

MINUTES

(Subject to approval of the committee)

TAX EXEMPTIONS INTERIM COMMITTEE

Joe R. Williams Bldg., East Conference Room, Boise, Idaho

August 3, 2007

The meeting was called to order at 8:33 a.m. by Co-chair Senator Brent Hill. Other committee members present were: Co-chair Representative Dennis Lake, Senator Joe Stegner, Senator Tim Corder, Senator Lee Heinrich, Senator Jeff Siddoway, Senator David Langhorst, Representative Gary Collins, Representative Mike Moyle, Representative Dell Raybould, Representative Nicole LeFavour, and Representative Bill Killen. Senator Diane Bilyeu and Representative Jim Clark were absent and excused. Staff members present were Mike Nugent, Eric Milstead, and Jennifer O'Kief.

Others present included: Russ Hendricks, Farm Bureau; John Watts, Veritas Advisor; John Eaton and Jessica McDonald, Idaho Association of Realtors (IAR); Keith Allred, The Common Interest; Randy Nelson, Associated Taxpayers of Idaho (ATI); Rick Ritter, Idaho TechConnect; Robin Nettinga, Idaho Education Association (IEA); Toni Lawson, Idaho Hospital Association; Lynn Young, AARP; Dan Chadwick, Idaho Association of Counties (IAC), Dawn Justice, Idaho Bankers Association; George Moses; Jane Wittmeyer, Intermountain Forest Association (IFA); Skip Smyser, Connolly & Smyser, Chtd.; Kent Lauer, Idaho Farm Bureau; Mark Dunham and Alex LaBeau, Idaho Association of Commerce & Industry (IACI); Steve Rector, Idaho Housing & Finance Association (IHFA); Jim Farrel, AARP; James Hammack, Benton, Ellis & Associates; Bob McQuade, Ada County Assessor; Rob Winslow, Idaho Association of School Administrators (IASA); Jan Rogers, Southern Idaho Economic Development Organization (SIEDO); Norm Semanko, Idaho Water Users Association; Miguel Legarreta, Ada County Association of Realtors (ACAR); and Joe Kunz, Building Contractors Association of Southwest Idaho (BCASWI).

Keith Allred, President, The Common Interest, was the first speaker. He had concluding remarks subsequent to his presentation the day before. **Mr. Allred** outlined suggestions for investigating existing tax breaks. He said that, in general, whenever a legislature makes a decision to grant a tax break, they are making a decision to substitute the government's judgment for the market's. He said you want to have a decision-making process in place that will produce the wisest decision possible. By looking at tax breaks cumulatively, to lower the rate, there will be greater interest and participation from the public.

Mr. Allred suggested the interim committee recommend a process that would provide the time and resources to undertake a systematic review. The decision about any given tax break could be deferred until all tax breaks could be considered together. He noted Senator Corder's proposal in the 2006 session for a process to systematically examine all existing tax breaks. There was 91% support from the 93 citizens who reviewed that proposal in The Common Interest property tax brief.

In response to a question from **Senator Langhorst**, **Mr. Allred** said that he does not know of any other states who have taken this approach, but he would be happy to look into that. He noted that he believes the work of the interim committee is extremely important and The Common Interest stands ready to support that work in any way they can.

Senator Hill stated that the committee would be going through all of the exemptions both for income tax and sales tax. Because of the limited time and resources, he asked them to be thinking about prioritizing the exemptions in terms of importance, as they are going through the exemptions. **Senator Hill** gave some suggestions for applying various ways to narrow down the list.

Mike Ferguson, Chief Economist, Economic Analysis Bureau, Division of Financial Management was the next speaker. **Mr. Ferguson** provided a booklet entitled, "Governor's General Fund Revenue Book, FY2008." A copy is available from the Legislative Services Office. He explained that a section on Tax Structure includes all of the exemptions, credits, exclusions and deductions and fiscal summary of each. A description of each item is included as well as its corresponding statute. He noted that the fiscal summaries do not take into account any form of a tax gap. The numbers are an estimate of how much value is associated with transactions related to the tax expenditures and not the level that would occur if the expenditure were repealed. **Mr. Ferguson** further noted that tax expenditure budget implies that we're spending money through giving tax breaks, when in reality, most of the tax expenditures have been established to try to motivate behavior and influence outcome.

