

Senate Local Government & Taxation Committee

Minutes
2010



MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** January 13, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, Senators Corder, McKague, Jorgenson, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** Senators Stegner and McKenzie
- CONVENED:** **Chairman Hill** called the meeting to order at 3:00 p.m. on Wednesday, January 13, 2010 with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** **Chairman Hill** welcomed the Committee members and those attending the meeting. He introduced Danni Petersen, Page for the Local Government and Taxation Committee for the first half of the Second Regular Session of the Sixtieth Idaho Legislature. **Ms. Petersen** responded with a few brief remarks.
- Chairman Hill** announced that there will not be a committee meeting on Thursday, January 14th; Vice Chairman Heinrich will be assigning responsibilities for the rules today; and, there will be a tour of the Idaho State Tax Commission (ISTC) on Thursday, January 21st during the regularly scheduled meeting time.
- Vice Chairman Heinrich** assigned the responsibilities for each of the pending rules as follows:
- Docket #35-0101-0901 (p.2) - Income Tax Administrative Rules - **Senator McKague.**
 - Docket #35-0201-0901 (p.118) - Tax Commission Administration and Enforcement Rules - **Senator Corder.**
 - Docket #35-0201-0902 (p.134) - Tax Commission Administration and Enforcement Rules - **Senator Stegner.**
 - Docket #35-0102-0901 (p.37) - Idaho Sales and Use Tax Administrative Rules - **Senator Werk.**
 - Docket #35-0109-0901 (p.109) - Idaho County Option Kitchen and Table Wine Tax Administrative Rules - **Senator McKenzie.**
 - Docket #35-0112-0901 (p.114) - Idaho Beer Tax Administrative Rules - **Senator Jorgenson.**

Docket #35-0103-0902 (p. 61) - Property Tax Administrative Rules -
Senators Bilyeu and Heinrich.

Docket #35-0103-0903 (p.134) - Property Tax Administrative Rules -
Senators Bilyeu and Heinrich.

Chairman Hill reviewed the meaning of “assigned responsibilities” as reading all of the rules and addressing any questions or concerns prior to the rules being presented at the committee meeting.

Senator Werk asked if the committee meetings would be televised.
Chairman Hill responded that permission had been granted for audio transmission.

There being no further business, the meeting was adjourned at 3:20 p.m. until Tuesday, January 19, 2010 at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: January 19, 2010

TIME: 3:00 p.m..

PLACE: Room WW53

MEMBERS PRESENT: Chairman Hill, Vice Chairman Heinrich, and Senators McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu

MEMBERS ABSENT/ EXCUSED: Senator Stegner

CONVENED: **Chairman Hill** called the meeting to order at 3:03 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: January 13, 2010 **Vice Chairman Heinrich** moved to accept the January 13, 2010 minutes as written. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.

Chairman Hill turned the gavel over to **Vice Chairman Heinrich** to conduct the rules review.

Vice Chairman Heinrich introduced **Janice Boyd**, Idaho State Tax Commission (ISTC) to present the various administrative rules.

Docket No. 35-0101-0901 Income Tax Administrative Rules

Rule 075 includes tables that identify the income tax brackets for the year and removes tax year 2004 and adds tax year 2009 to provide for a five-year history.

Rule 173 states that Trusts and Estates are added in addition to S Corporations and Partnerships. These entities are affected by capital gains pass-through rules.

Rule 201 is being amended to modify how a taxpayer can make an election to forego the net operating loss carryback by removing the option to attach the federal election. The rule also clarifies what happens when the statute of limitations expires on the carryback year.

Vice Chairman Heinrich asked if a form was developed to make that election. **Ms. Boyd** responded that there is a box on the income tax form.

Chairman Hill asked for the effective date. **Ms. Boyd** said it is to be effective for the 2010 taxable year to be filed in 2011. **Chairman Hill's** concern is adding another step the taxpayer has to do. 80-90 percent of the time, if the election is made on the federal return, the taxpayer also wants to make that election on the state return. They had to affirmatively opt out. In this case, they have to make an election to do the same thing. Is that correct? **Ms. Boyd** responded that it would require the taxpayer to do something other than just attach the federal election. The purpose is to avoid situations where the taxpayer doesn't want to make the state election but is attaching their federal return including the election thus inadvertently making the election for the state.

