

Senate Local Government & Taxation Committee

Minutes
2005



MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

- DATE:** January 11, 2005
- TIME:** 3:00pm
- PLACE:** Room 426
- MEMBERS:** Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst
- ABSENT/
EXCUSED:** Senator Sweet
- GUESTS:** Dan John, Randy Nelson, William vonTagen, Scott Pegrud
- CONVENED:** **Chairman Bunderson** called the meeting to order at 3:05 p.m. A silent roll call was taken. Members of the committee were welcomed. Jennie Nelson, Page to the committee, was introduced. Joan MacMillan, Secretary to the committee, was introduced.
- MINUTES:** **Chairman Bunderson** reviewed the unique position of the Senate Local Government and Taxation Committee as a "reactive committee" because all legislation that increases revenue is required to originate in the House of Representatives.
- Vice Chairman Hill** reviewed responsibilities and procedure for Rules Review.
- Chairman Bunderson** announced that at the next meeting representatives from the Associated Tax Payers of Idaho and the Idaho Tax Commission would give a presentation concerning Idaho's relative tax burden compared to other states. **Chairman Bunderson** briefly discussed groups who have or will be invited to preview their legislative packages before the committee. The groups announced were the Governor's Office, Association of Idaho Cities, Chambers of Commerce, Idaho Association of Counties, Idaho Association of Commerce and Industry, and Economic Outlook and Revenue Assessment Committee.
- Chairman Bunderson** queried the committee as to any other groups or issues that may impact committee business. Topics of interest including property tax exemptions, sales tax exemptions and streamline sales tax were discussed with regard to their historical and structural aspects. The topics are to be revisited in presentations in future meetings.
- ADJOURN:** There being no further business, the meeting adjourned at 4:05 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

- DATE:** January 12, 2005
- TIME:** 3:00 p.m.
- PLACE:** Room 426
- MEMBERS:** Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst
- ABSENT/
EXCUSED:**
- GUESTS:** Dan John, Randy Nelson, Jerry Peterson, Ryan K. Bitton, Maribeth Connell, Denis Brennan, Scott Pegrud, Dawn Hall
- CONVENED:** **Chairman Bunderson** called the meeting to order at 3:05 p.m.
- MINUTES:** **Chairman Bunderson** introduced Dan John from the Idaho Tax Commission and Randy Nelson from the Associated Taxpayers of Idaho.
- Chairman Bunderson** explained that today's presentation was prompted by an opinion he wrote concerning Idaho's state and local tax burden relative to other states. **Mr. John** provided a handout including all the power point slides for his presentation (see attached 1) as well as a text explanation similar to his presentation (see attached 2).
- Mr. John** and **Mr. Nelson's** joint presentation described Idaho's revenue and taxation as moderate to low overall taxes and a broad structure with good balance between tax components. Idaho relies principally upon three major taxes: income, sales, and property. On the basis of taxes paid per person, Idaho's overall tax burden ranks 44th nationally (out of 51) and 10th regionally (out of the eleven western states). On the basis of taxes as percent of income, Idaho ranks 38th nationally. In these rankings, a rank of 1 indicates the highest tax. It was noted that Idaho's fuels tax is above average mainly due to the fact that Idaho has a large number of miles but a small population (which is true for many of the states in the West). Idaho also has a lower vehicle registration fee. **Chairman Bunderson** noted that property tax is used for local needs such as schools, and often in this state reductions in property tax are often actually shifts--switching the burden to other taxes. He noted, it is important to pay attention to and understand the differences between shifts, reductions and exemptions.
- Mr. John** and **Mr. Nelson**, when prompted for advice, said that when looking at statistics variations occur based on who is doing the study and what taxes they are including and which definitions they are using. They continued to pay attention to what is behind the numbers and the system overall. It was also suggested that exemptions should not be granted unless the legislature tracks them to ensure the intended result occurs.
- ADJOURN:** There being no further business, the meeting adjourned at 4:24 p.m.

Representative Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: January 18, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Stegner

GUESTS: Laura Stauffer, Denise Brennan, Janice Boyd, Jim Husted, Ted Spangler

MINUTES: **Vice Chairman Hill** called the meeting to order at 3:03 p.m. A silent roll call was taken. **Senator Malpeai** moved that the minutes of January 11 and January 12 be approved as written. **Senator Corder** seconded the motion. By unanimous voice vote the minutes were approved.

Vice Chairman Hill introduced **Ms. Janice Boyd**, Tax Policy Specialist with the Idaho State Tax Commission, to review Income Tax Administrative Rules.

Income Tax Administrative Rules
35-0101-0401

Rule 032 Correct references to Soldiers' and Sailors' Civil Relief Act to Servicemembers Civil Relief Act.
Rule 075 Add table for the income tax brackets and rates for calendar year 2004 (changed due to inflation).
Rule 120 Subtractions available to all taxpayers - legislative change removing 50% limitation.
Rule 121 Railroad retirement benefits -clarify qualifications. There was no law change.
Rule 122 Identifies subtractions only available to corporations - 2004 legislative change now has a deduction for dividends paid by stock insurance subsidiaries.
Rule 130 Retirement benefits deductions -add definition of disabled individual to match statute and added examples for unremarried widows.
Rule 193 Long-term care insurance -same change as Rule 120 and change table calculations.
Rule 719 Property tax credit in lieu of Investment tax credit in lieu-clarify who qualifies because 2004 legislation changed qualifications.
Question regarding how many took advantage of the law change. Mr. Spangler said that in dollars amounts coming from property tax statistics, 11 counties reported taxpayers claiming that exemption on the order of \$228 million market value. Another question asking for clarification

regarding asking the county for a property tax exemption. Mr. Spangler clarified the tax credit is available only for machinery or equipment. Follow up question and explanation that the credit effects the county's property tax revenue instead of the investment tax credit effecting state revenues.
Rule 720 Credit for Idaho research activities -remove sunset date.
Question regarding the definition of a research activity. Idaho follows the federal research credit.

Rule 746 Requirements and calculations of the credit for qualifying new employees - legislation passed in 2004 enacted a one thousand dollar credit in addition to the existing five hundred dollar credit.

Rule 750 Broadband equipment investment credit- struck sunset date.

Rule 770 Correct references to Soldiers' and Sailors' Civil Relief Act to Servicemembers Civil Relief Act.

Rule 871 Income Tax Withholding -reflects change in federal law.

Rule 872 correct information about the filing of returns as modified by 2004 legislative changes. Delete information regarding Forms W-2, which is being moved to new Rule 874 to reduce the length of the rule.

Rule 874 W-2 Wage and Tax statements - new rule with information from Rule 872.

Rule 880 Claim for credits and refunds -include recalculation is consistent with rule 890 and add qualifying private delivery service to information discussing duplicate returns and the mailing of a return consistent with 2004 legislative changes.

Rule 895 Add qualifying private delivery service to information discussing duplicate returns and the mailing of a return consistent with 2004 legislative changes.

35-0101-0402

This docket reflects changes made by the Multistate Tax Commission (MTC) to which Idaho tries to conform as much as possible.

Rule 325 Definitions- changed terms.

Rule 330 General information regarding business and non-business income.

Rule 331 Business income terms- Identifies two tests, functional and transactional, in determining whether it is business income or non-business income. *In response to a question, Ms. Boyd explained that it is important to distinguish the types of income because business income is apportioned and non-business income is assigned to one state.*

Rule 332 Transactional test - how income would be determined as business income under this test.

Rule 333 Functional test - how income would be determined as business income under this test.

Rule 334 Relationship of test to federal constitution.

Rule 336 Types of income- addresses different types of income and if they apply as business income

Rule 340 Unitary business principle -definition based from supreme court decisions.

Rule 341 Unitary business -characterized by a flow of value

Rule 342 Unitary business -adds examples of unitary business

Rule 343 Unitary business - indicators of unitary business

Rule 344 Commonly controlled entities -definitions and information in determining whether common control would exist. Includes examples
Rule 345 Repealed and moved to 336.
Rule 365 Combined reports -added information from rule 330
Rule 485 Property factor -clarifying information from MTC with examples.
Rule 600 Common ownership -delete subsection addressed in new Rule 344 and add reference to rules 340-344.

Vice Chairman Hill introduced **Mr. James Husted**, Tax Policy Specialist with the Idaho State Tax Commission to review Sales and Use Tax Administrative Rules.

Sales and Use Tax Administrative Rules

35-0102-0401

Rule 027 -Strike outdated subsection
Rule 033 -Strike subsection on free distribution newspapers
Rule 084 -Strike subsection on gift-wrapping
Rule 101 -"Calendar year" reference conflicted with Idaho Code
Rule 102 -Correction of cross-reference
Rule 105 -Specifically provide for filing cycles for seller's permits
Rule 110 -Amended to conform to administrative changes
Rule 117 -Strike confusing statement

MOTION: **Senator Malpeai** moved for approval of Docket 35-0101-0401, Docket 35-0101-0402, and Docket 35-0102-0401. **Senator McKenzie** seconded the motion.

VOTE: By unanimous voice vote the motion passed.

ADJOURN: The meeting adjourned at 4:06 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: January 19, 2005
TIME: 3:00 p.m.
PLACE: Room 426
MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, McKenzie, Williams, Corder, Malepeai, Langhorst
MEMBERS ABSENT/ EXCUSED: Senator Sweet
GUESTS: George Dillard, Jim Husted, Bob McQuade, Dawn Hall, Susan Renfro, Terry Accordino, Alan Dornfest, Laura Stauffer, Mike Reynoldson, Dan John, Jayson Ronk, Charles Clurk, Randy Nelson, Brad Dixon, Scott Pugrud, Ted Spangler, Russ Hendricks, Pam Eaton, Bill vonTagen

Vice Chairman Hill called the meeting to order at 3:01 p.m. A silent roll call was taken.

Vice Chairman Hill introduced **Alan Dornfest**, Tax Policy Supervisor of the Idaho State Tax Commission, to review the Property Tax Administrative Rules Review.

Property Tax Administrative Rules

35-0103-0401
Rule 006 Technical corrections
Rule 225 Documentation for tax districts
Rule 304 Manufactured Home as real property
Rule 317 Occupancy Tax
Rule 404 Operating property
Rule 609 Homeowner's exemption
Rule 613 Taxable value of agricultural use land
Rule 803 Budget certification
Rule 961 Forestlands less than 5 acres
Rule 988 Property tax exemption
Rule 989 Notification companion to 988
Rule 990 Certification
Rule 995 Web-based notifications

Property Tax Administrative Rules

35-0103-0402
Partial exemption for parcels of land in a rural homesite development plat.

Hotel Room and Campground Sales Tax

35-0106-0401 -Definitions

Mr. George Dillard from Idaho State Good Sam testified that this was an

excessive tax on campgrounds citing Recreational Vehicle Tax and Fuel Tax. Mr. Dillard felt that campgrounds should be handled as a landlord/tenant relationship and would like to see the campground sales tax removed. **Mr. Spangler** from the Idaho State Tax Commission noted that these are statutory issues and could not be changed within the Rules Review. Discussion continued about tax on other vehicles at the campgrounds, surrounding states' fees, and potentially bringing new legislation regarding these issues.

Vice Chairman Hill introduced **Mr. James Husted**, Tax Policy Specialist with the Idaho State Tax Commission to review Cigarette and Tobacco Products Tax.

Cigarette and Tobacco Products Tax

35-0110-0401-Wholesaler's credit claims for unmarketable stamps. *Questions* arose regarding the exemption for cigarettes sold on a reservation. Mr. Husted said that they were not subject to this tax and that for a buyer it is a misdemeanor to possess more than one carton of unstamped cigarettes at one time.

Unclaimed Property Tax Administrative Rules

35-0111-0401- Property Held for Deceased Owners

Vice Chairman Hill introduced **Mr. Dan John** from the Idaho State Tax Commission to review the Tax Commission Administrative and Enforcement Rules, Rules Review.

Tax Commission Administrative and Enforcement Rules

35-0201-0401

Rule 010 Filing of returns

Rule 210 Extension of a lien

Rule 310 Yearly interest rate

Rule 450 Recapture of Homeowner's Exemption

Rule 704 Information exchange regarding homeowner's exemption.

Vice Chairman Hill introduced **Ms. Susan Renfro** from the Idaho Board of Tax Appeals to review the Idaho Board of Tax Appeals Rules, Rules Review.

Idaho Board of Tax Appeals Rules

36-0101-0401

Incorporate "Idaho Rules of Administrative procedure of the Attorney General."

Rule 030 Third party non attorney representation

Rule 075 Limits scope of discovery.

Senator McKenzie asked if there was any mechanism to request additional discovery motions (only one is permitted in the rule). **Ms. Renfro** replied that there was not because according to Idaho code decisions must be made by May 1, and streamlining requests will allow hearings to proceed without delay. In the past the Board has had trouble meeting the May 1 statutory decision deadline due to excessive discovery motions. **Senator McKenzie** asked about extensions to the May 1

deadline. **Ms. Renfro** responded that an extension is possible if both parties agree.

Concerns were raised regarding Rule 30 which prohibits a person from being represented by anyone but a licensed member of the Bar. **Senator Corder** stated that this prevents low cost representation and often the cost of hiring an attorney outweighs the amount of the appeal. In response **Mr. vonTagen** suggested that a dialogue regarding the issue of representation be initiated with the Idaho State Bar Association and the Idaho State Supreme Court. The committee made a resolution that **Senator Corder** will write a letter to the Idaho State Bar and the Idaho State Supreme Court addressing the Committee's concerns regarding this rule.

MOTION: **Senator Langhorst** moved to postpone action on Docket 36-0101-0401 for one week. **Senator Corder** seconded the motion.

VOTE: By unanimous voice vote the motion passed.

MOTION: **Senator McKenzie** moved for approval of Dockets 35-0103-0401, 35-0103-0402, 35-0106-0401, 35-0110-0401, 35-0111-0401, and 35-0201-0401. **Senator Malpeai** seconded the motion.

VOTE: By unanimous voice vote the motion passed.

ADJOURN: The meeting adjourned at 4:50 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

- DATE:** January 20, 2005
- TIME:** 3:00 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst
- MEMBERS ABSENT/ EXCUSED:**
- GUESTS:** Amanda Buttars, Courtney Nigh, Randy Nelson, Dawn Hall, Scott Pugrud, Laura Stauffer, Mike Reynoldson, Jeff Youtz, Derek Santos, Dewey Hammond, Sam Haws, Coleen Grant, Larry Watson
- MINUTES:** **Chairman Bunderson** called the meeting to order at 3:05 p.m. A silent roll call was taken. **Senator Malpeai** moved that the minutes of January 18 be approved as written. **Senator Corder** seconded the motion. By unanimous voice vote the minutes were approved.
- Chairman Bunderson** introduced **Dewey Hammond** an Idaho State Tax Commissioner. Mr. Hammond introduced the other three Idaho State Tax Commissioners (Sam Haws, Larry Watson, and Coleen Grant) and Mr. Dan John who were going to give presentations.
- Ms. Haws** provided an overview of the successes of the Idaho State Tax Commission especially with regard to their award winning website. She reviewed the growth and benefits of electronic filed tax returns. She also informed the committee on efficiency of the Idaho Business Registration Form (IBR). Form 958 has been eliminated saving time and money. The Forgot to File addition has generated \$336,000 and has been successful in getting people who had not previously filed their taxes to become compliant. The Outreach program for uncashed refunds has also been successful.
- Mr. Watson** reviewed his responsibilities as an Idaho State Tax Commissioner. He said the Unclaimed Property division has asked for funding to enact a Securities and Bonds Management Program to manage the large number of bonds they have as unclaimed property for more efficient processing when property is either returned or sold. They've been working with the counties to update their computer systems and keep up the quality and frequency of appraisals. Mr. Watson reported that 44 counties are in good standing and 2 counties have filed remediation reports and are back on track.
- Ms. Grant** reviewed the CATS (convert all tax systems) project which

took place between 2000 and 2002, and was completed and fully functional a half million dollars under budget and three months early. It has become a model project in the United States and the Idaho State Tax Commission has hosted a workshop on implementing the project for delegations from other states as well as some international groups. Ms. Grant also addressed issues the commission is facing regarding an aging workforce and the steps they are taking to make smooth transitions as people retire. The Governor has recommended an appropriation of \$500,000 from the general fund and \$375,000 from the dedicated fund for the computer program upgrades.

Mr. John distributed a handout and went through the bills that would be presented by the Idaho State Tax Commission.

Mr. Hammond gave an overview of Idaho State Tax Commission operations and an overall comparison to the national average. Idaho has the lowest per unit cost at one cent. Mr. Hammond expressed his satisfaction with the operations and staff at the Idaho State Tax Commission.

Chairman Bunderson introduced **Jason Hancock**, a budget and policy analyst. Mr. Hancock presented the Economic Outlook and Revenue Assessment Committee's findings for fiscal years 2004 and 2005. A copy of the Information Packet provided by the Economic Outlook and Revenue Assessment Committee is available in the Committee office or <http://www.legislature.idaho.gov/Budget/publications/PDFs/EORAC/EORAC2005.pdf> He continued his presentation until committee time ran out and was requested to return and finish his presentation on Tuesday, January 25.

The meeting adjourned at 4:35 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: January 25, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Sweet

Chairman Bunderson called the meeting to order at 3:13 p.m. A silent roll call was taken.

MINUTES: **Senator Hill** moved that the minutes of January 19 and 20 be approved as written. **Senator McKenzie** seconded the motion. By unanimous voice vote the minutes were approved.

Chairman Bunderson introduced **Dan Chadwick** from the Idaho Association of Counties (IAC). Mr. Chadwick has been with the IAC for 15 sessions.

Mr. Chadwick reviewed the role of counties in Idaho government and their structure. The counties function under provisions in the state constitution and carry out state laws. Counties are responsible for collection of property tax even though they only are allotted 25% of it for county use. A discussion regarding levies and the 3% cap (with an increase based on population growth) and whether that was sufficient in meeting counties' needs. Mr. Chadwick explained that the cost of services counties provide outpaces the growth increase allowed on levies, and currently funding problems are being managed on an issue by issue basis. Court expenses especially with regard to capital cases were identified as a significant issue for county funding. Mr. Chadwick talked about the Capital Crimes Defense Fund and other actions that can be taken to fund cases when the county can't cover the costs.

Mr. Chadwick identified the responsibilities of the county conducting elections, jails and law enforcement, prosecution. Discretionary services that the counties take on to increase the quality of living are parks and recreation, hospitals and ambulance service, noxious weed management, public works and solid waste disposal. A question arose about updating the structure of elections regarding the punch card system. Mr. Chadwick responded that the punch card system works well for Idaho but that under the Help Americans Vote Act (HAVA) passed in the United States Congress the punch card system may be going away. Local counties have already put up seed money to update our systems.

Mr. Chadwick reviewed the structure of counties also mentioning that the Idaho Constitution provides for optional forms such as a county manager. Counties function with 9 elected offices: 3 County Commissioners, Court Clerk, Assessor, Sheriff, Treasurer, Prosecuting Attorney, and Coroner. A question arose required credentials to run for office. Mr. Chadwick responded that except for the Prosecuting Attorney, there is no other credential requirement to serve in any office other than an age requirement and to receive a majority of votes in the election.

Counties face opposition and negative press at times because the counties are charged with the enforcement of laws and collection of taxes. They work with many state departments such as Division of Environmental Quality, Idaho State Tax Commission, Health and Welfare, and Public Health. Regarding revenues they use property taxes, shared revenues from sales tax, fees, Payment In Lieu of Taxes (PILT) from federal government. PILT are for general county operations. Mr. Chadwick also informed the committee about IAC's upcoming legislative conference on February 9 and would return to our committee after that with a report from their Ethics Advisory Committee.

Mr. Chadwick reviewed the IAC's legislative package for this session (see attached).

Chairman Bunderson introduced **Jason Hancock**, a budget and policy analyst. Mr. Hancock presented the Economic Outlook and Revenue Assessment Committee's findings for fiscal years 2004 and 2005. A copy of the Information Packet provided by the Economic Outlook and Revenue Assessment Committee is available in the Committee office or <http://www.legislature.idaho.gov/Budget/publications/PDFs/EORAC/EORAC2005.pdf> He continued his presentation until committee time ran out and was requested to return and finish his presentation in a future meeting.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: January 26, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Stephen Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED:

GUESTS: Chris Pappas, Jan Fisher, Jeff Zaugg, Clay Larkin, Lyle Cobbs, Susan Renfro, Jerry Mason, Nancy Merril, Ken Harward, Val Brooks, Dawn Hall, Michelle McMullen, Mike Reynolds, Brian Kane, Steve Allison, Randy Nelson, Dan John, Erica Curless

Chairman Bunderson called the meeting to order at 3:15 p.m. A silent roll call was taken. **Chairman Bunderson** noted that during **Senator Williams** absence his nephew **Stephen Williams** will be filling in.

MINUTES: **Senator Malepeai** moved that the minutes of January 19 and 20 be approved as written. **Senator Corder** seconded the motion. By unanimous voice vote the minutes were approved.

Chairman Bunderson turned over this portion of the meeting to **Senator Hill** who is Vice-Chair for the Rules Review. **Senator Corder** was asked to the review status of Docket 36-0101-0401 (for which a vote had been

Senator Corder's concerns pertain Rule 30 which prohibits a person from being represented by anyone but a licensed member of the Bar.

Senator Corder stated that he sent a letter to the Idaho Supreme Court and the Idaho Bar Association. He also met with Ms. Tobias from the Idaho Supreme Court and Mr. Haney from the Idaho Bar Association. He

Ms. Renfro was asked if the Idaho Board of Tax Appeals was comfortable with the rule being rejected. She replied the board would be delighted to hold back the rule. She also expressed her appreciation to

MOTION: **Senator Corder** made a motion to reject Docket 36-0101-0401 Rules 30, 45, and 82. **Senator Langhorst** seconded the motion.

VOTE: By unanimous voice vote the Docket 36-0101-0401 Rules 30, 45, and 82 were rejected.

Chairman Bunderson introduced **Ken Harward** from the Association of Idaho Cities (AIC). Mr. Harward introduced Chris Pappas -City Clerk of Post Falls, Jan Fisher -City Clerk of Hayden, Jeff Zaugg - City Engineer from Hayden, Lila Erickson -Finance Director of Hayden, Clay Larkin - President of AIC, and Jerry Mason - AIC's attorney.

Mr. Harward reviewed the structure and responsibility of cities with regard to their constitutional authority and their relationship with counties and the legislature. Mr. Harward also educated the committee on separate sovereignty, city services, city revenue sources, comprehensive plans, zoning and subdivision ordinances, and annexation procedures.

Mr. Harward previewed the AIC's proposed legislation regarding public works contracting and bidding processes (see attached).

ADJOURNMENT: There being no further business, the meeting adjourned at 4:35 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: January 27, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, McKenzie, Stephen Williams, Corder, Malepeai

MEMBERS ABSENT/ EXCUSED: Senators Stegner, Sweet, and Langhorst

GUESTS: Stu Davis, Michael Brokaw, J. Schweitzer, Sally Goodell, Craig Quintana, John Currin, David Ryals, Mike McDowell, Steve Fiscus, Harley Hinshaw, Rod Brevig, Randy Nelson, Laura Stauffer, Charles Clark, Dennis Tanikuni, Mike Reynoldson, Roger Seiber, Jerry Deckard, Mike Ferguson, Carol A. McKee, Alan Dornfest, Dan Chadwick, Vincent Corrao, Jane Gorsuch, Rebecca Arnold, Byron Keely, Julie Pipal

Chairman Bunderson called the meeting to order at 3:15 p.m. A silent roll call was taken.

MINUTES: **Senator Malepeai** moved that the minutes of January 26 be approved as written. **Senator Corder** seconded the motion. By unanimous voice vote the minutes were approved.

Chairman Bunderson introduced **Jane Gorsuch**, legislative affairs coordinator from the Intermountain Forest Association, to present the report and recommendations from the Committee on Forest Taxation Methodologies (CFTM).

Ms. Gorsuch introduced Vinnie Corrao, consultant for Intermountain Forest Association who worked with Dr. Schlosser in creating this report, Dan Chadwick from Idaho of Association Counties, John Currin a land manager from the Potlatch Corporation, Larry Watson who was designated by the legislature to champion this project, and Dr. Schlosser.

Dr. Schlosser reviewed the current laws regulating the determination of land values for forest lands and how they relate to property taxes, and previewed the substance of the consensus legislation. In 1999 the legislature responded to unstable forest land values increases by making the values incremental for 2000-2005, and created the CFTM to find a long term solution before 2005. The CFTM is composed of representatives from the Idaho Association of Counties, Idaho Forest Owners Association, Intermountain Forest Association, and the Office of

the Superintendent of Public Instruction (representatives of the rural school districts were present at the CFTM meetings as well).

The CFTM unanimously agreed on a model and methodology - a soil expectation, net present value method. Elements of the soil expectation value are 10 year t-bill rate, productivity value, stumpage value, cost survey, property tax levy rate. The CFTM recommends changing the soil expectation value yearly as these variables change. The method and data inputs as agreed by the CFTM will provide stability for Idaho's County budgets, school district budgets and forest land property taxpayers. It applies to only category 6 forest lands and treats small and large forest land acreages in Category 6 exactly the same.

Chairman Bunderson thanked **Dr. Schlosser** and **Ms. Gorsuch**.

Chairman Bunderson introduced **John Franden**, a commissioner from Ada County Highway District (ACHD), representing the highway districts. He referenced that there are 284 highway jurisdictions in Idaho, ACHD being one of them. He said ACHD is an example of a consolidation of several highway jurisdictions that was approved by the Ada County voters over two decades ago. It is a pattern of efficiency that may be useful in other counties.

Mr. Franden introduced Commissioner Carol McKee, Commissioner Rebecca Arnold, J. Schweitzer, director of ACHD, Mike Brokaw, treasurer of ACHD, Steve Price, Craig Quintana, public information officer for ACHD, and Sally Goodell, Three Cities Project coordinator, Julie Pipal from ITD, Byron Keely from LHTAC, and Stuart Davis from the Idaho Association of Highway Districts.

Mr. Franden gave the history of ACHD and explained its purpose for the consolidation of resources and efforts under a countywide perspective for all residents. ACHD is responsible for consistency through the county, roadway maintenance, all traffic lights, commuteride, development, and roadway drainage (and by default a large part of the county drainage control system). **Mr. Franden** also spoke about how ACHD is keeping up with growth throughout the county.

Mr. Franden introduced **Sally Goodell** to talk about drainage and the

Chairman Bunderson thanked **Mr. Franden** and **Ms. Goodell** for their presentations.

ADJOURNMENT: There being no further business, the meeting adjourned at 4:41 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: February 1, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai

MEMBERS ABSENT/ EXCUSED: Senator Langhorst

GUESTS: Bill Tonkin, Derek Santos, Dan John, Ray Stark, Randy Nelson, Melissa Nelson, Dan Boyd

MINUTES: **Chairman Bunderson** called the meeting to order at 3:03 p.m. A silent roll call was taken.

Senator Malepeai moved that the minutes of January 27 be approved as written. **Senator Corder** seconded the motion. By unanimous voice vote the minutes were approved.

Chairman Bunderson introduced **Dan John** from the Idaho State Tax Commission to present House Bill 10.

Mr. John explained that this was the annual bill to update references to the Internal Revenue Code (IRC). It also conforms the Idaho income tax to changes made to the IRC by:

1. The federal "American Jobs Creation Act of 2004" (AJCA) and requires that any deduction for general state sales taxes allowed by the AJCA, like state income taxes, be added back when computing state taxable income.
2. Public Law 109-001 which allows taxpayers to deduct in 2004 charitable contributions made in January 2005 for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami.

He also noted that the fiscal impact is positive the first year and then negative in succeeding years.

Senator Hill asked why the fiscal impact changes from positive to negative. **Mr. John** said it was due to the make-up of the timing of the provisions. The positive impact reflects a tightening of tax shelters in the first year. The negative impact reflects tax reducing measures such as the small business rules.

Senator Hill stated that he did not recall having to add back the sales tax deduction in previous years. **Dan John** said that Idaho's standing has

been to add back the income tax. The way the federal law was written there was not a section to say that in lieu of the income tax to use the sales tax. The ITC wants to treat the sales tax deduction the same as the state income tax deduction on Idaho returns, as an either/or situation. **Senator Hill** expressed his displeasure with this and asked what authority they had to add back and who decided to add back the sales tax if the taxpayers chooses to claim it? **Mr. John** answered that the income tax add back is in Statute 63-3022 J2 and when drafting the bill they thought in saying "in lieu of the income tax" it meant to treat the sales and income tax deductions in the same manner. **Senator Hill** and **Mr. John** disagreed on the interpretation of this change and whether it was creating a statute or adding to a statute. **Senator Stegner** said that he was unfamiliar with the option that exists in federal law and asked for an example of where it would apply for Idaho. **Dan John** said that the federal law provision is either/or with regard to itemized deductions prompted by states that don't have income taxes. A taxpayer whose sales taxes were higher than their income tax would be, such as when a payer in the previous year had a loss and had no income tax to pay this year then it would be better for them to claim the sales tax. In most cases however it is better to claim income tax. There was also discussion on whether this is a fundamental policy decision or whether it was adding to the existing statute treating the sales and income tax the same. **Senator Hill** said that those claiming the sales tax deduction will always come out ahead if they take out the provision, and would side with the taxpayer. **Senator Stegner** said he would side with the Idaho State Tax Commission because to allow someone to gain from the system by not keeping things equal is not fair to the rest of the taxpayers.

MOTION:

Senator Stegner made a motion to send House Bill 10 to the floor with a Do Pass recommendation. **Senator Malepeai** seconded the motion.

DISCUSSION:

Discussion centered around the issue of consistency. **Senator Stegner** said that where the add back was already present for the income tax deduction there should be the same standard for the sales tax deduction and consistency and fairness exists in not allowing niches that favor one person over another. **Senator Hill** expressed that he felt consistency exists in treating the sales tax deduction as they have in the past and not adding the add back included in this bill. **Senator Stegner** felt that the state ought to be engaging in the issue having a debate on whether or not to have add backs at all. He said he would like to see a bill that addresses all that and calculations of what that would cost the state, but to reject this today would be inconsistent.

VOTE:

A roll call vote was taken. There were 2 ayes : **Senators Stegner** and **Malepeai**. There were 5 nays: **Senators Hill, Sweet, McKenzie, Stephen Williams, Corder**. The motion failed.

MOTION:

Senator Hill made a motion to send House Bill 10 to the 14th Order of business. The motion was seconded by **Senator McKenzie**.

VOTE:

A roll call vote was taken. There were 6 ayes: **Senator Hill, Senator Sweet, Senator McKenzie, Senator Stephen Williams, Senator**

Corder, Senator Malepeai. There was 1 nay: **Senator Stegner.** The motion passed.

MOTION: Later in the meeting the motion was reconsidered and **Senator Hill** made a new motion to hold House Bill 10 in committee. The motion was seconded by **Senator McKenzie.**

VOTE: The motion was passed by unanimous voice vote.

Chairman Bunderson introduced **Ray Stark** from the Boise Metro Chamber of Commerce to speak on behalf of the Boise Metro Chamber as well as other chambers from around the state.

Mr. Stark talked about the staffing and structures of Chambers of Commerce with relation to their size. As a community (and its chamber) grows, the chamber takes on a larger role of advocacy in local and state governmental affairs. He also noted that with the increased use of email, communication between Chambers of Commerce throughout the state has gotten better and therefore their legislative agendas often reflect greater uniformity. Some of the issues he highlighted are GARVEE bonds, sales tax, public transportation, and recognition of the impact of science and technology businesses (see attached).

Chairman Bunderson thanked **Mr. Stark** for his presentation.

Vice Chairman Hill introduced **Jason Hancock**, a budget and policy analyst. Mr. Hancock presented the Economic Outlook and Revenue Assessment Committee's findings for fiscal years 2004 and 2005. A copy of the Information Packet provided by the Economic Outlook and Revenue Assessment Committee is available in the Committee office or <http://www.legislature.idaho.gov/Budget/publications/PDFs/EORAC/EORAC2005.pdf>

Vice Chairman Hill thanked **Mr. Hancock** for his presentation.

ADJOURNMENT: There being no further business, the meeting was adjourned at 4:55 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: February 2, 2005
TIME: 3:00 p.m.
PLACE: Room 426
MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai
MEMBERS ABSENT/ EXCUSED: Senator Langhorst
GUESTS: Derek Santos, Dan John, Mike Ferguson, Randy Nelson, Dawn Hall, Ted Spangler

Chairman Bunderson convened the meeting at 3:05 p.m.

RS 14784 **Senator Corder** introduced RS 14784, a concurrent resolution which would reject certain pending rules (30, 45 and 82) of Docket 36-0101-0401 from the Board of Tax Appeals. These rules relate to representation and practice before the board, notice of appeal and agency discovery rules. This concurrent resolution, if adopted by both houses, would prevent the agency rules from going into effect.

MOTION: **Senator Malepeai** moved that RS 14784 be sent to print, and **Senator Stegner** seconded the motion. The motion was approved by unanimous voice vote.

Chairman Bunderson introduced **Mike Ferguson**, Chief Economist at DFM.

Mr. Ferguson's presentation compared the United States' tax structure with the other developed countries who are part of the Organization for Economic Co-operation and Development (OECD) (there are 30 countries involved). The purpose of the OECD is to encourage economic development worldwide with an emphasis on its member countries. **Mr. Ferguson** said as a whole between 1965-2002 the United States' total tax revenue as a percentage of GDP has held at about 25% and over time has had the smallest increase in comparison to European countries which are at about 39% and have had much higher increases. **Mr. Ferguson** then compared tax revenue of major taxes as a percentage of total tax revenue (2001). He reviewed the value added tax (VAT) which the United States does not levy. The VAT tax is a method to levy a consumption tax and is levied on all levels of production. The United States' sales tax is

the closest approximation to the VAT tax. The United States relies heavily on the personal income tax while other countries rely more on the VAT tax. **Mr. Ferguson** then covered tax structures and the percentage share of major tax categories in total tax revenue for the OECD–area and United States. The United States has a much lower burden on consumption than other countries due to the absence in the United States of the VAT tax (a distinguishing characteristic of the United States' tax structure). He then reviewed the standard rates of VAT/GST in OECD countries.

Mr. Ferguson concluded by saying that with the ever increasing complexity of the United States' tax structure, any effort to simplify it would be difficult to harmonize and would require large scale changes.

Chairman Bunderson thanked **Mr. Ferguson** for his presentation.

ADJOURNMENT: There being no further business the meeting adjourned at 3:50p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: February 3, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED:

GUESTS: Brandon Ashbaugh, Dennis Price, Randy enlson, Ted Spangler, Derek Santos, Maryann Nozle

Chairman Bunderson called the meeting to order at 3:10 p.m.

MINUTES: **Senator Corder** moved that the minutes of February 1 be approved as written. **Senator McKenzie** seconded the motion. By unanimous voice vote the minutes were approved. **Senator Hill** moved that the minutes of February 2 be approved as written. **Senator Langhorst** seconded the motion. By unanimous voice vote the minutes were approved.

H 12: **Ted Spangler** from the Idaho State Tax Commission presented House Bill 12. This bill excludes, from the occasional sales exemption in the Idaho Sales Tax Act, use tax on tangible personal property used to improve real property when the property is obtained from a person in the business of making like or similar improvements to real property.

Mr. Spangler explained that this bill closes a loophole. He explained that a recent court ruling opened the occasional sales exemption statute to considerable abuse. In this case, a contractor purchased materials out of state which then were sold to a sub-contractor and used to improve real property. Because this was only one of one or two sales the contractor made during the year, it fell under the occasional sales exemption and no sales tax was collected on the materials. The original intention considers contractors as consumers and should pay sales tax when purchasing supplies. Contractors are also considered to be in the regular business of selling, and therefore would not fall under the original intention of the occasional sale exemption. This loophole allows contractors to avoid paying sales tax by purchasing their materials out of state and then reselling them to their subcontractor who is exempt because the materials were bought as an occasional sale. This bill limits the occasional sale exemption preventing abuse of the exemption in this manner.

Senator Stegner asked if a sub-contractor went out of state and

purchased the materials to use in construction would he be subject to paying sales tax on it. **Mr. Spangler** replied that yes he would be subject to the tax and that it is the resale from the primary to the sub that makes it an occasional sale and allows the avoidance of the tax.

Senator Sweet asked if the Idaho State Tax Commission had received any comments from the contractor/construction industry regarding this legislation. **Mr. Spangler** said they had not.

Mr. Spangler clarified, in response to a query from **Senator Hill** and **Senator McKenzie**, that the liability to pay the tax is on the sub-contractor when the materials are purchased from the primary contractor because the sub-contractor is using the materials to improve the property.

MOTION: **Senator Hill** made a motion that House Bill 12 be sent to the floor with a Do Pass recommendation. **Senator McKenzie** seconded the motion.

VOTE: The motion carried by unanimous voice vote. **Senator Hill** will sponsor the bill on the floor of the Senate.

H 13: **Dan John** from the Idaho State Tax Commission presented House Bill 13. This bill provides a deduction for taxpayers who restore to income substantial amounts held under claim of right not deductible on the taxpayer's federal return; declaring an emergency and providing a retroactive effective date.

Mr. John explained that currently under the claim of right, if a taxpayer comes to find out that they have over-declared their income, the taxpayer has two options: (1) deduct it out or (2) opt instead for a credit when the credit benefits them more than the deduction. Under the first option, the deduction allows relief on both Federal and Idaho tax returns. However under the credit option (2), the relief is allowed on the federal return but not on the Idaho return. This bill adds a special deduction so relief is on the Idaho return as well as the federal.

MOTION: **Senator Corder** moved that House Bill 13 be sent to the floor with a Do Pass recommendation. **Senator Stegner** seconded the motion.

VOTE: The motion carried by unanimous voice vote. **Senator Corder** will sponsor the bill on the floor of the Senate.

H 15: **Dan John** from the Idaho State Tax Commission presented House Bill 15. This bill resolves the confusion caused by two Idaho Code sections with different instructions on how to distribute sales and use tax revenue. Section 63-3638, Idaho Code, distributes "all" sales tax revenue, including a portion distributed to local governments. However, Section 63-3709, Idaho Code, requires that sales tax revenues collected through the Multistate Tax Compact (MTC) be deposited into the MTC Account. This bill excludes MTC sales tax revenue from the distribution requirement in Section 63-3638, Idaho Code, thus conforming to the State Tax Commission's existing practice. Due to the sunset of the 6% sales tax rate on July 1, 2005, Section 63-3638, Idaho Code must be amended twice,

once with an effective date before the sunset and once afterward.

Chairman Bunderson asked if the cities were aware of this change. **Mr. John** said that they were informed of this and that it would not change the way the Idaho State Tax Commission conducts business and distributes these monies. They assured them this change did not take anything away from the cities.

Senator Hill asked if there was any liability for previous years when the Idaho State Tax Commission followed Section 63-3638 and not 63-3709. **Mr. John** said there was not because the codes were conflicting, and the Idaho State Tax Commission followed the more specific section (63-3638) rather than the more general.

MOTION: **Senator Langhorst** moved that House Bill 15 be sent to the floor with a Do Pass recommendation. **Senator Hill** seconded the motion.

VOTE: The motion carried by unanimous voice vote. **Senator Langhorst** will sponsor the bill on the floor of the Senate.

Chairman Bunderson thanked **Mr. John** and **Mr. Spangler** for their testimony.

ADJOURNMENT: There being no further business, the meeting adjourned at 3:36 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: February 8, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Stegner

GUESTS: Phil Homer, Charles Chapin, Nancy Chapin, Norma Dart, Tina Basel, Melissa Nelson, Ted Spangler, Dan John, Bob Hall, Randy Nelson, Derek Santos, Mike Reynoldson, Roy Eiguren

Chairman Bunderson convened the meeting at 3:04 p.m.

MINUTES: **Senator Malepeai** moved that the minutes of February 3 be approved as written. **Senator Langhorst** seconded the motion. By unanimous voice vote the minutes were approved.

Chairman Bunderson invited **Senator Hill** to talk about Idaho's "Circuit Breaker."

Senator Hill explained the "Circuit Breaker" is designed to reduce property taxes for people with low income and meeting certain requirements; most often applied to people 65 or older with a taxable income of less than \$22,000 (amount from 2004) in a year. The definition of income used for the circuit breaker is based on adjusted gross income and add backs from non taxable income. Adjusted gross income includes wages, interest, dividends, capital gains, taxable pensions, and taxable IRA distributions before deductions and exemptions. Add backs (non taxable income) include alimony, support money, non taxable strike benefits, and non taxable amount of any individual retirement account (IRA), pension, annuity, and total Social Security benefits. As withdrawals are made from the account or investment, some are taxed and some are not taxed. However, all these sources of income are added back when determining qualifications for the circuit breaker.

Senator Hill discussed the inequities in this formula, and acknowledged the administrative costs associated with administering it in a different way are very prohibitive.

Senator Hill noted that other states figure the taxable income associated with the circuit breaker in a similar manner when determining where to place the line between adding back the different taxable and non-taxable

sources of income. **Senator Hill** expressed his hesitancy in sponsoring any legislation that would adjust where this line is drawn for Idaho because of the complexities involved and Idaho's similarity to other states. He recognized that the formula is not fair, but didn't see a feasible way to truly make it fair.

Senator Corder agreed with **Senator Hill's** reluctance to sponsor legislation changing which sources were and were not added back, stating his feelings that if a line is moved, it should be moved all the way or not at all.

Chairman Bunderson expressed his feelings that the Internal Revenue Code is designed to raise revenue, not necessarily to be equitable.

Chairman Bunderson thanked **Senator Hill** for his discussion and explanation regarding the circuit breaker. He then introduced **Dan John** from Idaho State Tax Commission to present H 10.

H 10:

Mr. John reviewed the annual IRC conformity bill and the discussion about this bill from the committee's meeting on February 1. Issues of concern pertained to the modified itemized deductions and big ticket items and the add back of either the sales tax deduction or income tax deduction. **Mr. John** and the Idaho State Tax Commission contacted other states with similar tax structures to discuss this issue. Approximately half the states they received responses from add the sales tax deduction back and approximately half didn't have the add back. **Mr. John** emphasized that this is not a separate deduction for the sales tax and a separate deduction for the income tax and that instead it is an either/or deduction.

Senator Hill asked of people who itemize their deductions whether people with a higher or lower income would be disadvantaged more by this bill. **Mr. John** rephrased **Senator Hill's** sentiment, saying that there would be an advantage (over the other taxpayers) for lower income people choosing not to add back the sales tax deduction.

Senator Hill raised some questions about unclear and conflicting instructions on the tax forms (he provided an example of Schedule A, Form 40) regarding this situation with the sales and income tax deductions and about taxpayers who have already filed with these unclear instructions. **Mr. John** responded that the instructions are a result of lateness with which the United States Congress passed the legislation, and if the legislation had been passed early the instructions would have been much more clear and will be in future years. He also noted that as soon as this bill is decided on either way there will be a notice on the Idaho State Tax Commission website with information pertaining to this.

Senator Hill expressed his concern that because currently we are in tax filing season, sending House Bill 10 to the 14th Order for amendment puts citizens at a disadvantage to file correctly without amending their returns. The simplest way to handle the situation and have the fewest number of

amended returns due to this legislation is to send House Bill 10 to the floor with a Do Pass recommendation.

MOTION: **Senator Hill** moved to send House Bill 10 to the floor with a Do Pass recommendation. **Senator Corder** seconded the motion.

VOTE: The motion carried by unanimous voice vote. **Senator Hill** will sponsor the bill on the floor of the Senate.

H 11: **Chairman Bunderson** announced that due to some feedback from the industry effected by House Bill 11, testimony and voting on House Bill 11 will be postponed until Thursday, February 10.

H 14: **Chairman Bunderson** introduced **Ted Spangler** from Idaho State Tax Commission to present House Bill 14. This bill amends existing law to revise jurisdictional provisions for appeals to the Board of Tax Appeals and the district court; and to define the term "amount asserted."

Mr. Spangler explained that a tax appeal can be appealed either to the Board of Tax Appeals or to the District Court; an amount greater than \$25,000 goes directly to the District Court. The taxpayer must also post a 20% deposit of the tax penalty and interest before seeking an appeal. After a taxpayer is notified of a penalty, they can pay part (or all) of the penalty or have the penalty reduced with good cause by the tax commission. This bill defines the potentially adjusted amount as the "amount asserted." This bill defines that the 20% deposit and \$25,000 determination is made on this "amount asserted" and not on the amount in the original notification.

MOTION: **Senator McKenzie** moved to send House Bill 14 to the floor with a Do Pass recommendation. **Senator Sweet** seconded the motion.

VOTE: The motion carried by unanimous voice vote. **Senator McKenzie** will sponsor the bill on the floor of the Senate.

H 25: **Ted Spangler** from Idaho State Tax Commission presented House Bill 25. This bill amends existing law to include in income for income tax purposes, that income, derived from or relating to sources within Idaho, from gains or losses realized from the sale or other disposition of a partnership interest or stock in an S corporation to the extent of the partnership's or S corporation's Idaho apportionment factor in the year preceding the year of sale.

Senator Williams asked currently if the income from these gains or losses of a non-resident is taxed in the state they live. **Mr. Spangler** replied it varied by states, but that in state that have an individual income tax give credit for taxes paid in another state so that there is no double

taxing. Currently the income earned in Idaho from the sale is taxed and received by the other state. This bill restores that income to Idaho.

Senator Sweet asked what determines an apportionment factor. **Mr Spangler** said that it can be a very complex process, but is essentially based on the proportion of business income earned through its activities in Idaho versus its activities.

Chairman Bunderson asked if all states have to agree on the apportionment. **Mr. Spangler** answered that in general they follow the same standard, but some states have small differences in calculating their own apportionment factor.

MOTION: **Senator Malepeai** moved to send House Bill 25 to the floor with a Do Pass recommendation. **Senator Sweet** seconded the motion.

VOTE: The motion carried by unanimous voice vote. **Senator Malepeai** will sponsor the bill on the floor of the Senate.

ADJOURNMENT: There being no further business, the meeting adjourned at 4:07 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: February 9, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Malepeai

GUESTS: David Kinghorn, Bill Kinghorn, Ty Kinghorn, Genie Kinghorn, Brian Kane, Scott Pugurd, Derek Santos, Lyle Cobbs, Randy Nelson, Lynn Archibald, LeeAnne Archibald, Russ Hendricks

Chairman Bunderson convened the meeting at 3:01 p.m. A silent roll call was taken.

Gubernatorial Appointment:

Chairman Bunderson introduced **David Kinghorn** who is up for reappointment to the Board of Tax Appeals. Mr. Kinghorn has served on the Board of Tax Appeals from the Eastern Idaho region.

Senator Hill asked about **Mr. Kinghorn's** philosophy on property tax when he served as county assessor. **Mr. Kinghorn** replied that he tried to give the benefit of the doubt to the taxpayer.

Chairman Bunderson inquired about the percentage of **Mr. Kinghorn's** decisions that had been overturned. **Mr. Kinghorn** did not have statistics, but said he always endeavors to be fair and equitable in all his decisions.

Senator McKenzie asked about representation on appeals. **Mr. Kinghorn** said that most taxpayers represent themselves and the Board of Tax Appeals tries to be as citizen oriented as possible in their procedures.

Chairman Bunderson thanked **Mr. Kinghorn** for his appearance before the committee, and announced the committee vote on his appointment would take place on Tuesday, February 15.

Chairman Bunderson introduced **Susan Renfro** from the Board of Tax Appeals (BTA) to talk about the function of the BTA and process of tax appeals.

Ms. Renfro explained the authority of the BTA is given in Title 63 of Idaho Code. In the 60's a bill was passed to create the BTA to provide an

independent tax appeals system at a low cost to the taxpayer. The BTA is independent of the Idaho State Tax Commission and is comprised of 3 board members appointed by the Governor for 3 year terms. Each member comes from a different region: north, southwest, or southeast Idaho. The BTA functions in a similar manner to a circuit court and occasionally has full board meetings.

Ms. Renfro said that in 1995, '96, and '97 the number of appeals doubled and tripled and the BTA became backlogged. In 1998 the BTA reorganized adding more full time positions, increasing funding, and adding a 2 week course requirement on hearings for board members. In 1999 a deadline was also imposed that appeals should be filed by October 1 of each year and decisions be made no later than May 9. Since these changes, the BTA has had no backlog and has continually met the decision deadline. **Ms. Renfro** also reviewed statistics regarding BTA decisions and the process of notification and taxpayer-friendly process of appeals.

Senator Hill asked about the BTA's relationship to Idaho State Tax Commission. **Ms. Renfro** explained that after the Chairman of the Idaho State Tax Commission has made a final decision, the taxpayer can make an appeal to the BTA or to the District Court. After a decision is made by the BTA, the taxpayer can still go to the District Court.

Senator Corder inquired as to large increases in numbers of appeals in some areas at different points in time. **Ms. Renfro** explained that often when a new auditor is installed or when the economy sours, it results in an increased number of appeals.

Chairman Bunderson thanked **Ms. Renfro** for her presentation. **Chairman Bunderson** introduced **Senator Corder** to present RS 14892.

RS 14892: **Senator Corder** explained that this legislation will provide a schedule of charges for service; conditions for collection; report filing and failure to pay procedures. The bill defines "volunteer fire department" and requires an agreement between the department and a validly organized political subdivision.

MOTION: **Senator Langhorst** moved to send RS 14892 to print. **Senator Stegner** seconded the motion.

VOTE: The motion was approved by unanimous voice vote.

Chairman Bunderson introduced **Dan John** from the Idaho State Tax Commission to present H 27.

H 27: **Mr. John** explained H 27 is to provide the manner of service of a notice of levy and distraint by the Idaho State Tax Commission. Currently there are no specifications on how to notify, and Idaho State Tax Commission has found personal delivery to be inefficient. The Idaho State Tax Commission

has cloned IRC guidelines on levy and distraint giving three methods: in person, at dwelling or place of business, or by certified mail. There is also a provision that an agreement may be made with a business or person on how the notice of levy or distraint is served. **Mr. John** also noted the Statement of Purpose for this bill is incorrect. The Fiscal Impact should read \$100,000 not \$1,000,000; the impact is due to freeing up collectors from delivering as many personal notifications.

Senator McKenzie inquired about Idaho State Tax Commission intent in Subsection 2. **Mr. John** answered that it is to make it as broad as possible.

Questions were raised regarding the provision for agreement on method of being served. **Mr. John** explained that this agreement is between the Idaho State Tax Commission and a large company that would have a bulk of these notices. It would be a signed written agreement.

Senator Hill asked about notification at the last known address saying the law doesn't require a receipt for the notification. **Mr. John** explained that it follows a similar process as the audit process. The practice is to send a courtesy copy through regular mail in addition to the certified copy.

MOTION: **Senator Corder** moved to send H 27 to the floor with a Do Pass Recommendation. **Senator Langhorst** seconded the motion.

VOTE: The motion was approved by unanimous voice vote. **Senator Corder** will sponsor the bill on the Senate floor.

Chairman Bunderson introduced **Bob Aldridge** to present H 31.

H 31: **Mr. Aldridge** explained H 31 amends existing law relating to property tax relief to revise the definitions for "claimant" and "owner." He explained it resolves confusion relating to the application criteria; they must be fulfilled by January 1 not April 15. This bill also clarifies that sales contracts do not necessarily have to have "land" involved as part of the contract sale. The last change is in the last sentence changing "is" to "was" with regard to a deceased person.

Senator Langhorst asked if the Section 2 clarification regarding leased land applying for circuit breaker and home owners exemption means an increased number of applications for these provisions. **Mr. Aldridge** responded that it would not because this is already granted and this bill just conforms the law to the current practice.

MOTION: **Senator Langhorst** moved that H 31 be sent to the floor with a Do Pass Recommendation. **Senator Corder** seconded the motion.

VOTE: The motion passed by unanimous voice vote. **Senator Langhorst** will sponsor the bill on the floor of the Senate.

H 28: **Mr. John** returned to present H 28. This bill amends existing law to provide technical corrections to the Idaho income tax law to permit individuals in combat zones to file Idaho income tax returns on the

extended tax filing dates allowed by the Internal Revenue Code; to include certain farmers among employers who are required to file annual income tax withholding returns; to revise terms in the new jobs credits; to provide correct cross references in the investment credit for broadband equipment; to provide that equipment purchases that qualify for a deduction under Section 179 of the Internal Revenue Code (property expensed rather than treated as a capital asset) do not qualify for the investment tax credit; and to provide that the statute of limitations on collecting assessed tax, in all cases, begins on the date the record of assessment is entered.

MOTION: **Senator McKenzie** made a motion to send H 28 to the floor with a Do Pass Recommendation. **Senator Hill** seconded the motion.

VOTE: The motion passed by unanimous voice vote. **Senator McKenzie** will sponsor the bill on the floor of the Senate.

H 29: **Mr. John** presented H 29. This bill adds to and amends existing law to authorize the State Tax Commission to contract with qualified collection agencies or attorneys for the collection of taxes. The Idaho State Tax Commission expects it can collect over a million dollars being able to outsource more of the collections without having to increase their staffing level.

Questions were asked concerning the types of cases which could be turned over to the out of state contractors. **Mr. John** answered that there is not a fine distinction, but that it can help use the Idaho State Tax Commission human resources more carefully and efficiently, and assured the committee that it would not effect the Idaho State Tax Commission's current staffing. **Senator Stegner** inquired what an out of state contractor charges on the collections. **Mr. John** said usually they charge around 19 ½% and that each contractor follows a national code of conduct with regard to collections.

MOTION: **Senator Stegner** moved to send H 29 to the floor with a Do Pass Recommendation. **Senator Langhorst** seconded the motion.

VOTE: The motion passed by unanimous voice vote. **Senator Stegner** will sponsor the bill on the Senate floor.

ADJOURNMENT: There being no further business the meeting adjourned at 4:02p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: February 10, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Malepeai

GUESTS: Marty Durand, Bob C. Hall, Chuck Winder, Dave Ekern, Maggie Colwell, Charles Rountree, Dawn Hall, Pamela Lowe, Randy Nelson, Lorraine Dennis, Jane Gorsuch, Rick Skinner, Lance Giles, Sid Freeman, Dennis Tanikuni, Alan Cameron, Vita Strohush, Olena Chorna, Alie Ablaeva, Nataliya Klehko, Julie Pipal, Doug Benzon, Nancy White, James Peters

Chairman Bunderson convened the meeting at 3:03 p.m. A silent roll call was taken.

MINUTES: **Senator Hill** moved that the minutes of February 8 be approved as written. **Senator Corder** seconded the motion. The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Senator Clint Stennett** to present RS 14743.

RS 14743: **Senator Stennett** explained this legislation is related to the land use planning act, and removes the one mile radius limitation. This would allow more people the opportunity to testify at hearings.

MOTION: **Senator Langhorst** moved to send RS 14743 to print. **Senator Hill** seconded the motion.

DISCUSSION: **Senator Corder** commented that he has never seen the one mile increment inhibit notification, and didn't see the negative impact of the law. **Senator Langhorst** responded that the limitation extends beyond notification, restricting public testimony to only residents living in the one mile notification radius. He expressed his desire to see public testimony on the issue.

VOTE: The motion passed by unanimous voice vote.

Chairman Bunderson introduced Jane Gorsuch the Vice President of

Idaho Affairs from the Intermountain Forest Association to present RS 14940.

RS 14940: **Ms. Gorsuch** explained that this legislation adds to existing law relating to limitations of actions to provide for the ownership acquisition of any part or parcel of tracts of private forest land; to prohibit certain means of ownership acquisition; and to provide for application.

Senator Stegner asked why this legislation is limited to one type of property. **Ms. Gorsuch** responded that years ago a similar bill with a broader impact and were told to make it more specific.

MOTION: **Senator Stegner** moved to send RS 14940 to print with a clarification that he did not have an opinion on the legislation and may not support the bill. **Senator Corder** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Dan John** from the Idaho State Tax Commission to present H 11.

H 11: **Mr. John** explained this bill amends existing law to delete the requirement of annual newspaper publication for unclaimed property; and to provide for quarterly updates on a public website maintained by the State Tax Commission.

Currently the Idaho State Tax Commission prepares a 8-12 page newspaper insert listing the names of people entitled to unclaimed property which is delivered in designated county papers once a year. This method costs approximately \$35,000 per year and is inefficient in reuniting unclaimed property with the rightful owner. The Idaho State Tax Commission would like to use this money instead to selectively publish names and create remote sites for people to check whether they are entitled to any unclaimed property. They believe this would reach more people than the once a year newspaper insert.

Mr. John explained that after the H 11 passed the House the Idaho State Tax Commission was approached by the Idaho Newspaper Association about amending this bill. The Idaho State Tax Commission and the Idaho Newspaper Association agreed that at least one week before the Idaho State Tax Commission unclaimed property website is updated, an ad listing the when and where with regard to the website will be printed the county newspapers (same distribution as the insert). This way the people who know where to look for the insert can find the new information for the website. This would be published quarterly (the website would also be updated quarterly) instead of yearly. This option is also considerably less expensive, costing about \$2500 per year.

Chairman Bunderson asked about any other potential fiscal impact of this legislation. **Mr. John** replied that there may be a reduction in the amount contributed to the General Fund from unclaimed property

because more people would be claiming their property.

Bob Hall from the Idaho Newspaper Association testified in favor of the amendment stating that it will improve the flow of information, and is interested to see how this new program works.

MOTION: **Senator McKenzie** moved to send H11 to the 14th Order. **Senator Langhorst** seconded the motion.

VOTE: The motion passed by unanimous voice vote. **Senator McKenzie** will sponsor the bill on the Senate floor.

Chairman Bunderson introduced **Pam Lowe**, the Administrator for the Division of Motor Vehicles of the Idaho Transportation Department, to inform the committee on the distribution of funds for Idaho Transportation Department. **Ms. Lowe** went through a diagram detailing the breakdown of funds and distribution (see attached).

Chairman Bunderson thanked **Ms. Lowe** for her presentation. **Chairman Bunderson** introduced **Dave Ekern**, Director of the Idaho Transportation Department, and **Chuck Winder**, Chairman of the Idaho Transportation Department Board of Directors, to discuss GARVEE bonds and how they relate to the plan in the Governor's State of the State address.

Mr. Ekern and **Mr. Winder** reviewed the "Connecting Idaho" document prepared by the Idaho Transportation Department in collaboration with the Office of the Governor. The document details the vision, economic benefits, financial analysis, and other general information relating to GARVEE and its potential impact on Idaho.

Chairman Bunderson thanked Mr. Ekern and Mr. Winder for their presentation.

ADJOURNMENT: There being no further business, the meeting adjourned at 4:33 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: February 15, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Sweet

GUESTS: Phil Homer, Derek Santos, Fred Riggers, Randy Nelson, Dan John, Charles Clark, Brad Hoaglun, Jonathan Parker

Chairman Bunderson convened the meeting at 3:09 p.m. A silent roll call was taken.

MINUTES: **Senator Williams** moved to approve the minutes of February 9th as written. **Senator Stegner** seconded the motion. The motion passed by unanimous voice vote. **Senator Hill** moved to approve the minutes of February 10 as written. **Senator McKenzie** seconded the motion. The motion passed by unanimous voice vote.

Gubernatorial Appointment: David E. Kinghorn appointed to the Board of Tax Appeals to serve a term commencing June 30, 2004 and expiring June 30, 2007.

MOTION: **Senator Hill** made a motion to recommend to the full Senate the appointment of David Kinghorn to the Board of Tax Appeals. **Senator Malepeai** seconded the motion.

VOTE: The motion passed by unanimous voice vote. The appointment will be carried by **Senator Hill** on the floor of the Senate.

Chairman Bunderson introduced Steve Ahrens President of the Idaho Association of Commerce and Labor (IACI).

Mr. Ahrens described IACI's composition of nearly 300 Idaho businesses in such diverse fields as agriculture and food service, technology, accounting firms and banks, utilities, manufacturing and construction, as well as chambers of commerce from Idaho's large and small cities and associations representing a wide variety of interests. He then detailed IACI's committee process and procedures in determining IACI policies

and legislative agenda, emphasizing that the association focuses on issues in which they have expertise. **Mr. Ahrens** distributed copies of IACI's legislative agenda for this session to members of the committee. He then made himself available for questions regarding IACI and its legislative agenda.

Senator Corder asked about IACI's statement regarding GARVEE and his concerns about funding balances. **Mr. Ahrens** stated that IACI is reserving judgment on GARVEE until they are able to consider the bill as printed. They have had Dave Ekern and Chuck Winder give presentations on GARVEE to IACI committees. **Mr. Ahrens** also expressed Senator Corder's concerns were shared by IACI.

Chairman Bunderson asked if the legislative agenda are IACI's policy statements. **Mr. Ahrens** explained that some policies are philosophical statements, some are conceptual ideas, and some are specific statements.

Senator Williams asked about IACI's policy regarding use and cigarette tax increases and their position regarding the situation where small businesses selling cigarettes near reservations are negatively impacted by the sales of unstamped cigarettes. **Mr. Ahrens** said that IACI is in favor of sunseting the sales tax. He stated that where IACI policies don't square up with legislation or issues as they arise, IACI reconsiders their position. Pertaining to the issues with the reservations IACI doesn't have a specific angle as of yet.

Senator Malepeai inquired about higher education and the expansions in which IACI is interested. **Mr. Ahrens** responded that the policy developed by IACI in 1983 and '84 concerned a comprehensive system including community colleges and other alternative programs in higher education other than four year universities. Due to financial restraints and changes in governance Idaho still doesn't have this kind of comprehensive system. IACI supports access to higher education that people want and businesses want their people to have.

Senator Langhorst asked about local option tax authority to possibly fund public transportation. **Mr. Ahrens** explained in regard to the local option, IACI developed certain criteria under which the association would support it. After legislation that the criteria pertained to failed, IACI returned to their previous position wanting to limit imposing additional taxes.

A discussion arose concerning IACI's position regarding budget issues and Medicaid. **Mr. Ahrens** maintained that IACI does not usually take positions regarding budget issues or social issues and rather focus on issues on which they can offer expertise (which do not include budget issues and/or Medicaid). He noted that as the impact of some of these issues on the budget increases, it may begin to impact funding on issues with which IACI takes an interest.

Chairman Bunderson thanked Mr. Ahrens for his presentation.

ADJOURNMENT: There being no further business the meeting adjourned at 3:57p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: February 16, 2005
TIME: 3:00 p.m.
PLACE: Room 426
MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai
MEMBERS ABSENT/ EXCUSED: Senator Langhorst
GUESTS: Mark Larson, Brian Kane, Karl Malott, Dan John, Randy Nelson, Scott Pugrud, Derek Santos

Chairman Bunderson convened the meeting at 3:03 p.m. A silent roll call was taken.

MINUTES: **Senator Malepeai** moved to approve the minutes of February 16 as written. **Senator Hill** seconded the motion. The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Senator Corder** to present S 1104.

S 1104:

Senator Corder explained this bill provides volunteer fire departments may collect a service charge based on a published schedule of charges, provided certain specified conditions are met. The need for this legislation arose in a court case involving the Robie Creek Volunteer Fire Department.

The case involved a fire at the home of an individual who was delinquent in their subscriber dues to the fire department. Afterward, the fire department had difficulty recouping their losses from the individual and took the matter to court.

An evaluator for the courts decided there was no legal basis for the fire department to charge for suppressing the fire. This decision was reconfirmed by a judge, qualifying the volunteer fire department as a non-profit organization. The individual did not ask the fire department to assist (the sheriff's department called the fire department). Therefore the individual had no obligation to pay the fire department. Nine other fire departments in Idaho are currently vulnerable to this same situation.

This legislation allows for collection of fees and details the criteria under

which these fees are determined and published. It also includes an opt out for individuals who do not wish to subscribe to the fire department's services, and the fire department will not be held liable for not responding in that situation. The legislation also defines "volunteer fire department" and requires a contract between a political subdivision and the fire department to prevent non-official groups from performing fire department services and charging fees for it.

In the event of a similar case and all the provisions set out in this bill are met, this legislation serves as legal grounds for the fire department to pursue remuneration.

Senator Hill inquired about the fire marshal's role in determining fees as specified in the bill. **Senator Corder** said the figures are available from the Department of Lands.

Senator Malepeai referenced the political subdivisions as cities and counties and asked if they had been contacted about this bill. **Senator Corder** replied they had not, but they have the ability in this bill to contract with a fire department.

MOTION: **Senator Hill** moved to send S 1104 to the floor with a Do Pass Recommendation. **Senator Williams** seconded the motion.

VOTE: The motion passed by unanimous voice vote. **Senator Corder** will carry the bill on the floor of the Senate.

Chairman Bunderson introduced the White Paper Overview of the Alcohol Beverage Business and Structures Created by Idaho Law, Fiscal Effects and Analysis for Proposed Legislation.

Chairman Bunderson reviewed the Alcohol Beverage and Tax/Revenue Structures in Idaho. He also discussed issues surrounding state liquor licensing, and the situation with alcohol abuse and the mounting associated costs.

ADJOURNMENT: There being no further business, the meeting adjourned at 4:09 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: February 22, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Sweet

GUESTS: Elinor Chehey, Alan Dornfest, Patrick Hodges, Mike Ferguson, Dan John, Claudia Haynes, Catherine Brown, Gary Thomas, Phuong Smith, Ed Smith, Bob Wright, Lauren McLean, Dennis Tanikuni, Roy Eiguren, Barbara Raber, Beth Deschene, Arlene Hoagland, Stan Boyd, Richard Appleton, Jane Gorsuch, Dan Chadwick

Vice Chairman Hill called the meeting to order at 3:05 p.m. A silent roll call was taken. Sam Vanderwall, page to the committee for the second half of the session, was introduced.

Vice Chairman Hill introduced Dan Chadwick, Executive Director for the Idaho Association of Counties (IAC), to present H 126. **Mr. Chadwick** recognized people who worked on this proposal: Mark Benson from Potlatch who represented the timber industry, Steve Fiscus from the IAC, Bill Schlosser a consultant on the issue, Larry Watson from the Idaho State Tax Commission was the chair of the Committee on Forest Taxation Methodologies (CFTM), Jane Gorsuch from the Intermountain Forest Association, and Alan Dornfest from the Idaho State Tax Commission who assisted with the technical aspects.

H 126: **Mr. Chadwick** reminded the committee of Dr. Schlosser's presentation on January 27 concerning the CFTM and recommendations relating to forest land valuation. This bill amends existing law relating to the taxation of forest lands and forest products; to provide for taxation of forest lands under the productivity option; to authorize and direct the State Tax Commission to take certain action; and to provide for the Committee on Forest Land Taxation Methodologies.

Mr. Chadwick reviewed the content of the bill. Section 1 defines "timber productivity valuation process," "custodial expense," and the "Committee on Forest Land Taxation Methodologies (CFTM)." Section 2 refers to the users guide that contains the formulas and variables to be used in calculations. It will be kept on file with the Idaho State Tax Commission and the County Assessor's Office. The purpose of the process is to

moderate the spikes and declines currently occurring in timber land valuation. This bill creates a 5 year study process to keep information up to date. The CFTM is kept in place as an active committee to keep all aspects up to date and produce status reports. This is paid for by the counties and the timber industry. Section 3 applies this legislation retroactively starting January 1, 2005.

Senator Williams asked Mr. Chadwick if the counties' income will be effected. **Mr. Chadwick** said there are winners and losers, and referred the committee to a document from the Idaho State Tax Commission by Alan Dornfest.

Senator Corder asked why the timber values have been falling. **Mr. Chadwick** explained the fall in value is attributed to a system that picks the lower of two values: the chart value (which is being repealed in this legislation) or the existing formula (resulting from a number of factors including stumpage values). H 126 will moderate these changes in the timber values. **Senator Corder** inquired regarding the general reasons for lower timber values. **Mark Benson** explained the stumpage values in Southern Idaho have declined and in Northern Idaho have been stronger. The infrastructure in Southern Idaho has changed and only 1 saw mill of significance remains south of the Salmon River (Tamarack Mill west of New Meadows). Therefore logs have to be exported, which translates to lower stumpage values in those counties. In Northern Idaho the values have been stable and slightly stronger in the past few years. The days of rapid and escalated stumpage prices have passed.

Senator Malepeai asked about any opposition to H 126. **Mr. Chadwick** said he had not heard any.

MOTION: **Senator Stegner** moved to send H 126 to the floor with a Do Pass Recommendation. **Senator Williams** seconded the motion.

VOTE: The motion passed by unanimous voice vote. The bill will be sponsored by **Senator Stegner** on the floor.

Vice Chairman Hill introduced Senator Stennett to present S 1112.

S 1112: **Senator Stennett** explained this bill amends existing law to strike a restriction entitling only certain persons to provide comment at public hearings held by boards of county commissioners for the siting of certain large confined animal feeding operations (CAFO) and facilities.

Senator Stennett said the 1 mile designation is arbitrary and the impact of the CAFO's extends much farther than 1 mile. He also expressed anyone making the effort to attend a public hearing is being affected in some manner by the issue up for consideration. He also noted there are no similar limitations on testimony at public hearings addressing other issues.

Senator Corder asked how state government should balance local

government power and local input. **Senator Stennett** answered, letting anyone with interest in the issue testify and deliberate the issue. The commissioners are permitted to set time limits on individual testimony, but the 1 mile limitation is arbitrary. Good government requires interaction. **Senator Corder** responded the next line in the statute empowers the commissioners to extend the 1 mile perimeter. **Senator Stennett** said this was the only place in Idaho Code where a limitation like this exists.

Bob Wright from Filer testified in favor of S 1112. He lives 2 miles from one dairy and 4-5 miles from another. He talked about the odor issues and how they inhibit his activities at his residence. Additional traffic, flies, and the shifting of waste are all elements resulting from a CAFO which extend beyond 1 mile. The 1 mile designation in current law limits his ability to give input on these issues that directly affect him.

Ed Smith from Filer testified on behalf of S 1112. This law, as currently written, is too limiting on public participation on this issue because a CAFO affects people farther than a 1 mile radius. He said the county looks to the state for guidance, and the 1 mile designation gives the idea this distance is sufficient.

Senator Corder asked what Mr. Smith's county commissioners did when he requested the perimeter be extended past 1 mile. **Mr. Smith** replied the commissioners in Twin Falls county have extended the perimeter for public hearings.

Phuong Smith from Filer testified in support of the bill. She spoke about the direct negative effects she experiences living two miles from a CAFO. **Ms. Smith** said the 1 mile limitation is a violation of citizens' rights, and democracy is the freedom to participate in the process.

Dennis Tanikuni from the Idaho Farm Bureau Federation testified against S1112. **Mr. Tanikuni** explained the language in question is a recent addition to the code. The intent of the language was to hear from impacted individuals where a CAFO is going to be sited. The intent was also to provide fairness for the CAFO owner, and the statute allows for the 1 mile radius to be extended. The language was to prevent influence from anonymous third parties who may or may not have standing.

Senator Hill asked if Mr. Tanikuni would agree CAFOs affect people outside the 1 mile radius. **Mr. Tanikuni** responded he could not determine that without information regarding the geographic and climatic conditions, and the current statute says the perimeter may be extended beyond the 1 mile. **Senator Hill** inquired if the Farm Bureau would be less opposed or support a change in the bill that changed it to 2 miles, 5 miles, or some other distance. **Mr. Tanikuni** replied a standard needs to be set, and the local option is sufficient to determine an area of impact beyond the 1 mile.

Senator Stegner inquired regarding Mr. Tanikuni's idea of "area of impact." **Mr Tanikuni** explained the intent was relating to the siting of the CAFO, and he would not deny the actual CAFO itself would increase traffic and such. However, the elimination of this language opens hearings up to everybody who takes issue with dairies in general, and not

necessarily the siting in question.

Chairman Bunderson inquired regarding out of state activists and amending the language defining the area of impact as primary residence within the area of impact as defined by the board.

Mr. Chadwick said he didn't think it was necessary because if the limitation is taken out, the board still can structure the time limits and parameters of the testimony. He wouldn't object to the amendment but doesn't feel it is necessary either. **Senator Stennett** stated this is the only industry that is treated in this manner and siting hearings for other operations do not carry these special provisions. He felt that all industries should be treated equally, and therefore would like the bill to remain as is.

In closing, **Mr. Tanikuni** stated a statistic from the Department of Agriculture: 80% of the complaints against dairies are from 10-20 households. **Senator Langhorst** asked if these households were at a distance greater than a mile from the dairy in the complaint. **Mr. Tanikuni** replied he did not know and the answer would need to come from the Department of Agriculture.

Elinor Chehy from the League of Women Voters testified in favor of the bill. The LWV believes that the government has an obligation to protect the rights of those who live near proposed large CAFOs. These operations have been shown to generate unbearable air pollution and threaten the ground water where they operate. Citizens must have the right to participate in decisions about siting of CAFOs. Since CAFOs have been reported to impact the air quality for miles around, they believe the 1 mile limit in Idaho Code 67-6529 (2) should be removed from the county planning law for CAFO siting hearings.

Claudia Haynes in support of S 1112 testified that it is a matter of freedom of speech-the statute is too restrictive. She lives 3 miles from a 4,000 cow CAFO and her water quality, air quality, property value have been impacted by the CAFO. The applicant at the hearing tried to exclude her testimony because she was more than 1 mile from the siting location, however the commissioners still permitted her to testify. **Ms. Haynes** said this is only type of siting hearing where a restriction like this is in the statute.

Dan Chadwick, Executive Director of the Idaho Association of Counties, testified in support of S1112. He said the 1 mile limit is an artificial limitation that doesn't give people a fair opportunity to testify. **Mr. Chadwick** stated the people he represents are often criticized for not being amenable to receiving comment. This is a barrier to allow input from the entire county. The CAFO statute is unique in this respect. Taking testimony as they do for other Land Use Planning hearings (where parameters may be such as time limits) doesn't have a adverse impact. Freely accepting testimony doesn't necessarily mean the commissioners will be influenced by it, but at least the citizens have had a chance to be

heard.

Senator Stegner asked if in Mr. Chadwick's legal opinion there were any civil liberty implications. **Mr. Chadwick** said the commissioners could open themselves to litigation by ignoring the 1 mile statute and opening testimony to anyone. He was not sure there was a constitutional implication in this issue.

Senator Hill inquired further as to the rights and potential liabilities of the commissioners either maintaining the 1 mile perimeter or extending it. **Mr. Chadwick** explained the issue is the arbitrary capricious action of a board of county commissioners. Under the regular Land Use Planning Act this is not an issue. At a public hearing anyone can come and sign up to testify (if their testimony is on point and relevant to the discussion at hand). Area of residence is not as much an issue as the relevancy of the testimony.

Senator Malepeai asked if the original statute is not changed, could someone take it to court because the CAFO is being treated differently from any other industry. **Mr. Chadwick** explained that is an issue of equal protection under the law, which is a constitutional issue.

Senator Corder asked which statute gives the commissioners guidelines as to how to conduct the public hearings, specifying what is arbitrary and capricious and what is not. **Mr. Chadwick** cited the Land Use Planning Act which has a series of statutes discussing public hearings. However, it does not give good guidance with respect to process or procedure, under Title 67 Chapter 65 and the Administrative Procedure Act (and corresponding court interpretations), the board cannot act in an arbitrary and capricious manner. The board cannot act in violation of the law and cannot act in violation of the constitution. Conduct, including the public hearing, must be held to these standards. A hearing is the public's opportunity to testify and give input. **Senator Corder** asked how decisions are made by the Idaho Association of Counties, and how many dissentient county commissioners they had to this bill. **Mr. Chadwick** said the IAC supported the legislation last year, and decisions are made by the legislative committee of 15 people and then presented at the February conference for approval.

Stan Boyd testified on behalf of the Idaho Cattle Association in opposition to S1112. Idaho Code is better with the language than without it. It is not arbitrary and capricious because of the provision stating the commissioners may expand the distance. As a member of the livestock industry, they have seen the impact of outside groups on the State of Idaho, referencing the wolf issue. He recognized that 1 mile may be too short a designation, but guidelines do need to be in place.

Catherine Brown from Mountain Home testified in support of S1112, stating the concept was wrong from its inception. She felt it was a matter of freedom of speech, and CAFOs have farther reaching effects than 1 mile.

Senator Corder inquired regarding the practice of her county

commissioners. **Ms. Brown** replied her county commissioners go back and forth on if and how much they extend the perimeter.

Lauren McLean from the Idaho Conservation League testified in support of S1112. She said no similar guidance is offered in situations other than CAFO siting. The legislature sets an example for the commissioners, and lowers the bar for the counties making it easier for them to restrict the public's testimony. **Ms. McLean** stated that allowing unrestricted testimony does not permit anyone who testified to appeal the decision—in order to appeal an individual must prove their standing. She also said that not many people from different places show up to public hearings. No one argues that effects of CAFOs reach farther than 1 mile, and many of the complaints against the operations come from outside the 1 mile radius as well.

Gary Thomas from the Wilder Preservation Association testified in support of S 1112. The current statute sounds like it gives more power to county government, but in fact it is a local option to create a limit (which is unique in the code). The county governments don't even want this option. It also restricts the right to testify.

Barbara Raber from Mountain Home testified in support of the bill. She lives two miles from a CAFO. She spoke about the negative effects it has had on her home and health. She has repeatedly reported the CAFO to the sheriff.

Arlene Hoagland, Richard Appleton, Beth Deschene also rose in support of S 1112.

Senator Stennett spoke about a man whose property value has diminished because he lives near a CAFO. He thanked all of the community support he has had in promoting this bill. He said it is time to let CAFOs stand on their own merits, and let the community say if they want the benefits and associated costs of a CAFO. This is the only place in land use planning code that carries this type of restriction.

MOTION: **Senator Langhorst** moved to send S1112 to the floor with a Do Pass Recommendation. **Senator Malepeai** seconded the motion.

SUBSTITUTE MOTION: **Senator Williams** made a substitute motion to hold S 1112 in committee. **Senator Hill** seconded the substitute motion.

DISCUSSION: **Senator Williams** explained he has handled this type of issue in Agricultural Affairs for the last couple of years and would not hear it this year. Two or three years ago this very emotional issue came up. At the time, these siting hearings were filled with people from as far away as Portland, OR, and testimony subsequently lasted past midnight and local folks didn't get a chance to testify. The 1 mile designation was an arbitrary limit, but a provision was put in place allowing the commissioners to increase the distance. The idea was not to limit the testimony to 1 mile, but to give the commissioners the option to place a boundary on testimony. There is no doubt people more than 1 mile are effected by CAFOs. The 1 mile is an artificial barrier designed to give the power to the

commissioners.

Senator Langhorst, speaking on behalf of his original motion and against the substitute motion, did not see any good arguments for retaining the language (being struck in this bill). It is the only language in Idaho Code that limits the public's ability to testify, and it can't be assumed a person from far away coming to a public hearing holds no interest in the issue. People living a few miles from a potential site have a right to lodge their complaint with the county commissioners. Since there is no argument that people more than 1 mile from a CAFO are affected, it proves that 1 mile is arbitrary and should have no place in Idaho Code. He trusts the county commissioners to make a decision, and if someone doesn't have standing to weight that in consideration of the party's testimony. Good ideas can come from people living at any distance. The only weakness in the bill is that it doesn't have an emergency clause.

Senator Stegner said given the choice between the two motions he would vote against the substitute motion for the original motion. There is something that is described to not be a limit which actually is a limit. The committee should have a third option- to amend the bill.

**SUBSTITUTE
AMENDED
MOTION:**

Senator Stegner made a substitute amended motion to send S 1112 to the 14th Order. **Senator Corder** seconded the motion.

DISCUSSION:

Senator Malepeai asked if **Senator Stegner** had any particular amendment in mind. **Senator Stegner** said anything in the 14th Order is fair game, and discussion in this committee can prompt a suggestion from the committee of the whole. **Senator Corder** said that **Chairman Bunderson** proposed a reasonable alternative that would satisfy many of his concerns regarding this polarized issue. He does not like taking power away from the county commissioners, and doesn't like when commissioners abuse their authority, not providing for the issues heard in testimony. He wants a better balance between empowerment and the counties' ability to respond.

Senator Malepeai spoke about consistency in laws and legislation, and this a matter of consistency; treating one industry differently than another. Consistency lies in striking this language. The commissioners are intelligent enough to judge the relevance of testimony.

Senator Hill said the amended substitute motion to send the bill to the 14th Order could offer a compromise other than 1 mile, and he might support the legislation, if it went to something other than 1 mile. However, the 14th Order is not appropriate for such a high profile and emotional issue because the 14th Order goes straight to the floor without any public testimony.

VOTE:

A roll call vote was taken on the amended substitute motion to send S 1112 to the 14th Order. There were 2 ayes: **Senator Stegner** and **Senator Corder**. There were 5 nays: **Senators Hill, McKenzie, Williams, Malepeai, Langhorst**. The motion failed.

A roll call vote was taken on the substitute motion to hold S 1112 in committee. There were 3 ayes: **Senators Hill, Williams, Corder**. There were 4 nays: **Senators Stegner, McKenzie, Malepeai, Langhorst**. The motion failed.

A roll call vote was taken on the original motion to send S 1112 to the floor with a Do Pass Recommendation. There were 4 ayes: **Senators Stegner, McKenzie, Malepeai, Langhorst**. The motion passed.

ADJOURN: There being no further business, the meeting adjourned at 4:40 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

- DATE:** February 23, 2005
- TIME:** 3:00 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman Bunderson, Vice Chairman Hill, Senators Stegner, McKenzie, Williams, Corder, Malepeai, Langhorst
- MEMBERS ABSENT/ EXCUSED:** Senator Sweet
- GUESTS:** Steve Rector, Laura Stauffer, Mike Ferguson, Dan John, Tony Poinelli, Dawn Hall, Steve Puryis, Shirl Boyce, Randy Nelson
- Chairman Bunderson** called the meeting to order at 3:07 p.m. A silent roll call was taken.
- MINUTES:** **Senator Corder** moved to approve to minutes of February 16 as corrected. **Senator McKenzie** seconded the motion. The motion passed by unanimous voice vote.
- H 103:** **Chairman Bunderson** introduced Tony Poinelli from the Idaho Association of Counties to present H 103. This bill amends existing law to provide that a county's liability for a resident of the county, for out of district tuition to a publicly funded Idaho community college, shall be for the term of the curriculum for which the student is enrolled with a maximum lifetime liability of three thousand dollars; and to provide date changes.
- Mr. Poinelli** explained this legislation repeals the 6 semester limitation, recognizing working students often require more than 6 semesters to complete their course of study and often the costs of their semester varies. A maximum limit is set, on county liability, of \$500 per semester and \$3,000 lifetime total.
- Senator Malepeai** asked what College of Southern Idaho and College of Northern Idaho charge per semester per student. **Mr. Poinelli** answered \$1400 total (\$500 out of district fee and \$900 tuition charge). In district students pay just the \$900. Five hundred dollar out of district fee is paid by county liquor revenues.
- Senator McKenzie** inquired regarding the logistics of notifying a county of application to a community college. **Mr. Poinelli** explained when a student fills out an application, the college sends the materials to the county commissioners for approval.
- MOTION:** **Senator Malepeai** moved to send H 103 to the floor with a Do Pass

Recommendation. **Senator McKenzie** seconded the motion.

VOTE: The motion passed by unanimous voice vote. **Senator Keough** will sponsor the bill on the floor.

Chairman Bunderson introduced Shirl Boyce from the Boise Metro Chamber of Commerce and the Idaho Economic Development Association (IEDA) to present on the IEDA White Paper: Evaluation and Recommendations –Keeping and Attracting the High Quality Jobs that will Underpin Idaho’s Economy in the 21st Century.

Mr. Boyce explained the task force was started in 2003 to focus on attracting the high tech industry to Idaho. Senators, Representatives, and science and technology professionals from all over the state served on the task force. The task force’s philosophy is to balance incentives with infrastructure. The White Paper contains recommendations from the Governor, Science and Technology Advisory Council, and Economic Incentives Task Force. Although two of these entities may have made the same recommendation, it is not recorded a second time in this document. Some recommendations are being acted upon already.

Mr. Boyce reviewed the recommendations made by the Economic Incentives Task Force (see attached).

Senator Corder inquired regarding the Venture Capital Act in Utah, the “fund of funds.” **Mr. Boyce** explained it provides tax benefits to companies who contribute to the fund of funds which is managed at the state level and are made available to venture capital. Some states that have done this have had it adjudicated by the Supreme court. The legislature did pass this at one time, but it was vetoed by Governor Kempthorne. **Mr. Boyce** noted that if this were approached again, a strong education effort explaining it would need to be made as well.

Senator Langhorst voiced his support for the recommendation to evaluate purchasing laws to ensure they are not disadvantageous to Idaho businesses. He spoke about legislation along these lines last year that did not go through the legislature. **Chairman Bunderson** gave an example of a bidding process where figuring in the tax raised the bid price and therefore lost the bid.

Chairman Bunderson thanked Mr. Boyce for his presentation.

ADJOURNMENT: There being no further business, the meeting adjourned at 4:06 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: February 24, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, McKenzie, Williams, Corder, Malepeai

MEMBERS ABSENT/ EXCUSED: Senators Sweet and Langhorst

GUESTS: Rob Branch, Jessica Krebs, Laura Stauffer, Dewey Hammond, Dan John, Mike Reynoldson, Dawn Hall, Derek Santos, Randy Nelson, Brian Whitock, Nathan Bill, Megan Ronk, Jason Kreizenbeck, Marisa Nelson, Lance Giles

Chairman Bunderson convened the meeting at 3:07 p.m. A silent roll call was taken.

Chairman Bunderson introduced Brian Whitlock from the Governor's Office and Dewey Hammond, Chairman of the Idaho State Tax Commission to preview H 216 and H 259.

This legislation relating to tax incentives for relocating businesses was outlined in the Governor's State of the State Address.

H 216, Corporate Headquarters Incentive Act of 2005, adds to existing law to provide the "Idaho Corporate Headquarters Incentive Act of 2005"; to provide an enhanced income tax incentive credit for certain qualified investments; to provide an income tax credit for certain real property improvements; to provide an enhanced new jobs credit for certain employment; to authorize the state tax commission to adopt certain administrative rules; to establish limitations; to permit sharing of credits among taxpayers included in a combined report of income; to permit carryovers of unused credits; to provide for recapture of income tax credits in case of failure to meet tax incentive criteria; to provide for a rebate of sales and use taxes paid on qualified projects; to provide recapture of refund in case of failure to meet tax incentive criteria; to provide for a rebate of certain property taxes paid on qualified projects; to provide limitations; to provide for recapture of the rebate in case of failure to meet tax incentive criteria; to provide for administration by the State Tax Commission; and to provide a continuous appropriation of income tax receipts to fund certain property tax rebates.

H 259, Small/Medium Business Growth Incentive, adds to existing law to provide an additional income tax credit for small and medium size businesses for capital investment; to provide an additional income tax

credit for new jobs; to provide limitations and other provisions on credits against income taxes; to provide sales and use tax incentives; to provide rebates; to provide for recapture; and to allow the county board of equalization to exempt all or a portion of certain property which has received the income tax credits or sales tax exemptions from property taxation.

Chairman Bunderson thanked Mr. Whitlock and Mr. Hammond for their presentation.

ADJOURNMENT: There being no further business, the meeting adjourned at 4:07 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 1, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED:

GUESTS: Heather Cunningham, Gary White, Laura Stauffer, Jerry Deckard, Roger Seiber, Russ Hendricks, dean Schwendimaw, Dawn Hall, Diana Thomas, Marty Peterson, Kevin Satterlee, Mark Dunham, Julie Pipal, Derek Santos, Maggie Colwell, Tony Poinelli, Phil Homak, Nathan Bye, cliff Bayer, Kerry Ellen Elliott

Chairman Bunderson called the meeting to order at 3:03 p.m. A silent roll call was taken.

MINUTES: **Senator Corder** moved to approve the minutes of February 23 and February 24 as written. **Senator Malepeai** seconded the motion. The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Senator Sweet** to present S 1151. He deferred to Heather Cunningham an attorney from Lexington, Idaho to speak on the bill.

S 1151: This bill relates to eminent domain and amends existing law relating to eminent domain to remove language referencing the state and political subdivisions of the state and to remove language referencing the purposes of acquisition of real property. **Ms. Cunningham** explained the purpose of this revision to Idaho Code Section 7-721 is to clarify that the "Quick Take" procedure, which allows condemning authorities to take possession of private property prior to trial, is available to all condemning authorities. Currently, the statute contains a list of condemnors and projects which is not all-inclusive; therefore there are some condemnors which cannot take possession of property being condemned by eminent domain until after a Commissioner's Hearing and a trial on the issue of valuation. The result is a delay in public projects and additional costs to private property owners. This revision to the statute will clarify that any entity with the power to take private property via eminent domain may also obtain immediate possession of the property upon deposit with the Court of "just compensation." The property owner and the condemnor can then resolve the valuation/just compensation issue without the public project being delayed. She also noted the legislation is not retroactive and will not effected pending legislation.

Senator Stegner inquired about the reasoning behind removing the specifications regarding condemnors. **Ms. Cunningham** said it was to clarify *any* condemnor is permitted to use the “quick take” statute. The list currently in statute is not comprehensive, excluding entities such as educational institutes. Including all condemnors under 7-721, and utilizing the “quick take” allows those entities to proceed immediately with their project instead of incurring delays until after a series of hearings and trials.

Senator Sweet asked if entities will be forced to use 7-721 if this legislation is passed. **Ms. Cunningham** replied, the condemnors will still have the option of using a commissioners hearing (7-717, the older statute) instead of 7-721. Currently there is no option to use the more modern 7-721 statute if a condemnor is not specifically provided for in the statute. The commissioners hearing in 7-717 is a panel of three commissioners who determine just compensation for the parcel in dispute. If either side disagrees with the determination, they may request a trial thus doubling the costs and fees for both parties. The project for which the parcel is required may not proceed until a decision has been reached.

Senator Hill asked why Boise State University (BSU) would object to this legislation allowing them to use the “quick take” provision. **Ms. Cunningham** said using 7-717 is an incentive to the property owner to settle with BSU in order to avoid the additional costs associated with both a hearing and a trial.

Senator Langhorst asked if this bill would prohibit the parties from coming to an independent agreement. **Ms. Cunningham** answered no, they are always permitted to reach an agreement at any point before or during the process.

Senator Sweet inquired about how often 7-721 is used compared to a commissioners hearing. **Ms. Cunningham** said in her experience, 7-721 is always used unless an entity doesn’t qualify for it.

Senator Stegner asked for clarification regarding the court ruling barring certain groups from utilizing 7-721. **Ms. Cunningham** explained district court judges interpreted the statute literally, prohibiting any condemnor not expressly named in the statute from using the “quick take” provisions.

Senator Stegner and **Senator McKenzie** raised questions about the lack of support from agencies to which this bill would grant additional powers. **Ms. Cunningham** said she couldn’t see a reason why this would be opposed by any agency, and was eager to hear their objections because she had not heard them before. She postulated that this legislation could inject an additional element of accountability for the agencies. An agency, choosing to use 7-717 to bully the land-owner with the associated costs, could be brought before a judge by the land-owner and the judge could find either that they are within their right or that the agency’s motive is to force the land-owner into a settlement.

Senator Malepeai, referencing letters of objection to this legislation from

University of Idaho and Boise State University, asked if Ms. Cunningham had previously contacted these agencies about this proposed change in legislation. **Ms. Cunningham** said she had spoken with the Idaho Department of Transportation and had attempted to contact the Idaho Association of Counties. Her name and contact information was listed on the bill and had not received any phone calls.

Senator Langhorst asked Ms. Cunningham for a response to a letter from BSU stating, “over the last five years Boise State has purchased 56 parcels of property via Eminent Domain...in that time, the University has never had to have a court trial to come to a final agreement with a land-owner because all 56 were purchased short of trial. Three of those parcels did have a condemnation suit filed, but the value was settled between the parties.” **Ms. Cunningham** responded, although the cases were settled, it does not remove the need for clarity in the statute. It is the job of the legislature to set good public policy and to make that public policy apply fairly across the board. **Senator Langhorst** asked for a response to another section in the letter regarding current litigation between BSU and a land-owner represented by Ms. Cunningham, which would be impacted by the passage of these bills. **Ms. Cunningham** answered the letter is incorrect because this legislation is not retroactive and therefore would not affect this case.

Senator Corder inquired as to the cost and fees associated with the process in 7-717 versus 7-721. **Ms. Cunningham** replied the costs are double under the older statute compared to 7-721 because of the additional attorney’s and valuation expert’s fees.

Jerry Deckard representing the Ada County Highway District (ACHD) and the Idaho Association of Highway Districts (IAHD) testified in opposition to S 1151. The “quick take” acquisition of property by eminent domain under 7-721 is permitted for units of government responsible for the safety, health and welfare of the citizenry in the completion of projects which cannot be impeded by even one parcel of land. It was not the intent to extend the 7-721 provisions to the every entity with eminent domain authority. Entities provided for under 7-721 have an immediate need for the land; other condemnors do not have an such urgency. Some entities, with a direct relationship to eminent domain and this bill, saw this legislation for the first time 10 days ago, and in the discussion there are more questions than answers. He urged the committee to hold the bill.

Senator Corder asked if the distinction between the entities listed in 7-721 and those not, such as BSU, is the urgency to complete a project . **Mr. Deckard** affirmed this.

Senator Sweet inquired regarding cities and counties objecting to this bill and their current status under 7-721. **Mr. Deckard** said he could name at least two cities who could not currently use 7-721. In response to a follow-up question, he referred to the statute as a whole stating that the taking must be necessary for freeways, highways, etc. Some communities are not responsible for the freeways/highways or water or sewer systems and therefore would not fall under 7-721. **Senator Sweet** asked why a city or

county would oppose this legislation. **Mr. Deckard** did not have a specific example illustrating their opposition, other than these parties have communicated the law is working well without any changes. For urgent activities 7-721 is appropriate, and for others 7-717 is adequate.

Gary White testified in favor of S 1151. He reviewed his situation as Heather Cunningham laid out earlier. He spoke about his feelings of being strong-armed by BSU imposing the old statute and the financial burden of two proceedings.

Senator Hill said this bill broadens the powers of the condemnor and consequently limits the powers of the condemnee. The wording in the bill still allows the condemnor to choose to use 7-717 instead of 7-721. He said it seemed to be hurting the private property owner by giving more rights to the condemnor. **Mr. White** spoke about the powerful nature of eminent domain.

Kevin Satterlee, an attorney and Associate Vice President of Planning for BSU testified against S 1151. **Mr. Satterlee's** main concern was that any action taken on this legislation is done for the right reasons. He reviewed BSU's history with condemnation that Senator Langhorst mentioned earlier. BSU has previously used the "quick take" process in situations where both parties agree to it.

Senator Sweet asked if Mr. Satterlee felt this bill favored private property rights or government property rights. **Mr. Satterlee** said under the constitution, BSU is required to pay just compensation for the parcel of land and related costs to the property owner, and BSU currently does this. The 7-721 procedure or another procedure designed to make them pay just compensation won't alter the result, because BSU always pays just compensation. He doesn't think it favors either party.

Senator Williams inquired regarding the proceedings with Mr. White. **Mr. Satterlee** explained the commissioners split the difference between the amount BSU offered and the amount to which Mr. White and his experts testified. The decision benefitted Mr. White only to the extent that the amount was higher than BSU offered. BSU did not feel that was an accurate number and took the matter to trial. BSU is spending the taxpayers' dollars and therefore attempts to spend them as wisely as possible. **Senator Williams** asked if Mr. White was at a disadvantage because of his lack of money. **Mr. Satterlee** replied he was not and a "quick take" could be done today, if both parties agreed.

Ms. Cunningham gave closing testimony, asking how a power line is less urgent than a water line. This statute currently allows "quick take" for a water line but not a power line. She disputed Mr. Satterlee's testimony that a "quick take" could take place right away in Mr. White's situation. BSU took the position in court that they could not use 7-721 because it did not enumerate educational facilities (more than one district judge agreed with this assessment). Addressing **Senator Hill's** remarks about the disparity between the rights of the property owner and government entity, **Ms. Cunningham** said this bill does not fix all the problems, but it

is a step toward giving the property owner an argument against multiple proceedings and creating an even playing field.

MOTION: **Senator Sweet** moved to send S 1151 to the floor with a Do Pass Recommendation. **Senator Williams** seconded the motion.

DISCUSSION: **Senator Sweet** stated, the cities and counties who oppose the bill are already provided for under the current statute and able to utilize "quick take." He had not heard a specific identified reason why they oppose the legislation. He remarked on the legislative body's obligation to ensure processes are fair. Due process and just compensation should be treated equally for every citizen in Idaho and shouldn't depend on which entity is the condemner.

Senator Corder stated that abuses can occur on both sides. These sections were written specifically to protect both sides, and urgency is a key issue in this law.

Senator McKenzie identified the problem that homeowners can be forced to pay their costs twice, but didn't know if this bill is a solution. Looking at the language, the court cannot compel an agency to use a certain proceeding. If the problem is the commissioner hearings that are unfair, this legislation does not solve the problem.

Senator Stegner agreed with **Senator McKenzie**. If there are problems with how property is condemned in this state, they should be addressed with deliberate discussion providing ideas to select from in order to establish a balance.

Senator Malepeai felt strongly that all affected parties need to discuss the ramifications of legislation. He did not see any participation on this bill.

VOTE: A roll call vote was taken. There were 2 ayes: **Senators Sweet** and **Williams**. There were 6 nays: **Senators Hill, Stegner, McKenzie, Corder, Malepeai, Langhorst**. The motion failed. The bill will be held in committee.

S 1152: **Ms. Cunningham** also presented S 1152. This bill amends and repeals existing law relating to condemnation to remove and revise definitions; to revise the powers and duties of the Idaho Transportation Board relating to rule promulgation; to revise legislative findings; to revise terminology; to revise provisions applicable to the federal Uniform Relocation Assistance Act; and to repeal the chapter relating to highway relocation assistance. She explained the purpose of this revision to Idaho Code is to move the existing "Highway Relocation Assistance" section of the code, which is applicable to eminent domain, to the "Eminent Domain" section of the code. Currently, when property is acquired via eminent domain for a highway, displaced individuals receive relocation assistance from the condemner. However, when property is condemned for purposes other than highways, relocation assistance is not provided under the current statute. This change will ensure that all Idaho citizens who are displaced via eminent domain receive equal relocation assistance, regardless of the entity which is condemning their property or the purpose of the taking.

Most takings do not require relocation; without this change, however, some citizens who lose their homes via eminent domain and do have to relocate are forced to pay their moving expenses out of pocket, while others receive relocation assistance. This legislation allows relocation assistance to all citizens displaced by eminent domain.

Senator McKenzie inquired regarding the original intent of placing the statute in the code pertaining to highways. **Ms. Cunningham** explained it was tied to federal relocation when federal money was available for highway and interstate projects. The federal government provides for relocation, and in order to comply Idaho had to include a relocation provision. Recently many states extended the relocation provision to all takings.

Senator Corder asked about the fiscal impact statement that there will be no effect on the general fund. In relation to a university, from where would the relocation funds come if not from their apportionment of the general fund? **Ms. Cunningham** explained the budgeting will happen when parcels are identified to be taken. **Senator Corder** said the impact statement is incorrect, but the impact is unknown.

Senator Sweet inquired regarding a letter from the Idaho Transportation Department (ITD) in opposition to S1152. **Ms. Cunningham** said she had tried to work with ITD on this bill, and ITD was concerned this could effect the federal relocation program and interfere with ITD's federal compliance. The federal relocation act does not specify which section of code the provision is placed, and moving it to Title 7 should still be sufficient for federal compliance.

Senator Stegner asked about the stricken language relating to the promulgation of rules. **Ms. Cunningham** said ITD's authority over rule making is actually provided for in another section of code.

Jerry Deckard representing the Ada County Highway District (ACHD) and the Idaho Association of Highway Districts (IAHD) testified in opposition of S 1152. He spoke about implications ITD could face relating to compliance to federal law. He also mentioned that relocation costs may already be negotiated without the passage of this bill.

Russ Hendricks from the Farm Bureau spoke in support of S 1152. Relocation costs should be required from all condemnors. It makes no difference to the condemnee which agency is taking possession of their land.

Kevin Satterlee, an attorney and Associate Vice President of Planning for BSU testified against S 1151. He said the just compensation that BSU provides includes relocation costs when applicable.

Senator Malepeai inquired for which situations relocation costs are not included. **Mr. Satterlee** explained that rental situations are not paid relocation costs.

MOTION:

Senator Sweet moved to send S 1152 to the floor with a Do Pass

Recommendation. **Senator McKenzie** seconded the motion.

VOTE: A roll call vote was taken. There were 4 ayes: **Senators Hill, Sweet, McKenzie, and Williams**. There were 5 nays: **Senators Stegner, Corder, Malepeai, Langhorst, and Bunderson**. The motion failed.

ADJOURNMENT: There being no further business, the meeting adjourned at 4:40 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 2, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: Senators Stegner and Sweet

GUESTS: Karen Lewis, Karl Tueller, Dustin Miller

Vice Chairman Hill called the meeting to order at 3:09 p.m. A silent roll call was taken.

MINUTES: **Senator Corder** moved to approve the minutes of February 22. **Senator Malepeai** seconded the motion. The motion passed by unanimous voice vote.

Vice Chairman Hill introduced Karl Tueller from the Office of Science and Technology and Idaho Department of Commerce and Labor to present the recommendations from the Science and Technology Advisory Council.

Mr. Tueller reviewed the six strategies and recommendations for promoting Idaho's economy and Science and Technology industry: (1) build, attract and retain a high skilled technical workforce, (2) invest in creating R&D excellence and promoting industry-university collaboration, (3) facilitate commercialization of technology developed in Idaho, (4) build an entrepreneurial culture that supports and nurtures new firm formation, (5) invest in the infrastructure needed to support a technology-based economy, (6) establish a national and international image for Idaho as a leading technology center. Industry, INEEL and university members teamed up to identify to core competencies that now exist in Idaho. These core competencies are imaging, power/energy, Ag BioSciences, nano science and materials.

Mr. Tueller reviewed the next steps for Idaho as recommended by the Science and Technology Advisory Council: building R & D base by developing the core competencies, and University/Industry partnerships; develop technology Infrastructures through the state TechConnect program and supporting entrepreneurial development; market Idaho tech assets.

Vice Chairman Hill thanked **Mr. Tueller** for his presentation.

ADJOURNMENT: There being no further business, the meeting adjourned at 4:06 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 3, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED:

GUESTS: see sign in sheet

Chairman Bunderson convened the meeting at 3:05 p.m. A silent roll call was taken.

Chairman Bunderson introduced **Mike Reynoldson** from Micron to present on Micron's economic and fiscal impact on Idaho and preview H 260 and H 261.

Mr. Reynoldson explained Micron's economic impacts. Micron's Idaho operations annually account for 3.7% of Idaho's economic activity. Its operations annually account for over 24,000 jobs in Idaho and \$1 billion in personal income in Idaho. Fiscally, Micron and its employees contribute \$95.7 million in tax revenue to local governments and schools.

Senator Williams inquired regarding Micron's current status, recovering from the downturn and resulting layoffs from recent years. **Mr. Reynoldson** said in mid 2003, 1,100 employees were laid off and last year 1,400 people were hired. **Senator Williams** asked if the recently hired positions were similar to the previously laid-off positions. **Mr. Reynoldson** assumed they were and noted the industry continues to fluctuate.

Mr. Reynoldson spoke about Micron's charitable contributions and dedication to the community. He noted Micron's focus on education, and that Micron has taken precautions to ensure that any tax incentives would not effect funding of schools.

Mr. Reynoldson informed the committee about Micron's plans to change production from 200mm wafers to 300mm wafers. The increase in production requires an additional capital investment.

Chairman Bunderson inquired about Micron's competitors. **Mr. Reynoldson** said there are 5-6 processing plants through out the country currently, and they are located in states offering incentives.

Mr. Reynoldson previewed H 261 which provides a sales tax exemption for purchases related to R&D. R&D uses the same equipment as production (which is sales tax exempt). This exemption would encourage production in Idaho, and 29 other states have whole or partial R&D exemptions.

Senator McKenzie asked about the effective date of the bill. **Mr. Reynoldson** said bill would be effective upon passage, and the fiscal impact is based on existing R&D and could be higher if the legislature passes H 260 as well, emphasizing the important of R&D and manufacturing to Idaho.

Senator Corder raised concerns regarding the revenues Idaho would be losing, if the legislation passed and Micron moved out of Idaho. **Mr. Reynoldson** said this incentive is specific to R&D. It is beneficial Idaho to have R&D and encourage increases in R&D. **Senator Corder** raised the subject of the benefits of manufacturing jobs versus R&D. **Mr. Reynoldson** stated, a viable manufacturing operation is good for Idaho, and both these pieces of legislation are targeted at manufacturing.

Mr. Reynoldson also previewed H 260: this bill exempts from property tax "significant capital investment." The exemption is for the market value of all property of a business or person in excess of seven hundred million dollars (\$700,000,000) within a single county. The property tax cap will come in to effect if an existing Idaho business, or a new business to the state, makes a significant capital investment which would put its market value over \$700,000,000.

Senator Hill recommended the sponsor index this legislation. He also voiced concerns regarding the absence of prohibitions on sub-leasing to reach the \$700 million threshold. **Mr. Reynoldson** said there would be a change in the bill regarding leased personal property. He also noted Micron is the largest valuation in the county and the second largest is three times smaller.

Senator Langhorst inquired about the relationship between investments in real property and increase in jobs, as well as potential increases in jobs as a result of this legislation. **Mr. Reynoldson** spoke about the large chunks of local government revenues which Micron is currently covering. Micron's profits directly benefit its employees which has a net benefit to the economy because the employees are consumers and pay taxes.

Senator Corder asked to what degree the legislation is a tax shift from the business to individuals. **Chairman Bunderson** said that property tax capped at existing levels will not effect revenues, and as growth occurs it is forgone revenue to the government. **Mr. Reynoldson** said this is an exemption and therefore does not go on the rolls as new construction.

Chairman Bunderson thanked **Mr. Reynoldson** for his presentation.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:12 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 8, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: Chairman Bunderson, Senators Sweet, Williams, and Langhorst

GUESTS: Derek Santos, Dan John, Randy Nelson, David Lehman, David Hahn, Larry Lafrenz, Bill Shawner, Ron Sennema

Vice Chairman Hill called the meeting to order at 3:08 p.m. A silent roll call was taken.

MINUTES: **Senator Corder** moved to approve the minutes of March 2 as written. **Senator McKenzie** seconded the motion. The motion passed by unanimous voice vote.

Vice Chairman Hill introduced David Lehman from the Office of the Governor to present H 125. **Mr. Lehman** introduced Major General Larry Lafrenz, Colonel Bill Shawver, and Command Chief Master Sergeant Ron Sennema

Mr. Lehman explained this bill adds to and amends existing law to provide for designation by individuals of income tax overpayments and donations to the Idaho Guard and Reserve Family Support Fund; to create the Idaho Guard and Reserve Family Support Fund in the state treasury; and to continuously appropriate funds to the Idaho Guard and Reserve Family Support Fund, Inc. The fund assists families of guardsmen facing financial hardship. Often there is a lag time between the last pay check from a guardsman's employer and the first check from the Department of Defense; the fund can supplement this gap. There have been about 50 grants since the 116th deployed, and the majority of grants are repaid despite the fact there is no requirement for repayment. The fund is a 501c3 and services approximately 5,000 guardsmen and reservists living or headquartered in Idaho. Other states implemented similar programs and found the programs to be successful.

Senator Malepeai inquired regarding the \$5,500 ongoing annual cost in the fiscal note. **Mr. John** from the Tax Commission explained it is the cost of time and data entry generated by the check-off.

Senator Stegner asked about the mechanism for disbursement of the fund. **Mr. Lehman** explained a board of officers reviews requests and determines eligibility.

Senator Corder asked about a section in the code requiring a payment to the Idaho State Tax Commission of \$3000 for start up costs and another \$3000 annually. **Mr. John** explained the Tax Commission is reimbursed by the fund for those costs and referenced another statute which provides for the removal of a check-off, if it does not meet certain revenue criteria within a designated time period. **Senator Corder** asked how much they anticipate to collect for the fund. **Mr. Lehman** said he was unsure, however the call-to-duty fund, benefitting guardsmen, has brought in a couple 100 thousand dollars.

MOTION: **Senator Stegner** moved to send H 125 to the floor with a Do Pass Recommendation. **Senator Corder** seconded the motion.

VOTE: The motion passed by unanimous voice vote. **Senator Corder** will carry the bill on the floor of the Senate.

ADJOURNMENT: There being no further business, the meeting adjourned at 3:18 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 10, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: Vice Chairman Hill

GUESTS: see sign in sheet

MINUTES: **Chairman Bunderson** convened the meeting at 3:06 p.m. A silent roll call was taken. **Senator McKenzie** made a motion to approve the minutes of February 3 and February 8. **Senator Williams** seconded the motion. The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Senator Stennett** to present H 165.

H 165: **Senator Stennett** explained this measure would shorten the holding period required for Real Estate transactions from eighteen(18) months to twelve(12) months to qualify for long-term Capital Gains taxation. This proposal would bring Idaho into Federal Internal Revenue Service compliance for tax treatment of long term capital gains. **Senator Little** stated compliance is good tax policy and removes complications for the tax payer.

MOTION: **Senator Williams** made a motion to send H 165 to the floor with a DO PASS recommendation. **Senator McKenzie** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

Chairman Bunderson introduced Representative Raybould to present H 254. This bill provides a partial property tax exemption for parcels of land in a rural residential subdivision plat in certain counties; to provide eligibility criteria; to provide for an application; and to provide for recovery of taxes.

H 254: **Representative Raybould** explained section 1 repeals section 63-602FF, Idaho Code. Section 2 replaces 63-602FF, Idaho Code with a new section that provides a ten year, phased out exemption on parcels within rural subdivisions outside city limits. Qualifying parcels are appraised at full market value, but receive a 95% exemption for assessment purposes for the first 5 years after approval and recorded. In years 6 through 9, the exemption decreases to 80%, 60%, 40%, and 20%. In the tenth year the parcel is appraised at full market value for assessment purposes. Those landowners enjoying the exemption provided for in the repealed section are eligible to apply for this new exemption. The exemption is lost upon sale, annexation, or improvement to the parcel. The exemption applies to

all counties with under 100,000 population or less. Section 3 amends section 63-509(1), Idaho Code, to provide for tracking of the exemption by the county and state tax commission. Section 4 amends section 63-604(2), Idaho Code, to clarify, for appraisal purposes, that subdivision platting alone does not extinguish the agricultural exemption, provided the requirements for the exemption continue to be met. The purpose of such clarification language is to provide consistency among counties.

Chairman Bunderson inquired about previous bills on this subject. **Representative Raybould** explained in 2002 H 488 was amended and pushed through at the end of the session leaving problems which were attempted to be addressed the next session with H 136 (2003 session). This bill was sent to the amending order for a small change and stayed there at the end of the session. This bill, H 254, is a supplemental bill prepared by the Idaho Association of Counties, the Idaho State Tax Commission, and the county assessors to address problems left by previous legislation.

Mitch Jacobs, a farmer/rancher from Eastern Idaho, testified against H 254. He and his neighbors sell lots to supplement their income. Five hundred acres of his dry grazing land was less than \$100,000 in property tax. As soon as the land was platted for development the property tax increased 1,500%. The county receives more revenues from the property tax as well as from the \$5-6 million invested in building homes on the land. The law as written works well in his situation. He plotted 100 more lots under the present law and invested in the infrastructure. He is opposed to the time limit because it can take as long as 25 years to sell all the lots. He is not opposed to paying 5% of the full market value, but not the increasing amount every year after the initial 5 years. It will cause too much of a burden and force him to abandon the plots or return it to the agricultural exemption. He commented he met with the sponsors of the legislation last night for the first time and had a productive conversation towards compromise. He noted all the assessors don't treat each county the same.

Senator Sweet asked about the financial impact if the legislation passes. **Mr. Jacobs** responded in this bill, the trigger is on the 1st sale, and presently the trigger is the 1st building. Therefore entities won't buy groups of lots because of the tax. The 5% of the full market value is greater than the revenue from the dry grazing designation.

Mark Trupp, Teton County Commission Chairman, testified in support of H 254. H 254 may not be the best, however, it is better than the current law. Currently in Teton County there is \$96 million in value over 1900 lots. When classified as category 15 (from H 488 - 2002 session) the valuation drops to \$6 million. The cost to the county to provide services has not changed, and therefore county costs are shifted onto the working citizen.

There was a discussion attempting to clarify the current taxable income and the assessed value of platted land, and how that compares to the taxable revenue as agricultural land. The classification is contingent on whether a building permit has been issued—before a permit is issued, it qualifies for the agriculture exemption. Currently the value of land with a permit is bringing in a little more tax revenue than agriculture land. However the county as a whole is going to lose about \$90 million in the

period of time before a permit is issued.

Chairman Bunderson asked how quickly lots were selling. **Mr. Trupp** said lots are selling quickly, and the phases of development are complete. **Chairman Bunderson** posed the same question to **Mr. Jacobs**. He said he averages about 1 lot per year that are built upon.

Senator Corder asked Mr. Trupp about lots that have been sold more than once. **Mr. Trupp** said over 50% of the lots have been sold more than once. While the land value stayed frozen, the market value went up each time a parcel was sold again. The county only receives money based on the land value, and therefore doesn't receive any of the additional revenues from repeated sales.

Paul Hopperdietzel, a retired and water front property owner, testified against H 254. His social security is going to pay the property taxes on his lots. Mr. Hopperdietzel is currently trapped under the old law (previous H 488) and has been going through processes to be re-evaluated under the current law. He is not opposed to raising the price of the land when it is sold, but not up to full market value.

Senator Sweet asked if this legislation passes, will others be trapped in disadvantageous situations like Mr. Hopperdietzel. **Mr. Trupp** referred to the tax appeal process and the board of equalization. **Representative Raybould** spoke about the grandfather clause for those people who received the exemption under the 2002 law. **Stan Hawkins** expressed his opinion that Mr. Hopperdietzel's case is not an example of how the legislation is meant to work, and he should have qualified under H 488.

Stan Hawkins, a former senator from Teton and Fremont County, testified against H 254. One of the main property tax issues in his district was the escalating property taxes with which local long time residents were faced. The shift occurs when the full market value is applied to undeveloped platted lots. When undeveloped lots support a large tax burden, it raises the selling price of the lots and consequently raises the value on existing lots. This bill needs to be fixed.

Senator Corder asked if there was a distinction between undeveloped and unsold lots. **Mr. Hawkins** said this legislation places the trigger at the first sale of the platted lots. The language could be modified so that the trigger is the sale to the intended end user. **Senator Corder** asked who the end user is in cases where is lot is sold multiple times. **Mr. Hawkins** responded this is an issue that needs work and possibly placing a cap on the number of times a property is sold. **Senator Corder** followed up saying when a lot is sold, its value changes, and the county needs to be able to benefit from that. He doesn't want to penalize investors, but giving the value away forces the county to continue to struggle. **Mr. Hawkins** said they need to know the comparison in tax revenues if only 7% of lots are developed, and the larger number of lots that are not developed valued as agricultural land.

Chairman Bunderson inquired regarding the 10 year time frame. **Mr. Hawkins** said a better approach is to take the previous value and escalate, designating a new category such as "pre-development." Then

escalate again when it is developed and the value rises. There is no consistency among assessors. There is a formula in statute for the valuation of agriculture land which provides uniformity through out the assessors and the state.

Chairman Bunderson asked about the limit in this bill, making it applicable only to rural counties with a population below 100,000. **Mr. Hawkins** said it should apply to all counties.

Senator Stegner asked who Mr. Hawkins is representing in this matter. **Mr. Hawkins** said when he left the legislature he was approached to help continue to guide this issue on all fronts, and is a member of the Snake River Property Owners Alliance. This group is comprised of farmers, developers, and builders and takes interest in issues of private property rights. **Senator Stegner** said the initial design of the law was to help developers before lots were sold. It maintains the same low value until the buyer begins development on it. He would like to correct the practice, so the parcel would have a value reflecting the cash transaction. **Mr. Hawkins** said he disagreed to the extent it would inhibit a person in a rural area from selling a block of lots to an investor (who could resell them later) in order to finance the infrastructure of the subdivision. He recognized however there needs to be a balance so that lots are not continually resold.

Senator Corder said the price paid should reflect the market and assessed value, and doesn't see how the developers are harmed. **Mr. Hawkins** said investments won't be made because the property tax load will go up significantly as soon as that first sale is made.

Senator Stegner said an investor should be protected on the base land price because you don't know when other lots will sell letting the investor recover his money. **Mr. Hawkins** said legislation needs to be brought that lies in the middle between people investing to get a subdivision off the ground and a buyer who will develop the plot later in time.

Senator Sweet said it seemed some good communications began recently, and inquired if these communications would be able to continue through the interim to bring all parties into agreement. **Mr. Hawkins** said that is what needs to happen, but there is not enough time at this point in the session to solve all the problems.

Chairman Bunderson announced that discussion of H 254 would continue on Tuesday, March 15.

ADJOURNMENT There being no further business, the meeting adjourned at 4:31 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 15, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED:

GUESTS: see sign in sheet

Chairman Bunderson convened the meeting at 3:10 p.m. A silent roll call was taken.

Chairman Bunderson announced that the continuation of H 254 has been moved to Thursday, March 17. However, Peter Johnson will not be able to attend that meeting and would like to make his remarks on H 254.

H 254: **Peter Johnson**, speaking on behalf of the McCall Landowners' Association, testified in opposition to H 254. He referred to the bill as a developer subsidy. The following was taken from his testimony:

"When purchased, properties in up-scale developments in Valley County are not being fully assessed, and consequently their taxes are a pittance. Property taxes on my two parcels (totaling 2 plus acres) have gone up by approximately 50% in each of the last two years. Valley County property taxes in 2002 were about \$9,500. In 2004 they are \$19,000. Such increases on lake-front property without an appropriate increase on other properties in the County are arbitrary, capricious and grossly unfair.

Consequently, the McCall Landowners' Association has filed a lawsuit against the Valley County Assessor and Commissioners. That litigation is all about stopping an unconstitutional, discriminatory shift of the tax burden to lake-front owners. The County's methods of establishing values are seriously flawed and undervalue other properties in Valley County.

And this undervaluation includes properties that have been purchased in prosperous, expensive, up-scale developments such as Tamarack, Blackhawk Ranch Phase III and other similar projects in the County. In its present form House Bill 254 in Valley County constitutes an unconscionable developer's subsidy."

"Use of the 'Farmland Exemption' for Platted Subdivisions by developers instead of farmers is not "Necessary and Just." It is wrong and likely unconstitutional."

“Today, in addition to customary services, Valley county is constructing a major highway (approaching \$1,000,000 when completed) to improve access to these developments. The Tamarack Project was promoted to the public as a project that would generate new property taxes and not be a burden on the existing tax base. We support the Tamarack Project but believe that its properties when sold should pay property taxes the same as anyone else.”

Senator McKenzie asked whether the trigger point for raising the assessed value of the land should be the initial plat or the point of purchase. **Mr. Johnson** said it should occur at the point of sale.

Senator Corder asked if the lots could trigger separately. **Mr. Johnson** said a section of properties could be reserved for sale at a later date. **Chairman Bunderson** said the point of sale is the transfer of ownership. Therefore an owner of undeveloped land could accept a reservation, for a group of lots, backed by an earnest money deposit. The assessed value would then be raised at the point of the transfer of ownership of the reserved property.

Senator Williams inquired regarding distinguishing between subdivisions where lots sell at a slow rate and other subdivisions' lots that sell at a fast rate. **Mr. Johnson** replied he hoped the crafters of the legislation can find a solution not hurting the farmer, but not giving an unfair advantage to up-scale, fast growing developments like Tamarack. He restated his position that the time of sale of the property is when it should go on the tax rolls.

H 99:

Fred Tilman, Ada County Commissioner, presented H 99. This bill amends existing law to provide that any taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized, but not beyond the levy authorized by statute; to provide that the additional amount must be approved by sixty-six and two-thirds percent or more of the voters voting on the question at an election called for that purpose; and to provide a maximum amount of budget when a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three years.

Mr. Tilman explained the reason for this legislation is that the Federal Government via its Medicare rule making authority has significantly reduced reimbursement for Medicare eligible patients. Emergency medical providers are no longer allowed to “balance bill” the patient for the difference between their charges and what Medicare will pay for ambulance services. Greatest impact of the rule is on those districts that were operating efficiently before federal rule changes and before the 3% budget cap was enacted. The legislation will allow an ambulance/taxing district to go to the voters for approval to increase the ambulance district property tax levy. It also closes the loophole that would allow for a district to be dissolved and recreated with a higher levy without voter approval.

Senator Williams asked if the 3% budget cap is something that frequently poses problems for the counties and should potentially be

removed. **Mr. Tilman** said he was comfortable with the ability to go to the taxpayers to raise the levy rate. With respect to all counties, he recognized it is a challenge, but they do a good job managing within their limitations.

Senator Hill asked if the taxing district budget would be determined by the voters. **Mr. Tilman** confirmed this was correct.

Senator McKenzie inquired regarding a stricken code reference in the bill. **Mr. Tilman** explained it was a specific reference to a library district.

Chairman Bunderson inquired about the lack of consistency in levy rates through out the state. **Mr. Tilman** said he would like to take part in finding a solution, and it needs discussion. The frozen levy rates put more burden on some counties than others. This legislation will help the overall situation.

Tray Hagen, director of Ada County Emergency Medical Services, testified in support of H 99. One of the merits of this bill is it applies not just to the EMS but to every taxing district which will circumvent the need for each type of taxing district to come to the legislature asking for this provision. It is fair and equitable to all taxing districts. The Medicare and Medicaid rules do not provide any mechanism to pay for the service; this legislation improves the situation.

Dr. Murry Sturkie, a physician with the Ada County Paramedics, testified in support of H 99.

No one testified in opposition to the legislation.

MOTION: **Senator Stegner** made a motion to send H 99 to the floor with a DO PASS RECOMMENDATION. **Senator Langhorst** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

H 264: **Representative Schaefer** presented H 264. This bill relates to school levies to authorize a school district to add the increment value to a school district's actual or adjusted market value for assessment purposes as such valuation existed on December 31 of the previous year, when calculating the maximum school maintenance and operation levies and the local district contribution levy in the event property within the district is contained in a revenue allocation area and such revenue allocation area has given notice of termination; to provide for public notice to taxpayers of a school district that the district shall adjust its market value for assessment purposes due to termination of a revenue allocation area; and to provide for computation of property tax replacement of a portion of the authorized school maintenance and operation levy by adding the increment value to the actual or adjusted market value for assessment purposes as such values existed on December 31 of the previous year of a school district if applicable under a circumstance relating to termination of a revenue allocation area.

Representative Schaefer explained this bill closes a one-year gap in school district maintenance and operation funding that occurs when an

urban renewal agency that has tax increment financing terminates its existence. H 264 amends Section 33-802 to provide that a school district, in which a tax increment area is terminated, may add back the increment value to its market value for purposes of determining the maximum amount of its dollar certification for its maintenance and operation budget for the Fiscal Year in which the revenue allocation area terminates. A similar change is made to the Property Tax Replacement Program. The increment value is added back just as with 33-802.

H 264 has been reviewed by the Department of Education and by the Idaho State Tax Commission, and they agree that the legislation will accomplish its objectives.

Nick Miller, an attorney from the Nampa School District, rose in support of H 264.

No one testified in opposition to the legislation.

MOTION: **Senator McKenzie** made a motion to send H 264 to the floor with a DO PASS RECCOMENDATION. **Senator Corder** seconded the motion.

VOTE: The motion passed by unanimous voice vote. **Senator Williams** noted he may not vote consistently with this vote on the floor.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 16, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: none

Chairman Bunderson convened the meeting at 3:05 p.m. A silent roll call was taken.

MINUTES: **Senator Corder** moved to approve the minutes of March 1. **Senator Hill** seconded the motion. The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Representative Eskridge** to present H 252.

H 252: This bill excludes benefits paid by the United States Department of Veterans Affairs to widows of deceased veterans under the definition of income for circuit breaker property tax relief purposes.

Senator Corder inquired regarding the computation of the fiscal impact. **Representative Eskridge** explained the Department of Veteran's Services computed the fiscal impact based on the current number of people who would qualify under this legislation.

Senator McKenzie asked about the consistency of language in the legislation. **Dan John** from the Idaho State Tax Commission said the Tax Commission's interpretation of the language matches the intent of the bill.

MOTION: **Senator Williams** made a motion to send H 252 to the floor with a DO PASS RECOMMENDATION. **Senator McKenzie** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

Representative Eskridge also presented H 271.

H 271: This bill adds to existing law relating to water, sewer or water and sewer districts to provide for the dissolution of a water, sewer or water and sewer district upon the transfer of its assets to a municipality; and to provide the process and conditions required.

Chairman Bunderson noted the issue has been and will continue to be evaluated by the Environmental Common Sense Committee. The issue is also on the Association of Idaho Cities agenda for discussion. This is the

first step.

Rick Baird, Mayor of Kerry, Idaho, testified in support of H 271. The spirit of the legislation is to give citizens a choice about a merger of the water and sewer districts and the municipality.

Vonnie Olsen, Chair of the Carey Water and Sewer District, and **Lynn Moser**, from Eagle Sewer, testified in support of H 271.

No one testified in opposition to the bill.

MOTION: **Senator Hill** made a motion to send H 271 to the floor with a DO PASS RECOMMENDATION. **Senator Williams** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Mike Reynoldson** from Micron to present H 261.

H 261: This bill adds to and amends existing law to exempt from the sales and use tax property which is used in research and development activities; to define "research and development"; to revise the definition of "clean room"; and to remove property used for research and development as an exclusion from the production exemption.

Mr. Reynoldson referred the committee to the preview of this legislation he presented in the March 3, 2005 meeting. He explained this legislation "excludes the exclusion" of property and materials related to research and development activities from the production exemption from sales and use tax. Research and development is closely tied to production, and often use the same equipment and materials. This exemption has been carefully crafted to ensure it will not impact school funding. Micron is listed in the top ten of patent filers in the United States over the past five years. 29 other states have exemptions relating to research and development. This bill is supported by the Governor and the Association of Idaho Cities.

Senator Williams inquired regarding provisions for "clean rooms." **Mr. Reynoldson** said the bill qualifies them under the exemption because they simulate the environment used in production.

Senator McKenzie asked about the benefits (with respect to employment and wages) to the state in relation to the reduced sales tax. **Mr. Reynoldson** said research and development often involves very sophisticated engineers. These are great jobs with great wages. This industry is very beneficial to a state and is often in flexible with regard to location.

Chairman Bunderson inquired about estimates of the level of research and development expected to qualify under this legislation. **Mr. John** from the Idaho State Tax Commission said the numbers in the fiscal impact reflected the current practice in the state.

Senator Hill inquired regarding types of related materials and costs

included and excluded under the exemption, such as maintenance. **Mr. Reynoldson** said that construction and incidental costs associated with maintenance would be subject to sales tax.

Questions were also asked of Mr. John regarding how the Idaho State Tax Commission will classify materials for the research and development exemption. **Mr. John** responded that the language in the bill “primarily” could be used to exclude materials not directly involved in the process, and it could also be addressed in the rule making process. The Idaho State Tax Commission will interpret the research and development exemption similarly to the production exemption since they are related.

Senator Hill asked about the current Research and Development tax credit. **Tom Laws** from Micron said the credit applies incrementally and includes wages and supplies. Because it is a credit, it only counts against losses, and therefore it is not a good incentive.

Shirl Boyce, co-chair of the Idaho Economic Development Association, endorsed H 281. He commented on the importance to Idaho of Micron and research and development in general. He cited INL as another example of a significant entity heavily reliant on research and development, residing in Idaho. Increasing and enriching the technology industry in the state depends on research and development.

MOTION:

Senator Sweet made a motion to send H 261 to the floor with a DO PASS RECOMMENDATION. **Senator Hill** seconded the motion.

DISCUSSION:

Senator Stegner voiced his opposition of H 261 because it is a poor way to develop tax policy. This bill is a \$7 million hit to the general fund at a time when they are looking to save and find additional revenue for the state. He expressed his desire to support business, but not in this way. This legislation is piecemeal, and small favors like this inhibit the ability to look at a reform of the tax system.

Senator Hill agreed with Senator Stegner that this is not a good way to develop tax policy. However, a number of other states give exemptions for this, and Idaho needs to develop incentives to maintain what it has.

Senator Sweet said in order to be globally competitive, Idaho needs to react quickly and develop incentives. Economic development requires a good economic base.

Senator Malepeai supported it with reservations. It is important for the state to meet its other obligations as well. He expressed his desire for an interim committee examining sales tax exemptions.

Senator Corder acknowledged Senator Stegner’s point. The agricultural industry did not get a research and development exemption and has suffered as a result. Agricultural has declined, however the industry could have gone the other way.

Senator Langhorst expressed his reservations to vote for the exemption,

but recognized the impact it could have on bringing jobs. He supported Senator Malepeai's idea for an interim committee. This bill is piecemeal and is a step in creating a Frankenstein monster of a tax structure.

Chairman Bunderson discussed a previous interim committee examining exemptions and the difficulty in agreeing on guiding principles. Incremental tailoring of tax policy happens because the current climate warrants it. Evaluation of the tax policy is healthy with defined guiding principles and input from business.

VOTE: The motion passed by voice vote. **Senator Stegner** voted against the motion.

ADJOURNMENT There being no further business, the meeting adjourned at 4:20 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 17, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: None

GUESTS: see sign in sheet

MINUTES: **Chairman Bunderson** convened the meeting at 3:05 p.m. A silent roll call was taken. **Senator Malepeai** moved to approve the minutes of March 10 as written. **Senator McKenzie** seconded the motion. The motion passed by unanimous voice vote. **Senator Corder** moved to approve the minutes of March 15 as written. **Senator Hill** seconded the motion. The motion passed by unanimous voice vote.

Chairman Bunderson announced the continuation of H 254.

H 254: **Russ Westerberg**, representing the Snake River Property Owners Alliance, testified against H 254. Mr. Westerberg said 63-602FF is working as intended. He reviewed the tax benefits resulting from H 488 in Fremont, Valley, and Teton counties (see attached). His testimony to the committee is also attached.

Senator Sweet asked about the differentiation of tax collection between land under the agricultural exemption and the already developed land.

Mr. Westerberg said the shift in tax burden is to the developer, not the local residents. The local economy also benefits from other activities associated with development.

Russ Hendricks, with the Farm Bureau, testified in support of H 254. He said the original intent of the law was to allow agricultural land to be platted, but still able to be farmed; therefore receiving the agricultural exemption. Land that is actively being developed is not agricultural land and should belong in its own category—not receiving the agriculture exemption. His concern is maintaining the integrity of the agricultural exemption.

Senator Corder inquired regarding a potential constitutionality issue. **Mr. Hendricks** said his understanding was the grandfather clause resolved that concern.

Senator Malepeai asked if there was room for compromise. **Chairman**

Bunderson referred the question to **Representative Roberts** who said the two sides are complete opposites—one supporting a repeal and the other to leave the law as it stands. H 254 is in the middle, but discussions between disagreeing parties have led to some possible amendments to the bill.

Gary Mahn, a lakefront property owner in Valley County, testified in opposition to H 254. He said there is no issue with the agricultural exemption except when it is passed on to developers who don't intend to farm the land. Land purchased for development should be taxed using the same methodology as any other residential property.

Senator McKenzie inquired as to Mr. Mahn's position on the trigger to raise the valuation, noting that platting land doesn't increase the income of the property owner. **Mr. Mahn** said at the latest it should be put at full market value when the parcel is sold. Parcels in Valley County under development are still receiving the agricultural exemption.

Chairman Bunderson asked if transfer of ownership should be treated differently if the transfer is within a family versus to a third party. **Mr. Mahn** answered in the affirmative.

Max Vaughn, Minidoka County Assessor, testified in favor of H254. He said the current exemption is bad policy because it allows the exemption to extend beyond land developers to speculators and buyers. The property can still be used for other activities such as hunting and the developer will receive the exemption. He noted the significant difference in valuation for tax purposes between one acre of dry graze and one acre of residential property. He would like the integrity of the agricultural exemption restored.

Senator Sweet inquired regarding exemptions in general. **Mr. Vaughn** said exemptions are unfair by nature, some people pay and some people don't pay. The intent of the agricultural exemption is based on the income producing capabilities of the land. He does not oppose the agricultural exemption and commented it is the most necessary and just exemption in code. It ensures taxes are paid on the income produced from the land and otherwise a farmer would not be able to afford to farm the land.

Matt Elsworth, from Centra Consulting, testified in opposition to H 254. He said if H 488 was flawed H 254 is not a fix. Good government fixes problems, not just make steps toward a solution. Collaboration is possible, but time is needed to start anew on the right path. The original intent was to encourage economic development and H 254 does not fit this intent. The language in both law and the bill is problematic.

Senator Stegner and **Senator Langhorst** asked questions regarding the trigger point to raise the taxation value and remove the exemption. **Mr. Elsworth** said the point of sale (with the intent to develop the plot for residential use) should raise the property tax valuation to full market value.

Abbie Mace, Fremont County Clerk, testified in support of H 254. The integrity of the agricultural exemption needs to be restored.

Senator Sweet inquired regarding the shift in tax revenues. **Ms. Mace** said the appraisal should change when the land leaves the farmer's possession. **Senator Sweet** inquired as to the additional ½ million dollars in revenue the county has received under H 488. **Ms. Mace** said the issue is that H 488 is not equitable to all taxpayers, but the county has appreciated the increase in revenues. She clarified that the county is the collector for all tax districts and is not the only recipient of the additional revenues from development. **Senator Sweet** asked if H 254 doesn't entirely fix the problem, if new legislation to address all issues should be brought instead. **Ms. Mace** responded it should be considered, but the law needs to be corrected as it stands, and H 254 improves the situation.

Mitch Jacobs testified against H 254. He is a farmer who in bad potato years needed to supplement his income and did so through platting some of his land. In order to get a development off the ground, a group of lots were sold. If the initial point of sale triggers the rise in property tax valuation such investment will not happen and will prohibit the economic development. Language needs to be added to H 254 to provide for multiple lot sales.

Phil Homer, on behalf of Cliff Green, Executive Director of the Idaho School Boards Association, testified in favor of H 254. When lots are sold in a subdivision it raises the market value and school districts benefit as a result. Property tax is a steady flow of funds for schools. Provisions need to be made regarding the length of time plats are allowed an exemption.

Burke Hanks, representing Fremont County School Districts, rose in support of H 254. The school district has appreciated the latitude afforded because of the development. However if the law is left as is the school districts will experience a downturn. Passing H 254 is necessary for the school districts to continue their budgeting.

Ivel Burrell, Fremont County Assessor, testified in support of H 254.

Stan Hawkins testified against H 254. He distributed a handout (attached) detailing the revenues in question from Valley County. He said he was glad the appraisal process was being challenged because it is part of the issue. If the value of an undeveloped lot is inflated, eventually surrounding developed lots values will also go up.

Representative Roberts gave his closing remarks on H 254. An issue is the difference in the way agricultural land and developed land are assessed. Constitutionality concerns result from the different valuations of land and a potential situation where two lots, side by side, will have different property taxes because one was platted at a different time. He disputed Mr. Vaughn's testimony, stating his concerns are already addressed in the bill. The sale price should be the valuation. H254 creates a new standing between agricultural land and full market value,

imposing a 10 year phase out of the exemption. There has been a lot of discussion on this issue, and this position is acceptable to differing parties, although it doesn't satisfy everybody.

MOTION: **Senator Sweet** made a motion to hold H 254 in committee. **Senator Malepeai** seconded the motion.

DISCUSSION: **Senator Sweet** stated the legislation has come a long way, but not far enough. This isn't a final solution, but one could be brought next year.

Senator Malepeai said he could see both sides of the issue and analogized refereeing a football game when there are off-setting penalties, the down is replayed. He would like this bill to be replayed.

Chairman Bunderson inquired regarding the immediate affects if H 254 passes. **Representative Roberts** said the landowners would be subject to paying 5% of the market value which is slightly more than the agricultural exemption, and the clock would start on the phase out.

SUBSTITUTE MOTION: **Senator Stegner** made a substitute motion to send H 254 to the 14th ORDER. **Senator McKenzie** seconded the motion.

DISCUSSION: **Senator Stegner** said the largest issue is the trigger point to change the valuation.

Senator McKenzie said the legislature is obligated to find a solution this year, and it doesn't preclude a separate bill this year or next.

Chairman Bunderson spoke about amending the language determining the county population requirement.

Senator Langhorst said the legislation needs to be fair and hold everyone harmless.

Senator Sweet said the parties should be given more time to produce a full and satisfactory fix to the law instead of attempting to amend it year after year.

VOTE: A roll call vote was taken. There were 5 ayes: **Senators Stegner, McKenzie, Williams, Corder, and Langhorst**. There were 2 nays: **Senators Sweet and Malepeai**. **Senator Hill** asked to be excused from voting because of a potential conflict of interest. The motion passed.

Chairman Bunderson introduced Tony Poinelli from the Idaho Association of Counties to present H 266. **Mr. Poinelli** introduced **Susan Howard**, Gem County Clerk.

H 266: The primary purpose of this legislation is to enable the county recorder to utilize new electronic storage technology as approved by the county and authorizes the use of electronic records as official records of the county, including electronic indexing. This legislation also provides some protection for the county recorder for refusing to record a document, which, in his/her discretion, and after consulting with the county prosecuting attorney, is not authorized to be recorded. In addition, the

recorder may provide for public access terminals so the public can view electronically stored recorded documents. This legislation adds a provision protecting the recorder from liability when providing copies of recorded documents after payment of a fee as required by law.

Addressing concerns of the Idaho Historical Society, **Ms. Howard** said they are willing to work with them concerning preservation of the bound documents.

Senator Sweet asked if this legislation would make all public records accessible electronically. **Ms. Howard** said some records already are already electronically accessible, although some smaller counties still work with hard copy. Public terminals would increase the accessibility.

MOTION: **Senator Corder** made a motion to send H 266 to the floor with a DO PASS RECOMMENDATION. **Senator Hill** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Norm Semanko** from the Idaho Water Association to present H 281.

H 281: This legislation requires use of surface water for irrigation on lawns and landscaping when available. **Mr. Semanko** said this bill is meant to reduce dependence on ground water. Earlier in the day, they met with parties in opposition to the legislation and developed some amendments to the bill. These amendments change terms, strike and replace language to clarify intent.

Senator Langhorst inquired regarding the absence of language referring to metered and pressurized systems. **Mr. Semanko** explained the language was taken out of the original draft because it isn't always necessary to have a pressurized system for irrigation. The restraint is the water right, negating the need for "metered."

Senator Stegner asked about the enforcement of the regulations in this bill. **Mr. Semanko** said there was no criminal penalty for disregarding the legislation. There is a land use planning appeals process, and complaints can be filed a with the Department of Water Resources possibly resulting in having the water right revoked.

Senator Hill asked why this is being imposed on homeowners and not farmers. **Mr. Semanko** said this legislation is meant to prevent the current problem from getting worse, and there is also current litigation to settle the issues.

Senator Williams spoke about the efforts of the interim committee to finance and encourage surface water use by farmers.

Senator Corder said this is a water spreading issue. The legislation is a great incentive not to move or spread the water.

Ted Johnson, a land developer, testified in opposition to H 281. Pressurized irrigation is an important part of this legislation. He expressed concerns regarding the statewide application of the bill.

Senator Langhorst referred to a letter raising concerns this legislation is a mandate, and asked if he felt this legislation limits his choices as a developer. **Mr. Johnson** said no, and he didn't know about the meetings that took place earlier regarding amendments to the bill (and didn't think the author of the letter was aware either). **Mr. Johnson** said they want to keep the water on the land. They did a good job on the amendments, and the only suggestion he would make is for some local direction. **Mr. Semanko** responded there are some issues too big for a single county to handle which is why there is a statewide policy. Noting lines 27-29 of the bill, the abilities of a municipality are not diminished.

Lynn Tominaga, representing the Idaho Ground Water Appropriators, responded to **Senator Hill's** earlier question saying, there have been almost 10,000 acres of conversion from ground water to surface water. The limiting factor in conversions is the availability of surface water for irrigation. He thanked Mr. Semanko for his work on the bill and amendments.

MOTION: **Senator Hill** made a motion to send H 281 to the 14th ORDER. **Senator Williams** seconded the motion.

DISCUSSION: **Senator Langhorst** said he may vote for it on the floor, however there needs to be more time and consideration put into the legislation. He voiced concerns about conservation.

VOTE: The motion passed by voice vote with **Senator Langhorst** voting no.

ADJOURNMENT There being no further business, the meeting adjourned at 5:36 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 21, 2005

TIME: 12:30 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Sweet, McKenzie, Williams, Corder, Langhorst

MEMBERS ABSENT/ EXCUSED: Senators Stegner and Malepeai

Chairman Bunderson convened the meeting at 12:33 p.m. A silent roll call was taken.

Chairman Bunderson introduced **Representative Denney** to present H 299.

H 299: This bill allows residential improvements to still qualify for the fifty-fifty homeowner's exemption if the residential improvements, which previously qualified, have been leased because the owner, beneficiary, partner, member or shareholder is absent in the current year by reason of active military service in a designated combat zone. **Representative Denney** cited an example of a man serving in Iraq who leased his home during his time of duty to comply with the requirements of his homeowners insurance that the residence be occupied. However under current law, leasing his home is a commercial enterprise, and he no longer qualifies for the 50-50 homeowner's exemption. This bill would allow him to retain is homeowner's exemption.

Senator Corder asked about the definition of combat zone with regard to naval service. **Senator McKenzie** replied it falls under the "theater of operation" and would qualify as combat zone.

Chairman Bunderson asked the Idaho State Tax Commission position on the legislation. **Mr. John** from the Idaho State Tax Commission said they had no problems with it.

MOTION: **Senator Sweet** made a motion to send H 299 to the floor with a Do Pass Recommendation. **Senator Langhorst** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

Chairman Bunderson introduced former Senator **Moon Wheeler**, representing Power County, to present H 253.

H 253: This bill provides an incentive for the owners of defunct industrial sites to preserve imbedded infrastructure for possible use by a successor business. Defunct industries frequently remove all property improvements

for salvage value and to reduce legal and tax liabilities. Imbedded rail tracks, water lines and electrical lines can be very expensive to install. Preservation can be an asset for reuse or sale to another industry or business. County commissioners would have the sole authority to issue the ad valorem exemption for up to five years with a possible renewal if warranted. The exemption would cause a tax shift, but removal would result in a permanent loss of the same magnitude. Public notice and a public hearing are prerequisites to the county commissioners' action. The impact of the exemption would be almost entirely up to the county and other taxing districts within the county.

Senator Hill expressed his concern regarding the absence of a provision to stop the exemption at such time as the site becomes operational again during the granted five year exemption period. **Chairman Bunderson** said the language "up to" with regard to the exemption period implies that it could be rescinded. He asked Dan John if this could be clarified in the rule making procedure. **Mr. John** said that it could.

MOTION: **Senator McKenzie** made a motion to send H 253 to the floor with a Do Pass Recommendation. **Senator Williams** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Jeremy Pisca**, on behalf of the Outfitters and Guides Association, to present H 215.

H 215: This bill amends existing law to revise the definition for "land actively devoted to agriculture" for property tax purposes; and to define "for-profit." **Mr. Pisca** referenced a situation where a farmer lost the agriculture exemption on a parcel because he leased it to an outfitter to use for grazing. **Mr. Pisca** said grazing is grazing and is land actively devoted to agriculture. The wording "net profit" has been changed to "for profit" which, **Senator Hill** commented, is a better definition and closer to the IRS definition.

MOTION: **Senator Langhorst** made a motion to send H 215 to the floor with a Do Pass Recommendation. **Senator Sweet** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

ADJOURNMENT There being no further business, the meeting adjourned at 12:57 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 22, 2005

TIME: 12:30 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

GUESTS: see sign in sheet

Chairman Bunderson convened the meeting at 12:37 p.m. A silent roll call was taken.

H 110a: **Senator Hill** presented H 110a. This legislation stemmed from discussions in the interim energy committee. They want to set standards and incentivize renewable energy. In the past tax credits have been considered, but they do not function well as incentives because they count against income which some of the renewable energy producers would not be required to pay. Every state around Idaho exempts renewable energy from sales and use tax.

Representative Eskridge also presented H 110a. He said Idaho is in a time of energy crisis, forcing Idaho to turn more toward gas and fossil fuels. This bill is a short-term incentive (lasting until July of 2011) to support the industry until the renewable resources become competitive.

Chairman Bunderson introduced Dewey Hammond from the Idaho State Tax Commission (ITC). **Mr. Hammond** presented an economic analysis of the benefits and impact of the bill on Idaho's economy, using a proposed Windland wind energy project based on numbers from a Shell Oil general analysis.

Chairman Bunderson spoke about a proposed amendment to the bill prepared by himself and **Senator Corder**. The amendment would add a measure of accountability to the exemption, and make it a rebate. In order to receive the rebate, the project would need to be evaluated by the PUC or other entity (once it was productive) to determine it is meeting expectations. This allows the state to track the activity in the industry and prevent invalid claims. The crafting of the amendments ensures the ITC will address the rebate in a timely manner (1-2 months).

Roald Doskeland, President of Windland, testified in favor of H 110a. Windland is currently headquartered in Boise and would like to start a project in Idaho, however the economic climate has not allowed this up to this point. He reviewed a handout reviewing the current situation and the need to support renewables in Idaho (see attached).

James Carkulis, President of Exergy, testified in support of H110a. He spoke about Exergy's Fossil Gulch Wind Park project in Eastern Idaho. It is Idaho's first utility-scale wind facility. He stated that he wasn't sure a sales tax exemption is the best type of incentive for the industry, although he is not opposed to it. He reviewed the benefits to the local economy the project has contributed in jobs and revenues. It has had a net benefit to

the state. He supports the retroactive start date in the original bill (it was removed in the House amendment).

Russ Hendricks representing the Farm Bureau, testified in support of H 110a. He said this legislation also assists in development of anaerobic digester technology, and addresses concerns regarding stable energy sources.

Representative Eskridge said he did not support the retroactive effective date in the original legislation because it would impact the revenues for 2005, and the state is experiencing difficulty meeting their obligations as is.

Senator Hill inquired about the proposed amendment to make the exemption a rebate, and whether other exemptions are required to go through the same process. **Mr. Hammond** said it was a new process and did not apply to other current exemptions. It is similar to the language and structure of this session's H 326 and H 303 (the Governor's business incentive acts).

MOTION: **Senator Hill** made a motion to send H 110a to the floor with a DO PASS RECOMMENDATION. **Senator Langhorst** seconded the motion.

DISCUSSION: **Senator Stegner** said that he will vote against any motion to move this legislation forward because he is opposed to sales tax exemptions. Part of the logic behind sales tax exemptions for production equipment is because the end product is taxed. Production equipment for generating electricity is exempt because there is no sales tax on electricity. This is a deviation from the state's policy on offering exemptions on production equipment.

Senator Langhorst supported the general concept and believes it will bring a net benefit to the state.

Senator Sweet said Idaho should be competitive with other states and would like Idaho to offer similar incentives as the surrounding states.

Chairman Bunderson agreed this is desirable and is not a production exemption. He addressed the rebate concept increasing the companies' accountability. The bill as it stands does not have an accountability unless there is an audit down the road.

Senator Malepeai supported the motion although he may vote against it on the floor.

VOTE: A roll call vote was taken. There were 6 ayes: **Senators Hill, Sweet, McKenzie, Williams, Malepeai, Langhorst**. There were 2 nays: **Senators Stegner and Bunderson**. **Senator Corder** was excused. The motion passed.

ADJOURNMENT There being no further business, the meeting adjourned at 1:34 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 22, 2005

TIME: 3:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED:

GUESTS: see sign in sheet

Chairman Bunderson convened the meeting at 3:05 p.m. A silent roll call was taken.

MINUTES: **Senator Langhorst** moved to approve the minutes of March 10th and March 16th as written. **Senator Hill** seconded the motion. The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Ken McClure** to present H 277.

H 277: This legislation is intended to clarify an income tax exemption relating to the taxation of interest, dividends and capital gains from investments placed with Idaho registered broker-dealers by non-residents. The Tax Commission has suggested that the exemption found in section 63-3026A, Idaho Code, does not apply to investments in hedge funds or other investment vehicles in which a non-resident investor purchases an interest owned (with other investors) in whole or in part by an Idaho broker-dealer. This bill clarifies that the exemption in fact applies in such cases. If the exemption does not apply, because the tax commission lacks jurisdiction to collect the tax from non-resident investors, it seeks to collect the tax from the Idaho broker-dealer instead, causing the Idaho broker-dealer to be liable for the taxes which otherwise would be due from the non-residents.

Mr. McClure said the Idaho State Tax Commission agrees with the legislation and the fiscal note.

Senator Hill noted this impacts passive income which follows residency. Business assets in Idaho will still go to Idaho. **Mr. McClure** affirmed this.

MOTION: **Senator Hill** made a motion to send H 277 to the floor with a DO PASS RECOMMENDATION. **Senator Sweet** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

Chairman Bunderson introduced **Jason Kreizenbeck**, Director of

Government Affairs for Micron, to present H 319.

H 319:

This bill exempts from property tax "significant capital investment." The exemption is for the market value of all property of a business or person in excess of eight hundred million dollars (\$800,000,000) within a single county. A business or person would qualify for this exemption if they make a significant capital investment which would put the market value of their operations over \$800,000,000, along with maintaining the following annual investment objectives: - The taxpayer must make a capital investment of at least twenty five million dollars (\$25,000,000) in the county of the qualifying exemption each year prior to claiming the exemption. - The taxpayer must employ a minimum of one thousand five hundred (1,500) full time employees in the county of the qualifying exemption during the year of the exemption. The bill is effective January 1, 2005.

Mr. Kreizenbeck introduced Mike Reynoldson, Idaho Government Affairs Manager and Tom Laws, Tax Director. He gave an overview of Micron Technology. The purpose of this legislation is to provide an incentive for major capital investment in Idaho without shifting property tax burden at the local level.

He explained the changes between H 260 (legislation previewed for the committee on March 3) and H 319 are a reflection of concerns raised by members of this committee and local government. The bill increases the qualifying amount of property valuation to \$800 million. Since no taxpayers in Idaho currently have a valuation over \$800 million, the exemption, or incentive, can only be granted with new investment. The legislation clarifies that in the case of leased or rented property, only leased or rented personal property (such as equipment or tools) may qualify toward the \$800 million valuation. This was a concern raised by Ada County. Next, a taxpayer taking advantage of this exemption is also required to invest \$25 million annually in new capital investment within the county of the qualifying exemption. This ensures continual re-investment within a county by the taxpayer in order to keep the exemption. One year of not meeting this re-investment requirement disqualifies the taxpayer for this incentive. There is also an employment guarantee in H 319; in order to qualify, a taxpayer must employ a minimum of 1,500 employees in the county of the qualifying exemption. Also, an entity cannot claim another exemption in the Idaho code to further decrease the valuation of the facility below \$800 million. **Mr. Kreizenbeck** referenced a letter from the Ada County Commission supporting H 319.

Shirl Boyce testified on behalf of the Boise Valley Economic Partnership and the Idaho Economic Development Association in support of H 319. He spoke about the importance of Micron to Idaho saying our prize companies are our competition's best target. The United States has an 18% higher operating cost than overseas markets. This legislation is important to the economy of Idaho at the United States.

Steve Ahrens, President of IACI, testified in support of H 319. He said in the new economy companies are more easily able to move their

operations. **Mr. Ahrens** said the essential rule of economic development is to, first, keep what you have. Keep the companies contributing to Idaho here and encourage them to stay here.

John Eaton, from the Idaho Association of Realtors, testified in favor of H 319. He said this legislation will help make Idaho competitive without causing a tax shift.

Senator Hill asked Mr. Kreizenbeck about provisions in code to trade credits for exemptions and how this legislation would interrelate. **Mr. Kreizenbeck** said the section of code he was referring to gives the opportunity for companies operating on a loss, to use investments (which would qualify for the investment tax credit) to off-set their personal property tax payments. Micron has taken advantage of these provisions which has led to a decrease in valuation of their property. It has helped them continue to invest despite their losses. In this legislation it is stated you cannot qualify for both these exemptions. **Senator Hill** asked if it meant that one company can't use both exemptions, or if one company cannot use both exemptions on one piece of property. **Mr. Laws** said this relates to the two year election that has already been made. However going forward, an entity would not be able to make that election, and utilize this exemption. **Mr. Kreizenbeck** said it was specifically put in this legislation because of negotiations with Ada County.

Chairman Bunderson raised questions regarding Idaho's competitiveness if this legislation passes. **Mr. Kreizenbeck** said this alone won't make Idaho competitive, but in addition to H 261 (already passed out of committee) and other incentives which could be considered in the future (such as a personal property cap) would also add to Idaho's economic development goals.

Senator Langhorst inquired regarding line 34 and the clause "if exhausted." **Dan John** from the Idaho State Tax Commission said it would be applied to real and personal property and if that value runs out, then it applies to a lease. **Senator Langhorst** said he understood the intent, although it isn't expressed in the actual wording. What it does say isn't necessarily a problem, however it should be evaluated. He inquired regarding lines 36-38 in the bill and a potential tax shift. **Mr. John** said it is necessary to designate the property because the entity may be over \$800 million in one county but in more than one location. Under this legislation, a tax shift could happen although it is not likely because Micron's taxes would increase as well as those around them.

MOTION:

Senator Sweet made a motion to send H 319 to the floor with a DO PASS RECOMMENDATION. **Senator Hill** seconded the motion.

DISCUSSION:

Senator Sweet related observations of his hometown in Pennsylvania. It lost good paying jobs because their tax policies were not business friendly. Idaho must use these incentives to keep what we have and compete for more jobs.

Senator Langhorst said he would like to see a sunset clause and

language to ensure there is no tax shift as a result of this legislation. However, he felt it was too late in the session to effectively amend the bill.

VOTE: The motion passed by unanimous voice vote.

ADJOURNMENT There being no further business, the meeting adjourned at 4:05 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 23, 2005

TIME: 12:30 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Sweet, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Stegner

GUESTS: see sign in sheet

Chairman Bunderson convened the meeting at 12:50 p.m. A silent roll call was taken.

MINUTES: **Senator Corder** made a motion to approve the minutes of March 22 12:30 meeting. **Senator McKenzie** seconded the motion. The motion passed by unanimous voice vote.

Chairman Bunderson introduced Brian Whitlock from the Governor's Office to present H 306 aa aa.

H 306 aa aa: This bill is "The Idaho Corporate Headquarters Incentive Act of 2005." **Mr. Whitlock** reminded the committee of the preview of this legislation at the February 24, 2005 committee meeting. He distributed a summary handout relating to the provisions in the bill (see attached).

Dewey Hammond, Chairman of the Idaho State Tax Commission (ITC), reviewed the fiscal impact statement and requirements to qualify for the incentives.

Steve Ahrens, President of IACI, testified in support of H 306aa and H 323a. These bills will play a particularly important role in protecting and enhancing Idaho's climate for economic development. He emphasized that these bills offer equal treatment for both in-state, and out-of-state, companies. Also, these bills need to be added to Idaho's arsenal of economic development weapons.

Duncan McNaughton, Albertsons Senior Vice President of Merchandising, testified in support of H 306a. His testimony is attached.

Senator Corder inquired regarding the completion date of the pilot project and release of the results. **Mr. McNaughton** replied it would take about 6 months of business continuum to evaluate the results, and Albertsons shares it earnings quarterly.

Senator Sweet asked about the status of the current competitive climate

that Albertsons is facing. **Mr. McNaughton** said Albertsons is a national company and participates in 37 states of the union. The industry is fiercely competitive and is concentrating on leveraging cost and size. As states recognize this, they are building programs and incentives to attract those companies.

Chairman Bunderson asked how WalMart has dealt with consolidation of their supply chain. **Mr. McNaughton** said they have a great deal of respect for WalMart and the way they built their business plan. As Sam Walton grew the store and chain, he was able to build an infrastructure from the bottom up. They were able to leverage their synergies and build and centralize their supply chain out of one epicenter and have chosen that to be their hometown in their home state of Arkansas. **Chairman Bunderson** asked for an estimate of how many supplier jobs have migrated to Bentonville to accommodate the WalMart purchasing program. **Mr. McNaughton** said he didn't have a specific figure. It is critically important that the supplier recommendations are with the decision makers. For WalMart that is in Bentonville, Arkansas which is why they have big teams and networks— not only sales people—including supply chain information technology and analysts to support their business model. He said it a similar model would be employed in Boise. **Chairman Bunderson** inquired about his earlier comments, as to the ancillary benefit of passing this legislation. **Mr. McNaughton** said his expectation is that large companies will be locating with them and have more associates here.

Mr. Whitlock explained the package pays for itself. In a recent Idaho Public Policy survey, the economy (specifically, concerns about inadequate jobs and wages) is the primary concern. This legislation will help remedy this.

MOTION: **Senator Corder** made a motion to send H 306aa to the floor with a DO PASS RECOMMENDATION. **Senator Langhorst** seconded the motion.

DISCUSSION: **Senator Sweet** expressed his desire for Idaho to keep pace with and compete for these large companies and jobs which will have a net benefit to Idaho.

VOTE: The motion passed by unanimous voice vote. **Chairman Bunderson** will sponsor the bill on the Senate floor.

Mr. Hammond presented H 323a.

H 323aa: This bill is "The Idaho Small Employer Incentive Act of 2005." This bill is structured the same as H 306aa, but on a smaller scale. The criteria to qualify for these incentives are: to create at least 10 new jobs in Idaho with a starting annual salary of at least \$40,000 per year, plus benefits, invest at least \$50,000 in new facilities and equipment for each new project employee added in Idaho, and accomplish this with in a five-year period.

Senator McKenzie inquired regarding the "necessary and just" standard in section 63-606a. **Mr. Hammond** said it is a legal term and doesn't specify how each county will analyze the costs and benefits.

Senator Hill asked about the amendment to the bill. **Mr. Hammond** explained the amendment clarifies the jobs must have a comprehensive health plan.

Roger Sherman, representing the Idaho Center on Budget and Tax Policy, testified against H 323a. He said the bill should be amended because there are flaws, and these are unprecedented changes. This bill will not help encourage business growth in small communities, just small business development in large communities.

Senator Sweet asked how the legislation can be unfair when the incentives are applied across the state and not just the Boise Metro Area. Business development is market driven. **Mr. Sherman** said an incentive is meant to encourage behavior that might not otherwise be considered. The \$40,000 average salary is already below the average salary for the Boise Metro Area which defeats the purpose of an incentive. **Senator Sweet** said it is important to be fair and give incentives not only to large businesses but to small businesses as well. Especially for smaller businesses to relocate closer to a larger business with which they conduct a lot of business. **Mr. Sherman** said that these spin-off businesses will come with or without these incentives, and it is important to focus on rural area development as well.

Senator Corder said this legislation would still allow counties to make decisions to encourage businesses to come into the rural communities.

Senator Hill explained the original intent was a focus on small businesses and not necessarily on small communities. There are incentives for development in rural Idaho, but this isn't one of them. Whether this is good tax policy or not, this is good for Idaho and the citizens of Idaho.

MOTION: **Senator Hill** made a motion to send H 323a to the floor with a DO PASS RECOMMENDATION. **Senator Sweet** seconded the motion.

DISCUSSION: **Senator Malepeai** asked for Mr. Hammond's feedback on the issues raised. **Mr. Hammond** said a few years ago an incentive was put in place to encourage development in rural areas with low populations and high unemployment. Due to a sunset clause, the incentive was no longer offered after one year, inhibiting an analysis of the incentive's effectiveness. **Senator Malepeai** asked if these additional provisions could enhance this legislation. **Mr. Hammond** responded the economic impact study is a good idea, however County Commissioners would do some sort of analysis in the normal course without any additional requirements.

VOTE: The motion passed by unanimous voice vote.

H 100: **Chairman Bunderson** introduced **Representative Roberts** to present H100. This legislation would allow fire protection districts to purchase ambulances and related equipment and to pay salaries and benefits if an ambulance service is not provided within the district. This legislation would also allow fire protection districts to enter into a joint exercise of

powers agreement with a county to share equipment and services. **Representative Roberts** requested H 100 go to the 14th Order for amendment. The legislation needs clarification and they have agreed to an amendment with the Fire Chiefs.

MOTION: **Senator McKenzie** made a motion to send H 100 to the 14th Order. **Senator Williams** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

H 318: **Chairman Bunderson** introduced **Jack Lyman** from the Idaho Mining Association to present H 318. This legislation establishes the Cyanidation Facility Closure Fund. Thirty-three percent of the mine license tax paid by a gold mining operation which includes a cyanidation facility, and any fines or penalties recovered related to the cyanidation closure provisions of the Surface Mining Act, would be deposited in this fund. S. 1169 would amend the Surface Mining Act to give the Department of Lands certain new responsibilities. The Cyanidation Closure Fund would be available to provide funds, subject to legislative appropriation, for these new responsibilities.

Senator Langhorst said this is a trailer bill which represents an agreement between many parties and many hours of work.

MOTION: **Senator Langhorst** made a motion to send H 318 to the floor with a DO PASS RECOMMENDATION. **Senator Corder** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

H 354: **Chairman Bunderson** introduced **Bill von Tagen**, Deputy Attorney General and a member of the Children's Trust Fund, to present H 354. The proposed change amends ambiguous language in Idaho Code 39-6007(5) making language clearly consistent with original legislative intent. This amendment clarifies the sunset provisions of the tax check-off found in the Children's Trust Fund statute to state that the check-off expires when the balance in the trust fund reaches two million five hundred thousand dollars. **Mr. von Tagen** said this legislation will keep the trust fund going a little longer. When they originally instated this legislation, the fund wasn't expected to receive as many private donations as it has.

MOTION: **Senator McKenzie** made a motion to send H 354 to the floor with a DO PASS RECOMMENDATION. **Senator Williams** seconded the motion.

DISCUSSION: **Senator Hill** said the SOP is misleading and does not clearly state that this extends the life of the fund. Grants are being distributed concurrently with the influx of revenues. Therefore to reach a balance of 2.5 million dollars is indefinite. **Mr. von Tagen** said the challenge is to know when the fund reaches the designated balance. General sunset provisions for all check-offs were put into place after the initial passage of the check-off for the Children's Trust Fund. Other check-offs are for private non-profit entities, the Children's Trust Fund is a state entity, and this is its primary funding.

VOTE: The motion passed by unanimous voice vote.

ADJOURNMENT There being no further business, the meeting adjourned at 2:00 p.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: March 30, 2005

TIME: 9:30 a.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman Bunderson, Vice Chairman Hill, Senators Stegner, McKenzie, Williams, Corder, Malepeai, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Sweet

Chairman Bunderson convened the meeting at 9:38 a.m. A silent roll call was taken.

MINUTES: **Senator Hill** moved to approve the minutes of March 17, 22, and 23 as written. **Senator McKenzie** seconded the motion. The motion passed by unanimous voice vote.

Gubernatorial Appointment: **Tom Katsilometes** appointed to the Idaho State Tax Commission to serve a term commencing March 25, 2005 and expiring March 8, 2011.

Mr. Katsilometes currently serves as the Idaho State Athletic Commissioner. He also served for 18 years as a County Commissioner for Bannock County. In this position he took on judicial responsibilities as part of the Board of Equalization, and worked to set levies for the counties. He served as a board member of the Taxation and Finance Committee for the National Association of Counties. **Mr. Katsilometes** also was a Vice-Chairman of the Bannock Development Corp, working to develop and direct the economic development and maintenance for the cities of Pocatello, Chubbuck and the whole of Bannock County.

Chairman Bunderson asked if his duties on the Idaho State Tax Commission would be similar to Larry Watson's (his predecessor). **Mr. Hammond**, Chairman of the ITC, indicated they would.

Senator Hill asked if Mr. Katsilometes would need to resign his position as the State Athletic Commissioner. **Mr. Katsilometes** said Idaho Code permitted him to retain his position as long as there was no conflict of interest. The Governor's Office has not indicated that there is a conflict, however, if a conflict does arise he will resign his position as State Athletic Commissioner.

Chairman Bunderson thanked **Mr. Katsilometes** for his appearance. He announced the committee will vote on the appointment at a later time.

Gubernatorial Appointment: **Severina "Sam" Haws** reappointed to the Idaho State Tax Commission to serve a term commencing April 1, 2005 and expiring April 1, 2011.

Ms. Haws gave a presentation to the committee on January 20, 2005 regarding the current status of her responsibilities to the ITC. She said the status has not changed since that presentation.

Chairman Bunderson thanked Ms. Haws for her appearance. The committee will vote on the appointment at a later time.

Chairman Bunderson introduced **Representative Clark** to present H 386 .

H 386:

This legislation amends current law to extend the current cigarette tax rate of 57 cents per pack through June 30, 2007. On July 1, 2007, the tax rate would revert to 28 cents per pack. The legislation also specifies the distribution of the revenues from the cigarette tax.

Representative Clark said he did not vote for the initial cigarette tax increase two years ago, but this year he did vote for it. The change in his vote reflects the support this bill would offer to the challenges Idaho is facing regarding water issues.

Brad Hoaglund, representing the American Cancer Society, testified in support of H 386, although he would like to see a few changes. The changes he suggested would protect the funding for the programs currently supported by the cigarette tax. He also was in favor of removing the sunset clause, making the increase permanent. Studies have shown the price of cigarettes has a significant impact on smoking consumption. The cigarette tax in Idaho is lower than every surrounding state.

Dennis Baird, representing Baird Oil Company, testified in opposition to H 386. He expressed a dissatisfaction with extending what was meant to be a temporary tax increase. He also opposed any amendment to the bill which would require cash on delivery of cigarettes.

Senator Langhorst inquired regarding the potential amendment. **Mr. Baird** said the amendment was rumored in the House of Representatives, and the wholesalers were supporting that amendment. **Chairman Bunderson** commented it would be similar to the unique method of compensation for beer and wine retailing.

Julie Taylor, testified on behalf of Blue Cross of Idaho, in support of H 386. She talked about the connection between cigarette prices and consumption.

Dennis Campo, representing Campo Oil Company in Fruitland, testified in opposition to any amend regarding cash on delivery for cigarette retailers.

Mary MacConnell from the American Heart Association, testified in support of H 386. She listed several organizations that are opposed to letting the increase sunset this year. She said high cigarette taxes are a deterrent to smoking.

Senator Hill asked about the cost to Idaho from smoking related illnesses. **Ms. MacConnell** cited the CDC which determined the costs to Idaho are \$596 million, \$77 million of which is covered by Medicaid. Idaho does not dedicate a lot of revenue to smoking related treatment and cessation programs. They need continued revenues to maintain the current downtrend in smoking. She referred to figures showing the year following Idaho's cigarette tax increase, there was a 7% decrease in smoking. She noted this is the same for every state; each increase in the cigarette tax is followed by a downtrend in consumption.

Jerry Deckard, testified on behalf of the Idaho Wholesale Marketers Association. He noted that this bill refers only to tax on cigarettes and not all tobacco products. When the cigarette tax was initially increased two years prior, it helped balance the budget and the stamp allowance was lowered to 2.6%. He suggested an amendment to bill to return the stamping allowance to 5%.

Senator Langhorst asked if the decrease in the stamping allowance was a negotiated agreement. **Mr. Deckard** said he was not representing the IWMA then and was unsure. **Senator Stegner** said his recollection was that it was not negotiated. The stamping fee is a percentage of tax collection, therefore raising the tax without decreasing the percentage would result in a substantial windfall for the IWMA. The amount was decreased to keep the stamping revenues consistent.

Representative Clark, in closing, noted if the stamping fee is restored to 5%, the IWMA will receive a windfall of approximately \$1 million.

Chairman Bunderson asked if Representative Clark felt that the 2.61% stamping fee was appropriate. **Representative Clark** he was very comfortable with the percentage.

MOTION: **Senator Stegner** made a motion to send H 386 to the 14th ORDER. **Senator Hill** seconded the motion.

VOTE: The motion passed by unanimous voice vote.

ADJOURNMENT There being no further business, the meeting adjourned at 10:42 a.m.

Senator Hal Bunderson
Chairman

Joan MacMillan
Secretary