Representative LeFavour asked about other forms of funding such as grants, etc., in order to encourage activity. **Mr. Ferguson** said that it is very difficult to track results when using the tax structure for incentives. Because individual income tax is confidential, it is difficult to do an assessment of whether or not you are getting the intended results. **Representative LeFavour** asked about using refundable credits. **Mr. Ferguson** said refundable credits can be used in cases where tax credits are not effective because the taxpayer doesn't have a tax liability to offset. He added that transferable credits are another alternative. However, the impact is diluted because of having to move through a middleman.

Senator Heinrich asked **Mr. Ferguson** where the state surpluses were coming from and whether or not he thought they were one-time money. **Mr. Ferguson** said he did not have the information yet, but that they are in the process of updating the revenue forecast for FY2008. He added that he believes the leading edge of the housing market is starting to impact the state which will be reflected in the updated forecast to be released at the end of the month. He said that there has been 50% growth in individual income tax in the past three years related to the real estate bubble, which is deflating. He thinks that the revenue stream is on the extreme upside of a cycle, but will come back toward a baseline.

Dan John, Manager, Administrative Appeals, Idaho Tax Commission, was the next speaker. He provided three handouts illustrating the corporate, state and individual tax rate structure for Idaho and the other states. Copies are available from the Legislative Services Office. **Mr. John** highlighted the exemptions that were in the original sales tax act. He noted that the original sales tax act initially

involved transactions involving tangible personal property. However, Idaho does tax some categories of services. To **Senator Hill's** inquiry of what they were, **Mr. John** said the admissions to recreational facilities, for example, a movie theater ticket, a football game ticket, etc.

Mr. John went through the lists of Idaho's sales and income tax expenditures and the corresponding exclusions, exemptions, credits and deductions that are included in Title 63 of the Idaho Statute. He began with the sales tax exemptions category.

Referring to the production equipment and supplies exemption, **Senator Hill** asked for clarity on the use of the term supplies, given that various kinds of supplies are involved either directly or indirectly with the production of a product. **Mr. John** deferred to **Mr. Ferguson** who said that the distinction between equipment and supplies is made on the basis of whether it is a long-life depreciable asset versus a short-life consumable item. The distinction between the production exemption for supplies and the things that become a component part of the item being manufactured is that there is a resale exemption that is not considered a part of the tax expenditure. Items purchased for resale, whether they are going from the wholesaler to the retailer or will become a part of a manufactured item, are not part of the tax base. The supplies that are being referenced are treated separately because they do not become a component part of the item that is being manufactured, but are used directly in the production process. **Senator Hill** summarized that the supplies referenced do not include the materials that go into the product itself.

Mr. Ferguson explained what constitutes exempt supplies from those that are not. Supplies that are used directly in the manufacturing line and come into contact with the item being manufactured would qualify for the production exemption. However, janitorial supplies used in the manufacturing area are not eligible for the production exemption. **Senator Hill** asked about a situation where tools have been purchased and are used both for fixing up the shop as well as on the assembly line. **Mr. John** said there is an exclusion for hand tools that are valued under \$100. If the tools are used for repairing production equipment, they will qualify.

Senator Stegner asked at what level would the seed from wheat, which is an integral part of the production process, be exempt if it were purchased from a retail store. **Mr. John** said that it would fall under the production exemption, or the resale exemption. **Mr. Ferguson** added that the seed would not be included in the supplies portion because seed turns into wheat and would be part of the process. Supplies are considered items that are not depreciable equipment and do not become part of the end product, but are exempt. **Mr. John** said that fuel that is used off highway is not subject to motor fuels tax, consequently, the fuel used in production falls under the supply category and would not be taxable. **Mr. Ferguson** said their use of the terms directly and primarily are significant elements. By example, he explained that if a forklift is used over 50% of the time in the production process, it is exempt; if used 49% or less, it is not.

In response from an inquiry from **Senator Hill** regarding the broadcasting exemption, **Mr. John** said that both printed advertising and media advertising are not subject to sales tax. In response to a question from **Representative LeFavour** regarding out-of-state contracts, **Mr. John** said that a state that would receive sale items from Idaho would be subject to use tax.

Representative LeFavour asked a question regarding the lodging exemption. **Mr. John** said that the room is subject to tax. Regarding restaurants, **Mr. John** responded to **Senator Hill's** question by saying that restaurants pay tax on their tables, chairs, refrigerators, utensils but not for napkins. They qualify for the resale exemption. Restaurant meals fall under taxable services because you are buying the meal, not the food. The other items used for preparation are not.