Rule 252 is being amended to provide nonresidents with general rules on how deductions should be calculated when computing Idaho adjusted gross income. The rules were restructured so there would be broad categories of deductions and how those would be computed for Idaho purposes. Specific federal deductions were added.

Rule 273 provides that the unemployment compensation for nonresidents is sourced to the state that paid it.

Rule 450 adjusts and modifies the apportionment formula for intercompany transactions to be consistent with other rules.

Rule 570 applies to the sales factor for outside sales on real property for multi-state corporations. This change will simplify calculations for taxpayers by sourcing commissions related to real property to the state where the real property is located.

Rule 640 relates to water's edge elections where the election of one qualified corporation within the water's edge group binds the other corporations including those added in future years.

Rule 641 is related to a water's edge group and states that the filing of a protective 1120-F return by itself will not constitute the filing of a federal return for purposes of the water's edge combined report.

Rule 700-701 applies to credit for taxes paid in another state and allows a resident trust or estate an income tax credit for taxes paid to other states. It also includes an explanation about income subject to tax by both states.

Rule 711 refers to investment tax credits and fixes terminology that was obsolete. Subsection 04 relates to when an investment tax credit can be claimed for leased property.

Rule 765 states that if a taxpayer receives a bio infrastructure grant, he/she has to reduce that qualified investment by the amount of the grant. This provision is provided in the statute that allows for the grant rather than in the statute that refers to the credit to raise awareness of the requirement.

Rule 771 addresses the grocery credit and provides for the increased amount of \$10 for 2009.

Rule 824 corrects terms and deletes obsolete information relating to the tax paid by an S corporation.

Rule 874 changes the due date for filing W-2's to the last day of February providing time to verify information prior to issuing refunds.

Senator McKague asked if the public would be advised of this change. **Ms. Boyd** stated that the information would be on the website and in mailers sent to account holders. **Senator McKague** suggested that it would be helpful to issue announcements since some people do not use computers. **Ms. Boyd** responded she would advise the revenue and operations staff of that concern. **Senator Hill** inquired if that change would be for 2010 W-2s? **Ted Spangler**, ISTC, said the changes become effective upon conclusion of the legislative session so the change affects 2010 payrolls reported on W-2's in 2011.

Rules 940, 943, 944, and 945 are being modified due to statutory changes that extended the Small Employer Act of 2005. Rule 940 can not go beyond 10 years; Rules 943, 944, and 945 address specific income tax credits and identify when the credit is allowed and change the 2010 date to 2020.

Senator Hill referred back to Rule 201, p. 11 under d. "If a carryback year is closed due to the statute of limitations, the net operating loss carryback shall not result in a refund for the closed taxable year" and asked if that constitutes a change in policy. **Ms. Boyd** stated that this is not a change in policy, the carryback is currently applied this way.

Vice Chairman Heinrich called on **Mr. Spangler** to introduce the next two rules.

Tax Commission Administration & Enforcement Rules

Docket No.
35-0201-0901

Mr. Spangler explained that the Administration and Enforcement Rules govern procedures that are common across tax types. The Commission has committees that develop these rules. However, there are two rules that were developed directly under the supervision of the Tax Commissioners and were not developed by **Ms. Boyd's** committees.

Rule 500 is a rule on compromise and closing agreements. This is brought as a temporary rule to allow for changes that might be requested by the two legislative tax committees. The rule sets out the four areas in which the Tax Commission will consider settling a case at something less than the amount that is being negotiated. Those are cases of disputed liability, doubt as to collectability, economic hardship, or promotion of effective tax administration. Also, the word compromise was replaced with the term "settlement."

Senator McKague asked how garnishments could be levied without notice and gave an example. **Mr. Spangler** could not be specific to that case but the procedure is for taxpayers to receive multiple notices with efforts to contact people as well as opportunities to enter into payment agreements. Usually, garnishing wages is a last resort action. They would be happy to further investigate upon receiving a request on behalf of that constituent.

Senator McKague asked if the Tax Commission had knowledge of what a

taxpayer earned during an investigation. **Mr. Spangler** responded that they had the information from the returns. Part of the information requested when setting up an agreement entails completing basic financial information forms similar to applying for loans. This provides a basis to determine what a taxpayer can pay.

Senator Werk referred to an issue related to transparency that isn't covered in this rule. Are there efforts on the part of the Commission to make the process more transparent? Will a report be provided to the legislature on these activities? **Mr. Spangler** replied that transparency and reporting is the subject matter of the next rule to be discussed.

**Docket No.
35-0201-0902**

Rule 501 is a result of SB1128 which addressed the issues of transparency and process and set out specific criteria by which settlement agreements are made. It also required that the Tax Commission promulgate administrative rules. The transparency provisions apply when the settlement amount at issue exceeds \$50,000. The staff must prepare a settlement summary and that summary must be on file. The last item in the rule addresses the final review process and the written summary.

**Docket No.
35-0201-0901**

Ms. Boyd continued with Rule 005 correcting the address of the new Twin Fall's field office.

Rule 200 concerning examination of books and witnesses and discovery was repealed and replaced with Rules 200-204. As a result of a public hearing, the Federation of Tax Administrators Model Recordkeeping and Retention Regulation was adopted and inserted as part of these new rules which have requirements for the Tax Commission as well as the taxpayer.

Vice Chairman Heinrich asked for a definition of hardship and provided an example where the cost of copying checks amounted to \$2700 for a constituent. **Ms. Boyd** answered that unless there was an alternative source of documentation, that would not be considered a hardship. **Vice Chairman Heinrich** asked if random sampling of checks could be used. **Ms. Boyd** said there are times when they do a sampling. **Vice Chairman Heinrich** asked if the decision was made by the individual auditor. **Ms. Boyd** answered yes, in conjunction with the department supervisor.

Senator Corder inquired if all of these same requirements would apply if there was a fuel tax audit. **Ms. Boyd** responded that these applied to all types of taxes. **Senator Corder** was encouraged that agreements could be reached on different forms of electronic media. Some electronic records are not acceptable. **Ms. Boyd** answered that, not being familiar with fuel tax, there are general guidelines for recordkeeping. **Mr. Spangler** stated that there are provisions for fuel tax in the documents and for other jurisdictions. Reasonableness is an issue that is dealt with in the administrative protest from the auditors actions and must be resolved in those discussions.

Rule 310 states that the rate applied to Revenue Ruling for CY 2010 will be 5%.

Rule 320 clarifies "perfected protest" and defines "unperfected protest."

Rule 704 identifies the different disclosure agreements and adds the Alcohol Beverage Control Bureau of the Idaho State Police to the list.

Vice Chairman Heinrich asked for any questions. **Chairman Hill** requested that voting on the rules be held until all the rules are heard. The Committee agreed. **Vice Chairman Heinrich** thanked **Ms. Boyd and Mr. Spangler** and concluded the review of the rules for this meeting.

Chairman Hill announced that there would be a tour of the Tax Commission on Thursday and transportation would be provided.

ADJOURNMENT: There being no further business, **Chairman Hill** adjourned the meeting at 4:13 p.m. until Wednesday, January 20, 2010 at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: January 20, 2010

TIME: 3:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, and Werk

MEMBERS ABSENT/ EXCUSED: Chairman Hill and Senator Bilyeu

CONVENED: **Vice Chairman Heinrich** called the meeting to order at 3:10 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Vice Chairman Heinrich introduced Jim Husted, Idaho State Tax Commission (ISTC) who will present the administrative rules. **Senator Werk** stated that he appreciated the time Mr. Husted spent with him to review and explain the rules.

Docket No.
35-0102-0901

Idaho Sales and Use Tax Administrative Rules

Rule 012 specifically defines contractors and retailers and who should or should not collect sales tax.

Rule 037 is amended to conform with the 2009 legislative changes that HB 10 made to *Section 63-3621, Idaho Code* and SB 1098 made to *Section 49-102, Idaho Code* regarding aircraft transporting freight or passengers.

Rule 094 corrects a conflict with statutory language in *Section 63 3622O(1)(1), Idaho Code* related to zoo and museum exemptions.

Rule 107 strikes the tire pressure requirement for ATVs and to adjust the new resident exemption to include privately owned aircraft and off-road vehicles bringing the rule into conformity with the statute.

Vice Chairman Heinrich asked if a sole proprietor transferred assets to a LLC, is sales tax paid on those items? **Mr. Husted** stated that there is a complicated exemption that applies to transactions like that. Most of the time those items are exempt.

Rule 128 clarifies what is meant by "taxable as a matter of law" involving a valid Sales Tax Exemption Certificate. The rule gives extensive descriptions, examples, and definitions of what is exempt and what is not

and who is responsible for collecting and paying the sales tax. The responsible party is probably the one that is appealing.

Rule 136 is amended to state that after a developer has identified the location and boundaries of the shopping center; identified the qualifying retailers; and, has met the expenditure requirements, the Commission will start depositing 60% of the sales tax revenue from the center into the Demonstration Pilot Project Fund. The language and expenditure requirements have been written to conform to the 2009 changes in the statute.

Docket No.
35-0109-0901

Idaho County Option Kitchen and Table Wine Tax

Rule 016 is being amended to allow for quarterly, semiannual, and annual returns for distributors and wine direct shippers who are remitting small amounts (<\$600/period) of tax. This option was made available when HB 012 was enacted in 2009.

Docket No.
35-0112-0901

Idaho Beer Tax Administrative Rules

Rule 017 is being amended to allow for quarterly, semiannual, and annual returns for beer wholesalers who are remitting small amounts (<\$600/period) of tax. This option was made available when HB 012 was enacted in 2009.

Senator McKenzie noted that the annual filing only applies to those who have a record of already complying. If a seasonal operation opens, does a monthly report have to be filed for a certain period of time before a record of compliance is established? Then can an application to file other than monthly be considered? **Mr. Husted** stated that has been the practice.

Vice Chairman Heinrich thanked **Mr. Husted** for his presentation and reminded the Committee of the tour on January 21st. Transportation will be available in the parking lot across from the West end of the capital building at 3:00 p.m.

ADJOURNMENT:

There being no further business, **Vice Chairman Heinrich** adjourned the meeting at 3:30 p.m. until Thursday, January 21, 2010 at 3:00 p.m. for the tour.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** January 21, 2010
- TIME:** 3:00 p.m.
- PLACE:** Idaho State Tax Commission
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, and Senators McKenzie, Corder, Jorgenson, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** Senators Stegner, McKague and Werk
- CONVENED:** Idaho State Tax Commission at 800 Park Blvd., Plaza IV, Boise, Idaho
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** **Commissioner David Langhorst** welcomed the Local Government and Taxation Committee and other Legislative members to the Idaho State Tax Commission and gave a brief overview of what the Commission is doing and what processes would be viewed during the tour. **Commissioner Langhorst** introduced **Commissioners Chigbrow, Haws, Katsilometes** and other members of their staff.
- The tour started with the mailroom where all incoming mail is x-rayed and opened—2.1 million transactions. Between 67-70 percent of tax filings are electronic.
- All paper returns are put through three imaging machines that can distinguish between checks, types of filing, and whether partial, full, or no payments are included. Checks and paperwork is then balanced. Hard copies are held six months and then destroyed. All images are available on line the next day.
- There are several levels of revenue collection efforts ranging from the highest to the lowest. However, each one has specific areas of concentration. The fastest, the phone power unit, has 14 operators that cleared up to 70% of the collection cases from all tax types. They handle approximately 10,000 calls inbound and outbound and use an automated dialing system. Taxpayers returning calls will talk with a live person. Statistics indicate \$29.0 million collected, which is an average of \$2.0 million per person and 5,483 cases closed over the last year.
- The other levels cover all tax types and each level graduates to more difficult cases. They cover collections for unfiled taxes and returns and include field representatives that make "house" calls. Each representative carries an electronic notebook that locates the taxpayer, puts them in

order via mapping, and accesses all information about that taxpayer. Twenty-nine representatives handle 244 cases, each representative collecting an average of \$765,900.

Randy Tilley, Manager of the Audit Group, explained the various functions and areas of expertise for that group. Education is available for small startup businesses and there is a contract desk that assists out-of-state contractors operating in Idaho.

The Tax Discovery Unit finds individuals and businesses that have not filed. These collections average about \$1.0 million/person/year. A growing area is voluntary disclosure where unknown businesses are coming forward to file returns on a voluntary basis.

There are about 9,000 claims per year in unclaimed property returning approximately \$3.5 million back to taxpayer owners.

Commissioner Langhorst recapped the past year stating that the Commission has focused on revenue. Unit and division managers provided input to help with ways to raise revenue for the state.

The 31 part-time employees approved for rehire by the 2009 legislature raised \$7.5 million in revenue. The \$1.5 million dollar expenditure from the Governor's fund resulted in \$10.0 million in revenue.

The tour ended with a question and answer period. **Chairman Hill** thanked the Commission for their time.

ADJOURNMENT: The Committee returned to the capitol and adjourned at 4:30 p.m. until Tuesday, January 26, 2010 at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: January 26, 2010

TIME: 3:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, and Bilyeu

MEMBERS ABSENT/ EXCUSED: Senator Werk

CONVENED: **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Hill announced a change in the order of the agenda and asked **Senator Jorgenson** to introduce RS19315.

RS19315 Relating to Sales and Use Taxes to provide for proposed legislation regarding the Streamlined Sales and Use Tax project.

Senator Jorgenson opened his remarks by calling attention to an article in the Idaho Statesman dated January 26 2010 titled: *The Internet: another growing tax loophole*. "Idaho will lose an estimated \$35.1 million in sales taxes on online sales in 2010...." This is certainly a concern. This bill does not create the actual act of charging sales tax on internet sales, but allows Idaho to enter into an interstate conclave with 23 other states, including surrounding states, that are in the process of identifying ways to remedy this problem. In reality, this can only be remedied by the U. S. Congress because it is an Interstate Commerce Commission (ICC) issue.

Senator Jorgenson requested that RS19315 be sent to print.

MOTION: **Senator Heinrich** moved to send RS19315 to print. **Senator Bilyeu** seconded the motion.

VOTE: The motion carried by unanimous voice vote.

Chairman Hill excused **Senators Heinrich and Jorgenson** to attend another meeting.

Gubernatorial Confirmation *David Langhorst - Gubernatorial Appointment to the Idaho State Tax Commission.*

Chairman Hill welcomed **Commissioner David Langhorst**.

Commissioner Langhorst gave a brief overview of his background and how he arrived at the point of his appointment by the Governor.

Commissioner Langhorst stated that he had learned to enjoy tax policy when he served as a Senator on this Committee. Because of this interest, **Commissioner Langhorst** pursued this appointment. His experience in non-profit management, private business as a sole proprietor, and as a member of the legislature provided a basis for his appointment to this job.

Commissioner Langhorst introduced his wife, Christine, and Chairman Royce Chigbrow and Commissioner Sam Haws from the Idaho State Tax Commission (ISTC). He continued, stating that the experience at ISTC has been very positive. This job will always be a learning experience—it is a process and one of the pleasures of being in this position.

Commissioner Langhorst humbly requested the Committee's support for this confirmation.

Senator Stegner welcomed Commissioner Langhorst and stated that this will be a positive move to have someone who has served as a member of this Committee and now is a member of the ISTC. There has been some publicity that you are advocating for an increase in the number of auditors for the collection of taxes. Could you explain the potential related to that general area?

Commissioner Langhorst stated that the word "advocate" might be a little strong. With the state of the economy as it is right now, it is incumbent upon us to define what we know about the taxes that are owed to the state, and, what we are and are not collecting or better known as the "tax gap." There is a need to define "the realm of possibilities" and how fully functioning the Tax Commission is. **Commissioner Langhorst** is associated with this idea because his areas of responsibility include communications and outreach. We have not taken a position of advocating that the legislature or the governor should or should not fund any dollars to expand this area.

The tax gap is defined as how much is collectable. Those figures, shown on our website, state that the total tax liability under current law is estimated to be \$414.0 million that is not coming in voluntarily; that is the amount of the tax gap. Audit, collections, and compliance efforts are ongoing and currently about \$164.0 million is being collected in a given year. The question is: How much more of that tax gap could be collected in a cost effective way? It is estimated that \$64.5 million could be collected. The message is, this is where we would be if we had a full, functioning Tax Commission. An important point is that the Tax Commission does not have to stand for election and the political ramifications are something the legislature and the governor have to deal with. That is why decisions related to funding are left in the hands of the policy makers.

Senator McKague provided an example of someone who had wages

garnished without notification. Is that a pattern for the Tax Commission? **Commissioner Langhorst** responded that no, that is not a practice. There are many reasons that could happen. There are many steps taken before getting to the point of garnishment. It is not the intention to harass people, they need to collect in all fairness to other taxpayers. **Senator McKague** commented that we should keep in mind that times are hard and there needs to be some give and take.

Chairman Hill said that was a point well taken. **Commissioner Langhorst** agreed.

Senator Bilyeu commented that **Commissioner Langhorst** is missed on the Committee and asked when a new revenue forecast will be received? **Commissioner Langhorst** responded that the first day of the month is the target for a preliminary figure and then final numbers will be available within the first week of February.

Senator Corder stated that, in most cases, the Committee does not know the person applying so assessments are made only on what they hear. In this case, we know you and miss you but if you can't be here, we are glad you are at the Tax Commission. Problems will be resolved through open and frank discussions.

Chairman Hill thanked Commissioner Langhorst for appearing before the Committee along with the other commissioners. The confirmation will be voted on at the next regularly scheduled meeting. **Chairman Hill** introduced **Mark Warbis** from the Governor's Office. **Mr. Warbis** stated that the Governor's Office is very pleased with this appointment. **Commissioner Langhorst** has proven to be an able commissioner and one who is very responsive not only to the executive branch, but to the legislative branch, and the taxpayers.

ADJOURNMENT: There being no further business, **Chairman Hill** adjourned the meeting at 3:28 p.m. until Wednesday, January 27, 2010 at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: January 27, 2010

TIME: 3:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Hill, Vice Chairman Heinrich, Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu

MEMBERS ABSENT/ EXCUSED:

CONVENED: **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

GUBERNATORIAL VOTE: **David Langhorst** - Confirmation to the Idaho State Tax Commission.

MOTION: **Senator Werk** moved to send the gubernatorial appointment of **David Langhorst** to the Idaho State Tax Commission to the floor with the recommendation that it be confirmed by the Senate. **Senator Bilyeu** seconded the motion. The motion passed by unanimous voice vote.

Chairman Hill passed the gavel to **Vice Chairman Heinrich** to continue with the rules review.

Vice Chairman Heinrich introduced **Alan Dornfest**, Idaho State Tax Commission (ISTC), to present the Property Tax Administrative Rules.

Property Tax Administrative Rules

DOCKET NO. 35-0103-0902 Rule 006 updates references to appropriate and current editions of guides and professional standards used to determine the value of certain property.

Mr. Dornfest explained that this rule is amended each year to update references to various publications used by the ISTC.

Rule 126 clarifies the property tax certification program.

Mr. Dornfest stated that this is a correction to show the intent of the certification requirement for a property tax appraiser. **Senator Bilyeu** asked if Courses 102 and 201 used the income approach to value. **Mr. Dornfest** said that 102 uses the income approach but 201 is a land valuation course.

Rule 217 is being restored to address market value without reference to section 42 low income properties. Those assessments are being written in Rule 220.

Mr. Dornfest explained that Rule 217 deletes the language related to section 42 and moves it to Rule 220. Rule 217 is now a better definition of general market value.

Rule 220 is a new rule that explains how to appraise section 42 properties.

Mr. Dornfest stated that Rule 220 is new and replaces an expired temporary rule. The rule provides definitions and procedures regarding the appraisal for section 42 properties. Included in the rule are: Procedures regarding required taxpayer information; capitalization rates and reporting mechanisms; and the formulas used for the cost approach. **Senator Bilyeu** asked **Mr. Dornfest** to elaborate on the appraisal of land for the section 42 properties. **Rich Anderson**, ISTC, responded that the question of land is not addressed in the rule other than in the examples for economic obsolescence in the cost approach.

Kirt Peterson, Horizon Developers of Idaho, testified in support of the rule.

Chairman Hill stated that his interpretation of the asset management fees referred to in the statute would apply to fees paid to independent parties. However, the rule specifically defines the asset management fee as “an annual fee paid to the limited partners.” What asset management fees are paid to limited partners as opposed to third parties? **Mr. Peterson** responded that the asset management fee is somewhere between \$2,500 to \$5,000 paid to an individual to inspect a property onsite once a year. Sometimes, a limited partner will contract with a third party to do the inspection. **Chairman Hill** explained that the statute was specific about not including general partner fees. Could a general partner be a 1% limited partner, pay those fees out through that limited partner interest, and get a deduction because the rule specifically states they are deductible? **Mr. Peterson** said that there is no record an asset management fee has been used in that way. Such fees are called administrative fees or management fees and are specifically excluded from this rule.

Rule 225 is being amended to require the ISTC to notify the urban renewal agency of the pending dissolution of a Revenue Allocation Area.

Mr. Dornfest stated that this rule involves documentation regarding urban renewal areas. Urban renewal agencies must dissolve after 24 years or in the case of urban renewal agencies with bonds outstanding, after 30 years. The ISTC does not have records of those agencies with outstanding bonds. This rule adds the reporting requirement. **Senator Bilyeu** asked if there is a current list of all the Revenue Allocation Areas (RAAS) in the State. **Mr. Dornfest** said they do have a list of those areas but they don't know which areas have bonded indebtedness. **Senator Bilyeu** asked if RAAS are notified at the time they are to dissolve. **Mr. Dornfest** answered that they are notified one year prior to that time. **Senator Bilyeu** asked that if an RAA was formed and then later extended or if there was a change in the

boundaries, which date would be used to dissolve the RAA. **Mr. Dornfest** responded that the original date would be used.

Senator Heinrich asked if there was a requirement that the ISTC would be notified of the bonded indebtedness for each taxing jurisdiction. Are RAAS exempt from that list? **Mr. Dornfest** stated he was not aware of any statute or requirement. The ISTC does not necessarily know about the total bonded indebtedness, they only know the annualized amount.

Senator Heinrich referred back to Rule 225 section 04 about obtaining three comparable sales for a valuation. What if there are not three sales? **Mr. Anderson** explained that the rule provides that if there are not three sales, then three other market, non-section 42 sales may be used.

Senator Bilyeu asked if an RAA was in existence and it was going to be dissolved, could a bond be put in place to extend the time another 30 years? **Mr. Dornfest** answered that it would only extend the time period by the number of years to a total of 30 years.

Rule 302 is being amended to explain eligibility for the exemption application for taxable personal property.

Mr. Dornfest said this rule dealt with a provision of H599 related to the personal property partial exemption. That statute was modified last year so the rule had to be modified to allow a taxpayer to file a list for the first filing and an affidavit attesting that they have <\$100,000 in taxable value for subsequent years. Once the exemption is received for the affidavit option, the affidavit must be filed annually showing an aggregate value of the property. The use of the affidavit is prohibited when the applicant for the personal property exemption is also claiming the qualified investment exemption on the same property. **Senator Bilyeu** asked who provides the affidavit form. **Mr. Dornfest** said there is no guidance in the rule as to the form. The affidavit and what it should contain is specified in statute. **Senator Bilyeu** asked if depreciation of personal property occurs, does the reimbursement to the counties also decrease. **Mr. Dornfest** stated that would be correct, but would increase with new additions.

Rule 317 sets January 1 as the date to establish the market value for determining the occupancy value upon which the tax is based.

Mr. Dornfest explained that this rule came into being because of the declining markets over the period of a taxing year. The question is: Do I pay tax on the July 1st value which is lower or do I pay on the higher January 1st value? Research revealed that everything related to property tax is based on January 1st and so current practice is to also tie this issue to January 1st. This rule codifies that procedure.

Rule 609 is being amended to require the Assessor to notify the ISTC of those who have erroneously claimed the homeowner's exemption.

Mr. Dornfest stated that county assessors can seek restitution on erroneous homeowners exemptions. