is with taxing districts that cross jurisdictional boundaries. One of the most talked about counties to do this would be Blaine County but they have joint taxing districts that are also located in Minidoka County. Having different homeowner's exemptions in this case would be treating property in the same taxing district differently and that would probably not be constitutional.

Senator Keough suggested that the committee charge is to make recommendations to Legislature and said it is time to propose, in motion form, recommendations to move forward. **Representative Lake** agreed and said it would be nice to have some legislation prepared also. **Representative Jaquet** said some consensus can be found but local option has not yet been discussed. During the hearings around the state it was clear that the same solution is not going to work in all areas. She said she is not ready to vote on recommendations today. **Representative Lake** explained the items that were included on the agenda to be discussed were chosen because they received the most votes from committee members in the survey taken. Due to that fact, it was assumed that they could be handled first. He said it would be appropriate at another meeting to discuss the other items on the list. **Representative Lake** said he is hesitant to hold these issues discussed today back until the rest of the items are discussed.

Senator Goedde said that he had heard from other committee members that they were not willing to move forward to looking at specific legislation until all of the issues had been discussed. He noted that there are five issues on today's agenda, of which four have been covered. The four that have been discussed appear to have enough votes to come out of the committee and be forwarded on to the legislature. He suggested that before legislation is considered, the committee explore the local option arena.

Representative Lake agreed and said that there are many different ways to handle local option taxes. **Mr. Hancock** suggested the committee have a brainstorming session on local option because of the broad range of possibilities. **Senator Corder** said local option is one area available to provide property tax relief that does not rely on state government to make up the difference. If a local area wants local option it should not matter to the state. It is up to the communities to vote on implementation and if the state is going to impact communities in other ways, local option taxes might be a way to make up some of the difference.

Representative Lake observed that in areas that have local option it is usually added to sales tax and it almost always passes. He said this is one reason he thinks taking M&O off property tax and adding it to sales tax is a good idea. He commented that maybe there could be a local option tax to remove the M&O. He said, on the other hand, when local option is granted, it results in a variety of different tax rates throughout state which is something that has been avoided in Idaho.

Senator Little reminded the committee that there are certain areas of the state where local option sales tax will not work. Even if it is done regionally, where do you draw the line.

Representative Jaquet said the idea of regional revenue sharing is compelling. She said it was

discussed in Twin Falls which is an area where people come to shop, work, go to school and so on. These areas have to provide more services for these people and thus could also benefit from a local option tax to help pay for these services. Also an area where local option would not work does not need to offer it. This is option for certain areas to use, not all areas. She said it gets to the issue of having growth pay for itself. She suggested the idea of removing the expiration date for Kootenai county's local option tax and expanding the uses beyond corrections and look at the 50% property tax relief as a way to provide additional revenues for rapidly growing areas.

Representative Jaquet went on to say that real estate transfer taxes are not a shift of taxes. It is between the buyer and seller of property and is often negotiated. She said such a tax can be designated for certain uses that the activity of turning property is impacting. She said it was her hope that the committee consider a real estate transfer tax as one of the options for local option taxes in certain areas.

Representative Jaquet added that local option does not have to be put on sales tax. There has been legislation presented that used income tax as local option to provide revenue for schools and so on.

Senator Goedde said the days of patchwork taxing went out long ago. In his opinion local option is local option and communities can use it if it will work for them. He noted that if Boise institutes a local option on sales tax, this could work in favor of areas such as Gem county because more people might go there to shop.

Senator Goedde stated that the local option sales tax in Kootenai County is going to account for about \$5 million in property tax relief this year. That is a huge opportunity for that area.

Representative Saylor agreed that local option in Kootenai County has provided significant property tax relief. He said the county commissioners have proposed another correction facility using local option tax that will provide additional property tax relief. There is a need for such a facility and if the local option goes away, property taxes will increase.

Representative Saylor said he would also like to consider impact fees as way for growth to pay for itself. He said he would like to consider changes in the impact fee statutes to allow those fees to be used for the building of new schools and purchasing police cars; things that need to be added because of growth.

Senator Langhorst said that traveling around the state was very helpful, but no matter what, the legislature or a legislative committee will never be able to be as effective as the local government officials and the people who live in those communities who would be voting on local option taxes.

Senator Langhorst moved that the committee ask the Legislative Services Office to draft legislation to simplify the allowance of impact fees and to expand options available for local governments to employ local option taxation. Representative Saylor seconded the motion.

Senator Goedde said that he already has legislation prepared for this motion. **Representative Jaquet** asked if his legislation addresses county local option legislation. **Senator Goedde** said yes, it is local option sales tax.

Representative Moyle asked if the committee was planning to go through this process and vote on all 19 issues. He said if that was the case, they would not be able to get finished before the session starts. He also asked if this motion will take 2/3 majority to pass. **Representative Jaquet** said that it was her understanding at the last meeting that all 19 items would be discussed to some extent even if the committee does not vote on them. **Representative Lake** said the motion will take simple majority in order to pass for more discussion at the next meeting. **Senator Langhorst** said he made motion to help move the meeting along.

Representative Anderson said it was interesting to him that the committee has spent all day talking about three issues and a brief discussion about local option results in a motion. He said he would like to go back and complete the discussion of the earlier issues before moving on to the other 19. He said he is in favor of local option taxes and suggested exploring **Senator Goedde's** legislation before asking Legislative Services Office to prepare anything else.

Senator Keough said she supports the motion and was ready to do motions on the other issues as well. She suggested the committee use **Senator Goedde's** legislation as well as some others dealing with what was heard around the state. In her opinion some of these issues need to be more defined before committee members are willing to vote on them. In support of the motion, she thinks that local option was one issue that was heard all across the state and this motion gets the committee closer to a decision.

Senator Goedde said it was his understanding from the last meeting that the discussion list would only include the 10 ideas that received the most votes from committee members in the survey. He thought other items would be taken off the table. In his opinion in order to move forward, things need to be removed. **Representative Lake** clarified that the agenda was narrowed down in order to allow the committee to discuss what seemed to be the major issues according to what the survey results were. He said he hopes the committee is comfortable with the discussion that was held today and is getting a sense of how they want to proceed. He would really like to see the committee move forward on the issue of the circuit breaker and the developer discount issue. He would like to deal with the issues that were on the agenda today and if necessary discuss the others at another meeting. **Representative Saylor** said that the charge of the committee also includes proposed legislation and that he hopes this group will be able to develop that legislation having been through the issue so thoroughly this summer. **Representative Lake** agreed.

Senator Langhorst's motion carried by voice vote with one nay.

After a short break the committee reconvened to discuss the circuit breaker issue in more detail.

Representative Jaquet moved that the circuit breaker be increased to an income limit of

\$28,000 with a cap of \$1,320 on the amount that the state will contribute and that at age 75 or an appropriate age, as submitted by the AARP, recertification is not required. Saylor seconded.

Senator Little asked what the fiscal impact of this would be. **Mr. Dornfest** said it would be about \$5 million. He questioned the move to allow automatic certification for those over 75 years and said he was not sure how that would affect the fiscal impact. **Mr. Dornfest** asked what income level this would be based on because people's income levels change and they are allowed to deduct medical expenses which affects their circuit breaker benefit annually. He said the fiscal impact of this would be higher than \$5 million.

Representative Jaquet said she would withdraw the age part of the motion and the seconder agreed.

Representative Saylor clarified that this change would have a fiscal impact of \$5.5 million but if homeowner's exemption is increased to include land that amount could go down.

The motion carried with 11 ayes and 2 nays.

The next discussion item was the 50/50 homeowner's exemption and school M&O.

Representative Moyle moved that land be included in homeowner's exemption. Senator Werk seconded.

Senator Corder said that even though it is not the committee's task to identify where the replacement funds for these changes would come from, **he moved that at the next meeting possible income sources to pay for these changes be identified. Senator Langhorst seconded.**

Senator Corder said he made the motion because he does not see how the committee can make recommendations on spending money without also recommending where it be made up.

The Motion carried.

Senator Keough clarified that **Representative Moyle's** motion is to include the value of the land as well as the value of home in the homeowner's exemption. **Representative Moyle** agreed.

Senator Werk suggested the language dealing with the definition of homestead be used in this legislation.

Representative Lake asked if this was the only thing done regarding the homeowner's exemption, would it work. **Mr. John** said yes. **Senator Little** asked if there are any other unintended consequences of including land in with the home for the homeowner's exemption. He said he is assuming this means owner-occupied land. **Mr. John** said he could not think of

anything that might be an unintended consequence but they will go through the issue very thoroughly before the next meeting.

Representative Lake asked for the fiscal impact of this by itself. **Mr. Dornfest** said it would be around \$25 million and that he would get that for the committee. He said it does depend on where the exemption amount goes.

The motion was approved unanimously by a show of hands.

Senator Goedde said that it would be his hope that no matter what is done, the committee would look at making sure schools are held harmless.

Senator Keough moved that the committee recommend moving all 4 mills of school M&O off of property taxes and onto the state general fund to be replaced with sales tax that is either additional or broadened. Representative Moyle seconded.

Representative Jaquet suggested an amended motion that includes the of ability of schools to go back to property taxpayers without a vote to recoup funding, if the state failed to meet its obligation to fund schools. **Representative Lake** asked what would be the trigger that would allow this to happen. **Representative Jaquet** said her concern is that if the amount of money put into the general fund to fund schools decreases, there is no mechanism in place for the districts to go back and recover that difference. **Representative Lake** clarified that her idea is that if the M&O is replaced with general fund money and in year one the state appropriates \$6,000 per student and next year appropriates only \$5,800, the local school boards could automatically levy for that difference without a vote. **Representative Jaquet** said correct.

Senator Goedde suggested an intermediate step of having the stabilization account to tide the schools over in this type of an event. **Representative Lake** agreed that people across the state have said that if the M&O is replaced with general fund money, there has to be some type of stabilization reserve established. **Senator Goedde** said if it is actuarially possible to establish a stabilization limit that is adequate, maybe the emergency levy provisions could be expanded should that stabilization account be exhausted. **Mr. Hancock** explained that currently the emergency levy deals with the issue of increased enrollment. He said it would be possible to expand it to cover other things. **Mr. Hancock** noted that there is a provision in state law that allows for public schools to recover funds in the event of a holdback. He said this could also be expanded. **Representative Jaquet** said she was comfortable with this idea. **Senator Goedde** said that school districts currently have this ability through supplemental levies. **Mr. Hancock** said yes but supplemental levies require a vote of the people.

Senator Keough said the best way to adjust this is through an amended motion. She said it was her intent to include a safety net provision in her original motion but did not do so. She stated some concern for **Representative Jaquet's** broader allowance for school districts to be automatically able to make up the difference.

Representative Jaquet made a substitute motion that the state pick up all 4 mills of the M&O and to allow for creation of a stabilization fund and to provide for provisions that expand the definition of the emergency levy that allows districts to make up the difference between what the state is providing and what the state should be providing under the property tax replacement for the M&O without needing a vote of people. Representative Saylor seconded.

Senator Goedde said the word “should” in the motion causes him a lot of concern. He said he would be more comfortable using the term “shortfall between what was budgeted or allocated and what the district actually received.” **Representative Lake** said when this was first discussed, he suggested the amount made up would be due to the fact that a district was funded at a per student level lower than the previous year. **Representative Jaquet said she would amend the language of her motion to reflect the per capita funding and remove the vague language.**

Mr. Hancock explained that this would run off of a per unit or distribution factor and that usually stays level. **Representative Jaquet** said she just wants to protect school districts because many already view the state as not providing enough funding.

The substitute motion was restated as follows:

That the committee recommend to move the 4 mills of M&O off property taxes to general fund money and provide a stabilization reserve that is determined to be adequate to cover shortages and adjust the emergency levy language to allow a school district, without a vote of the people, to assess property taxes if the district receives less per support unit in a subsequent year.

Senator Little asked why the 4th mill has to be included include in the motion because the state is already paying it. **Representative Lake** said it is his understanding that those dollars would then be available through the funding, not as replacement dollars. **Senator Little** asked if that does not increase the school budget by \$7 million. **Representative Lake** said the budget would then be whatever the legislature sets it at. **Mr. Hancock** said it shifts the 4th mill from one place to another, the increased amount to the state comes in picking up the other 3 mills.

Representative Jaquet clarified that the state would be picking up the difference between the \$75 million cap and what that amount would actually be available without the cap as well as the other three mills. **Mr. Hancock** said if schools are no longer being funded with the M&O levy, it is all just state funds so it really becomes a funding or appropriation issue.

In response to a question from **Mr. Nugent**, **Representative Lake** said this would not be replacing the dollar amount, it becomes a budget item. This is intended to take the M&O off of property taxes.

Senator Goedde said he agrees with **Senator Little** that including the 4th mill in this motion adds \$7 million to the school budget that is not being provided to local districts by the state due to the cap. He asked if this motion makes the state responsible for that. **Mr. Hancock** explained

that the 4th mill (\$75 million) is not being replaced by property taxes or another source, that money is just not there. The schools are getting 3 mills (about \$82 million per mill).

Senator Little made an amended substitute motion that the 4th mill not be included and that 1.5 mills of the M&O levy be taken off of property taxes and be moved to general fund money with the same language about the stabilization fund and the emergency levies as the amended motion. Senator Langhorst seconded.

Representative Jaquet asked why his motion does not address issue of 4th mill. In her opinion not addressing this cap causes some districts a lot of trouble. **Senator Little** said that most districts feel they are in trouble because of the \$75 million cap.

Senator Werk said the state has tried replacement of school funding in the past and that he agrees with **Senator Little's** motion because it leaves some funding with local property taxes.

Representative Sayler clarified that the motion replaces 1.5 mills at the amount it is at now and that amount will not be increased every year. **Senator Little** said the effect of enactment of this motion would be that the legislature will determine the budget for schools but school districts will still have some property taxes and growth to rely on. **Representative Lake** said the motion is the same as **Representative Jaquet's** motion but only for removal of 1.5 mills from the M&O. **Senator Little** agreed.

Senator Goedde said he would like more information on **Senator Little's** motion because it sounds like creating the opportunity for a gap in another 1.5 mills of property tax that will increase and will put the state in the in same position as today with the \$75 million cap that exists. **Representative Lake** said it needs to be understood that this motion does not replace the property tax, it shifts the M&O property tax to general revenue sources and will rely on the integrity of the legislature to make the correct decisions with regard to school funding.

Senator Goedde said the 4th mill, at the will of the legislature and for good cause, was capped at \$75 million. This put districts at an \$8 million shortfall and to him this motion will make the problem worse. **Representative Lake** said he also favors **Representative Jaquet's** amended motion because it takes the M&O completely off of property taxes and puts the funding of public schools at the responsibility of the legislature. Only removing 1.5 mills does not solve the problem. **Senator Little** pointed out that difference between \$75 mills and \$84 mills is less than 1.5%.

These motions require a 2/3 majority to pass because they are recommendations to go to the legislature.

The amended substitute motion failed on a show of hands.

The substitute motion failed on a show of hands.

Senator Keough restated her original motion as recommending that the current school M&O be moved off of property tax to the state general fund with the safety net reserve fund in place. Her motion included that the M&O be replaced through sales tax as it exists today or broadened.

The original motion failed on a show of hands.

The next meeting was scheduled for November 1, 2005 and this meeting was adjourned at 4:10 p.m.