Regarding driver's education automobiles, **Mr. John** answered **Senator Hill's** question by saying that private driver's training company vehicles are subject to sales tax. Regarding **Senator Hill's** inquiry, **Mr. John** said that ski lifts and grooming equipment are exempt, but bowling equipment, such as bowling pins etc. are not and neither are golf course greens' fees. Golf equipment and lawnmowers are not exempt either. **Senator Langhorst** asked about outfitters' rafts. **Mr. John** said that they are not exempt.

Regarding clean rooms, in high-tech industry, **Senator Hill** referred to the figure of \$480 million attached to this exemption and asked how many businesses this covers in Idaho. **Mr. John** estimated about a dozen. Regarding alternative electricity-producing equipment, **Mr. John** answered **Senator Hill's** question by saying that this was added in order to compete with surrounding states. Also, these were incentives to convert, for example, within the dairy industry, waste into a product. **Mr. Ferguson** noted that this exemption sunsets in July of 2011.

Regarding the small employer headquarters construction exemption, **Mr. John** explained to **Senator Langhorst** that the figure of \$90,000 is only an estimate because this type of facility has not materialized. However, they have received many inquiries from companies that believe they will meet the qualifications. Regarding media production, **Senator Hill** asked for clarification. **Mr. John** said this exemption is for a film being made in Idaho, part of the sales tax is reimbursed and it does have a sunset.

Representative Raybould asked if there were any statutes that were ambiguous that have caused problems with their administration. And if so, does he think the committee ought to review those for the purpose of providing clarification. **Mr. John** said that with exemptions, credits, etc., there is always a "moving line." When one issue is resolved, it seems to branch out to another. He has not seen a lot of appeals that are not crystal clear. They could be more clear, but may not have risen to the level of requiring legislative changes at this point. **Representative Raybould** commented, "I take it that answer was, let sleeping dogs lie." **Mr. John** said that normally, an issue is not brought to the forefront unless someone disagrees with an audit.

Representative LeFavour asked, regarding utilities, if this refers to life-supporting situations. **Mr. John** said you want the citizens to have heat and utilities. **Senator Stegner** asked about giving an offset on electrical generators if a sales tax is imposed. **Mr. John** said if you follow the same logic of the production exemption, generators would probably be exempt; and currently they are not.

Regarding the vending machines exemption, **Mr. John** responded to a question from **Senator Stegner** by saying that the exemption is on the machine not on the product that is generated.

Regarding newspapers, **Mr. John** responded to a question from **Senator Stegner** by saying that there is no difference in the treatment of the sales tax of a newspaper, based on whether it is delivered, purchased through a vending machine or from a rack. **Senator Hill** asked how this exemption is different from the golf courses or the bowling centers and how does that fall under production. **Mr. John** said that it doesn't fall under the production exemption, it has its own exemption. **Senator Hill** commented, "just like the ski lifts?" **Mr. John** said that was true. He added that a few years ago, the tax on amusement devices was based on the charge, which has been changed to allowing them to buy a permit that is good for one year, which at 5%, is \$35 per year, in lieu of the sales tax. **Mr. John** said that amusement devices, pool tables, video games, etc., have a sticker with a coin slot that includes the tax commission's seal. **Senator Hill** commented that an amusement park pays tax on their equipment as its purchased even though they charge an admission fee subject to sales tax. Consequently, the only part of the park that doesn't pay sales tax on its equipment is the booth where they have the amusement devices. **Mr. John** agreed.

Regarding official documents, **Representative Killen** commented that the public records act requires entities to provide copies to the citizens. The statute provides that a reasonable fee be applied to those copies and asked if this is within the purview that is set by statute. **Mr. John** said that those do not fall under the purview of this exemption. The counties can charge for the copies and should charge sales tax as well. Answering a second question, **Mr. John** said that they receive sales tax from local government entities all of the time. The counties are big tax collectors of the sales tax for the state.

Regarding precious metal bullion, **Senator Hill** asked **Mr. John** to explain the rationale behind the fact that there is no sales tax collected on the Idaho commemorative silver medallion sold through the Treasurer's Office. **Mr. John** did not know the answer but said that it is a specific exemption for a product going through a specific vendor. Regarding telecommunications equipment, **Representative Lake** asked if this exemption is for cell phones only, or is there other telecommunication equipment involved. **Mr. John** said that it is essentially cell phones and the equivalent.

The committee recessed at 10:31 a.m. and reconvened at 10:48 a.m.

Regarding the lottery exemption and **Representative LeFavour's** question, **Mr. John** said that board games are taxed. **Senator Hill** commented that the purpose is to find the appropriate category for some of these items, and asked if the lottery was considered entertainment or something else. **Mr. John** said that he believes that it is probably more of a service than a purchase. **Mr. Ferguson** added that it was a decision that it would not be good to attach a tax since ultimately the receipts would be going to benefit the public, i.e., schools, etc.

Regarding nonprofit shooting range fees, in response to **Senator Hill's** question, **Mr. John** said that items purchased for the shooting range, unless they are for resale, would be subject to the sales tax. **Mr. John** noted that there is a common misunderstanding that not-for-profit entities are exempt from paying the sales tax, and also exempt from collecting and remitting the sales tax when they make sales, which is not true. If a church buys something, they are subject to tax, and are also

required to collect and remit the tax if they are making a sale.

Senator Hill, referring to health entity purchases, asked if an organization must have their name in statute in order to be exempt. **Mr. John** said that was correct and there is no general exemption for these organizations. **Senator Hill** asked if food banks are exempt from paying sales tax on the paper and pencils, and shelving, etc. **Mr. John** said that he believes they are exempt on everything. Regarding sales by Indian tribes on reservations, **Representative Moyle** asked if there was a way to tax purchases in a store on a reservation or does the federal law prohibit that from happening. **Mr. John** said that whether a tribal member or not, you do not pay sales tax on a purchase in a tribally owned enterprise and use tax is not accrued. If you were to purchase a product from an individual on the reservation, the product would be subject to sales tax and use tax once you were off the reservation. **Senator Hill** asked if this was true regardless of the product. **Mr. John** said that was indeed true.

In response to a question from **Representative LeFavour**, **Mr. John** said that it would probably be very difficult to enforce the sales tax because there is both federal and case law to back it up. **Representative Moyle** asked if there has ever been any case law that has survived the courts that has allowed the state to collect sales and use tax on the tribal members on a reservation. **Mr. John** said that on the tribal members themselves, he could safely say, "No." But on nontribal members, he did not know. **Senator Corder** asked about businesses owned by a tribe off the reservation. **Mr. John** said that the same laws would apply to the tribe off the reservation that apply to all other citizens. **Senator Siddoway** asked if this hadn't just been done on the fuel tax. **Mr. John** said the tax is truly on the first receiver, which is not the tribe themselves and the tax is really going to apply to nontribal members on the reservation. Tribal members would be exempt.

Mike Nugent, Attorney, Legislative Services Office, said that there was a court case out of Washington State that does allow the state to impose sales tax on nontribal members, or even another native American going to a different reservation. The problem arises with the tax commission administering this effort by going to the reservation to collect the tax. **Mr. Nugent** referred to a bill that came before the Revenue and Taxation Committee several years ago, whereby, Representative Chadband had stated that if a huge enterprise were opened, they would take another look at it. At the time they thought it was good public policy to allow tribes to have their own businesses. It proved to be a cost-benefit analysis as well.

Senator Stegner referring to credit unions that are prohibited from being taxed under federal law, asked if all the materials put into constructing a new building were tax free. **Mr. John** said that it depends on who is deemed the contractor. The contractor is the consumer of the goods, so it would be subject to sales tax. In response to another question, **Mr. John** said that the lumber and bricks that went into the building would be taxed.

Senator Stegner asked what the state's position would be on contracting a facility to be built given the set price paid included labor, transportation and any number of exempt items, and how would the sales tax be handled on that type of construction project. **Mr. John** said the contractor pays the sales tax when the material is purchased or the use tax accrued if brought in from somewhere else. In

response to another question from **Senator Stegner**, **Mr. John** said that the credit union would not pay sales tax on the purchase of a new adding machine; the operational purchases would be taxed but not the real estate purchases. **Senator Hill** commented that this was similar to state government. **Mr. John** added that it was also similar to federal government. **Mr. Ferguson** commented that if a credit union had its own construction crew, the materials would be exempt. If it is done under a contract, they are taxable.

Mr. John next went through the income tax expenditure section. **Senator Langhorst** asked why the federal investment credit was removed. **Mr. John** said that the investment credit at the federal level was repeatedly renewed and in the late 1980's was stopped. **Senator Hill** commented that many incentives only work on a short-term basis. **Senator Hill** explained that the purpose is to provide incentives for the economy, to get it going again, etc. This was at a time when they were trying to attract businesses to invest. A "drop dead" date was necessary in order to encourage the business to invest during a certain appointed time. If there is no expiration date, there is no stimulus. In response to a question from **Senator Stegner**, **Mr. John** said that if the investment tax credit were to be repealed and the carryover provision left in place, it would take several years to generate revenues for the state.

Senator Hill referring to the elderly dependent tax credit and the developmentally disabled tax credit, asked why the tax commission has not come forth and eliminated the deduction where the credit is always worth more. **Mr. John** said you can only have the credit if you are a full-year resident. A part-year resident can have the deduction. **Representative LeFavour** asked if providing a grant in this type of situation would be more effective than a deduction. **Mr. John** said this is a case where you probably could.

Mr. John, responding to **Representative Lake's** question with regard to the youth and rehabilitation credit, said that the credit limitation is per return. **Representative Lake** added that each time an organization is added to this list, then there is potential for dilution. **Mr. John** agreed that there would be a certain amount of that. **Representative Lake** commented that this category has shown an annual increase of approximately \$800,000 every year since 2003 and asked what the factors were for the increase. **Mr. John** said that more people donate and the organizations do a lot of advertising, it is also limited to 20% of the tax liability. **Representative Killen** asked why both the youth and rehabilitation credit and schools and libraries credit have a higher dollar limit for corporations than individuals. **Mr. John** said this is the way it has always been and he is not sure of the reasoning. Almost all of the credit claimed is on individual returns, not on business returns.

Regarding the medical savings account deduction, **Representative LeFavour** asked if money intended for other purposes could be included in this account. **Mr. John** said that if any money was used for anything other than medical, it would be subject to tax and penalty.

Regarding the capital gains exclusion, **Senator Hill** commented that the problem with this exclusion is that it comes with the credit paid to other states' exemption. If you have an out-of-state seller who owns land in Idaho and sells that land and qualifies for the capital gain exclusion, 60% of that gain is not taxable in the state of Idaho. The seller, as a resident of another state, has to pay income tax on

that gain in that state. But he receives a credit for the taxes paid to the state where the property is located, due to the fact that our state tax is so low that he gets a credit. The other state receives the tax instead of Idaho. More frequently people are coming into Idaho and buying property and turning around and selling it for millions of dollars in gains and the state is losing a lot of tax revenue.

Mr. John provided a spreadsheet entitled “2006 Calendar Year-End Exemption Values.” A copy is available in the Legislative Services Office. This spreadsheet lists the dollar value, by county, of the various exemptions. **Mr. John** highlighted some of the exemptions and their respective values, some of which were included as follows. He pointed out that the value of the homeowner’s exemption in 2006 amounted to over \$21 billion. He explained the formula that is used to determine the Speculative Value Exemption, which is valued at \$17 million. **Representative Lake** asked if the formula was on a five-year rolling average that moves down according to the prices received and other considerations that are built into the formula. **Mr. John** said that there is a capitalization rate that is built into this that is based on a five-year rolling average of the bank’s interest rate. **Representative Lake** asked if the commodity price, which is part of the formula, was on a rolling average also. **Mr. John** said that he believed that the commodity price and the cost of production that go into the equation are current. He believes that the only consideration on the five-year rolling average is the interest rate that goes into the computation.

Mr. John noted that the other major exemptions in addition to those on the list, whose values are not tracked, are charitable, religious, and government. **Senator Hill** asked how this compares to the percentage of the total taxable value. **Randy Nelson**, Associated Taxpayers of Idaho, responded by saying that the total taxable value was about \$107 billion in 2006. **Mr. Nelson**, responding to a question from **Representative Langhorst**, by saying that of the \$107 billion, the total amount of the net exemption value of \$40 billion was not included in that figure.

Mr. John commented that this list does not include all of the exemptions for the state, local and federal properties or the charitable or religious organizations. **Senator Langhorst** asked how these values could be obtained. **Mr. John** said that there was an attempt several years ago to have the assessors do that, but it was very difficult to figure out the value of a church, for example. They are not generating income and there are not a lot of sales to use for a comparison. **Senator Langhorst** asked about religious or charitable or real estate holdings that are not churches, i.e., land or buildings. **Mr. John** said that the properties that are used for charitable purposes are exempt. If the building was going to be used for something else, you might be able to place a value on it. Some ski areas may fall under this category.

Representative Moyle, referring to the Significant Capital Improvements category, asked if as the value increases on a building, is that being captured by the local taxing districts as new construction. **Mr. John** said that the amount is not included in the new construction. **Senator Hill** said that is one of the few where it is an actual decrease in the taxes going to the county rather than the shift to other people. **Mr. John** said that is not really correct, because it is as though it didn’t exist because if it is included as new construction, then the county could receive more money, so in that sense, it is a reduction. But where it is not included, it doesn’t shift it to the other taxpayers.

Senator Langhorst asked **Mr. John** to share performance measures that other states have used that have been effective. **Mr. John** said that he is aware that there are other states that have similar performance measures, such as Washington State. The last two major incentives passed by the legislature, The Corporate Headquarters Act and the Small Employers Act had built-in performance measures. Two components were required: a building had to be built, there needed to be employees with a fairly high salary threshold and also have recapture provisions, in the event the employment level dropped. **Senator Langhorst** asked if there was a way to go back into existing exemptions, credits, deductions and input performance measures. **Mr. John** said that you could put performance measures in the investment credit on a look-forward basis. It would be difficult on some of them because there is such a huge volume of taxpayers that claim some of these things. **Mr. John** responded to a question from **Senator Langhorst** by saying that it would be permissible to write into a bill a provision that would allow for going back if layoffs occurred or jobs were moved.

The committee recessed at 12:10 p.m. and reconvened at 1:25 p.m.

Senator Hill stated that he and **Representative Lake** would like feedback from the members at this time. **Representative Corder** asked if there were any other documents that have been compiled that would help the committee make a decision about the net impact of some of these exemptions, deductions and exclusions. **Mr. Ferguson** said that, in the past, they have tried to estimate what the savings would be if any of the particular exemptions were eliminated and also which ones are crucial. There is no public document, only working papers. At **Senator Corder's** request, **Mr. Ferguson** agreed to provide a copy of those working papers.

Representative Raybould asked if they knew the implications of what would happen to an industry if an exemption were removed or added on in order to receive more income to the state, and how would that affect other tax collections such as income tax, property tax, etc. **Mr. John** said that they have not done that type of analysis. **Mr. Ferguson** said that what they have done in the past, is look at direct impacts in much of the same way that they look at the fiscal impact of legislation that has revenue related impact. He said that what is being asked for is a dynamic analysis, or general equilibrium analysis that is more complicated and controversial in nature and that hasn't been done.

Representative Lake commented that his sense has been that the charge of the committee is not necessarily to come up with revenue enhancing measures. He stated that the intent of the committee is to review all of the exemptions, credits and deductions that we now employ and see if some need to be eliminated or modified. He said he wanted to reduce the volume of information that would be reviewed in the October meeting.

Representative Lake noted the following exemptions that fall under the income tax column that he believes have outlived their usefulness and could probably "go away." He would like to review the youth and rehabilitation credit, repeal the recycling equipment credit, technological equipment deduction, alternative energy device deduction and insulation deduction. Moving through the list, he said the riparian land improvement credit has a sunset and should be eliminated. The broadband investment credit may have some merit but needs further review. This is a credit on top of a credit. The county incentive investment tax credit has a sunset and should be repealed, as well as the World

War II reparations exclusion and the marriage penalty deduction.

Senator Stegner said he would like to revisit the investment tax credit, particularly in trying to find an offset income for personal property tax. **Senator Langhorst** commented that he agrees that the list needs to be narrowed down, but suggested the possibility of a cost-benefit analysis on the items. He would like to apply some of the principles that Mr. Allred had suggested by looking at all of the criteria cumulatively and allowing the public to participate. He would like to come up with a way of engaging in this process over perhaps the next two or three years. **Senator Hill** said that there may be a way this could be accomplished. He suggested putting a three or five year sunset on specific ones. **Senator Langhorst** commented that by having both the House and Senate working on this together, and adding longevity to the process, will be a great benefit.

Representative LeFavour suggested having a rationale for the reason an exemption, etc., was put into place that would stimulate discussion and would not be arbitrary. An example of a non-arbitrary standard would be instances where “we tax things in another place,” for example, fuel tax. Another example would be “instances where we have entities that are providing a service that if they did not exist and the service were not provided, the government would have to provide that service at a cost to taxpayers anyway.” This principle would come into play with the elderly dependent credit and the youth and rehabilitation credit. These are social services that may have to be provided by Health and Welfare if they weren’t provided by those nonprofit organizations. Another issue would be those that are impractical to enforce, for example, yard sales. Another area is the double taxation issue with regard to production. Another consideration would be the area of what are essential goods and services; we want to create as little deterrent as possible for people getting medical care, food, etc. for themselves.

Representative Killen said his focus would start with how much money is at stake. He would then rank them by dollars and by metric, i.e., “Are they susceptible to being measured in some sort of quantitative fashion?” Is it a direct or indirect consequence, or is it more subjective? He believes this would be relatively easy to measure given the data already available. The next step would be to rank according to “sensitivity to change.” For example, eliminate those that cannot be changed, constitutional requirement, etc. Then, rank the rest on a scale of 1, 2 and 3. Three being, “highly unlikely they would be changed by....in our lifetimes.” One, “they are susceptible to change.” Two, “either we don’t know or we don’t care.” He said that the final approach would be to take the ones that are subject to measurement that have the biggest dollar value and work the way up the list.

Senator Corder agreed with putting sunsets on some of the items. He would like to come up with a defining process. For example, with regard to property tax, “What is it we think...property tax should pay for.” “And then good tax policy would resolve as it refers to property tax.” He said that good tax policy should also involve what rates we are willing to accept. He said he is not sure of all of the implications there will be, negative and positive. “Some of these results will be counterintuitive to what we, sitting here today, think they might be.” He believes the focus needs to be on the process of evaluation for future requests and for what is currently in place. The process of evaluation should be consistent, using good sound principles and using necessary sufficient data.

Representative Raybould referred to the capital gains issue, where people in other states are using Idaho's capital gains for their benefit, as well as getting that kind of relief from their own state taxes. He stated that we need to look at how some of these items could be "tightened up" to the original purpose of the statute rather than be eliminated. He suggested the possibility of "tweaking" the law; for example, with regard to land sales, to put in place a requirement that the only one eligible for the capital gains benefit would be someone who has owned the property for a period of ten years or so.

Senator Hill agreed there needs to be some kind of benchmark or measuring standards and he is just as interested in future legislation as what is currently on the books.

Senator Stegner commented that he would like to significantly reduce the number of exemptions and achieve a lower rate. He stated the direction the economy is moving toward is broadening the tax base. But he doesn't think the state, the legislature or the people are ready to address taxing services. He would hope that there would be some direction about personal property tax coming out of this committee. He would like to see a standard process of evaluation and a system of policy setting developed that will be ongoing. He said that the youth and rehabilitation credit is a worthwhile project but the dollar value attached to that is too high and needs to be reviewed.

Senator Siddoway said he would like to add the corporate headquarters investment credit and real property improvement credit to the list. He said that as the committee moves through the process, his assumption is that it is everyone's intent that this is either revenue neutral or provides savings to the taxpayer and the state. He suggested establishing a standard criteria to follow with a scoring system, which would remove subjective consideration away from the issues. He commented that with the decline in the agriculture industry, and some of the problems they have faced, there seems to be an element of unfairness to those sectors who have to maintain the same level of property tax that other entities do, such as the prospering service and tourist industries. He suggested taking a look at providing supplements, etc., through expenditures in appropriations rather than through exemptions.

Senator Langhorst agreed with what others have said which is to gather up concrete ideas for specific bills that people may have between now and October, and then possibly brainstorm at that time. He suggested the idea of a subset of this committee, with an objective and an open forum that would include the Tax Commission and others who want to be involved in helping to develop this process, such as a pro and con approach. He is interested in seeing the data on the ITC carryover on the issue of the tax gap. He would also like to see an analysis on the income deductions and credits that addresses the tax gap. He suggested sending the report that had been submitted from Senator Bunderson and the interim tax committee in 2003, to the members for their review. Data from the religious and charitable deductions could be reviewed. He suggested that as this process unfolds that everyone continue this data gathering through email and mail.

Mr. Nugent informed the members that the report from Senator Bunderson's committee is on the legislative website. **Mr. Nugent** explained that some states have sunset laws which do not deal with sunset tax, but with sunset agencies. These agencies have a sunset staff that, every five or seven years, performs an evaluation on that agency. He suggested that both he and **Eric Milstead**, Attorney, Legislative Services Office, could research some of these states and look at the criteria

they use.

Senator Hill referred to the issue that has been brought up of whether we are here to raise revenues for the state or come up with a revenue neutral approach, or taxpayers' savings at the end of this interim committee. He expressed to **Mr. Nugent** that he would like him to look into other states for types of criteria and measuring standards used. **Senator Hill** recognized **Representatives Killen** and **LeFavour's** ideas which related to specific issues that could be considered for review. He asked that all of the ideas and specific issues of the members be emailed to **Mr. Nugent** in the Legislative Services Office. He suggested that as the members look through the list that they identify which ones they are most interested in reviewing, in order to help narrow down the scope. He asked if any member had a specific bill, appropriate for this committee to suggest, that they get them to **Mr. Nugent**.

Representative Lake stated that he would suggest that the original seventeen exemptions in Title 63 not be included in this process. He proceeded to give his selections under the sales tax expenditures section. He named lodging, eating and drinking places and snow grooming and ski lifts to be subject to review. He said the corporate headquarters construction exemption should be eliminated. He would like to review vending machines and amusement devices and telecommunications equipment. He said that continued discussion needs to take place with regard to Indian reservations. Sales by outfitters and guides also needs review.

Senator Langhorst referred to the corporate headquarters construction exemption. He said that we tend to incentivize parts of the economy that are shrinking and the jobs for which do not pay a good wage. There are sideboards that require certain salaries and a certain amount of investment, even though it has not been used yet, there will be a net gain to the state when it is utilized. He asked, "what are we doing as a state to incentivize the kinds of businesses that pay well and that are growing?" With regard to the plight of agriculture, he asked, "Are our tax incentives...used for incentives, or for rewards, or are they a rescue mission?" With regard to property tax, he said he thinks improvements can be made to the speculative portion of the value of agriculture land. He referred specifically to Valley County and those that enjoyed the ag exemption for an ongoing time. He would suggest that the ag exemption be applied specifically to ag land.

Representative Raybould commented that one of the conclusions that came out of the interim committee in 2003, was that everyone of the seventeen exemptions under Title 63 remain valid. **Representative Raybould moved that the original seventeen exemptions under Title 63 be left out of the discussions at this time and focus on the remaining exemptions. Representative Lake seconded the motion.** There was discussion on the motion.

Some of the concerns, regarding the motion, were expressed as follows: This would tie our hands and will take options off the table; the evaluation process will take care of itself; discussions over the production exemption would be very valid in considering it as an offset to the personal property tax; removing these exemptions from consideration at this late hour is not a good idea; this would impede discussions on how to help agriculture and businesses survive and grow. Some of the comments in support of the motion were: the probability that there will be no change to these

original seventeen; eliminating them from the discussions would allow more time for reviewing those that remain.

The motion failed on a tie vote.

In responding to **Senator Hill's** request, **Mr. Nugent** said that he will forward information on to the Co-chairs and members as soon as he receives it.

Senator Corder moved that each committee member submit to Mr. Nugent suggested criteria for making a determination of the value of each of the exemptions and secondly that each committee member identify exemptions, credits, deductions or exclusions that need closer review. Representative Killen seconded the motion.

There was discussion on the motion. **Senator Corder** restated the motion to read **that each committee member submit to Mr. Nugent criteria for evaluating exemptions, credits and deductions or exclusions.**

On a voice vote, the motion passed unanimously.

Senator Stegner stated that if any suggestions were made that would generate revenue, some kind of offsetting in rate would be expected; whatever it would take to make it revenue neutral. He felt the following motion was in order. **Senator Stegner moved that any suggestions that this committee forward that might result in the elimination of exemptions, that it would be the intent of the committee to assume there would be an offset reduction in overall tax rates for the citizens of the state. Senator Corder** seconded the motion.

There was discussion on the motion. The motion was changed to read that **any suggestions that this committee forward that might result in the elimination of exemptions over \$10 million, that it would be the intent of the committee to assume there would be an offset resulting in overall tax savings for the citizens of the state.**

By voice vote, the motion passed unanimously.

The meeting was adjourned at 2:50 p.m.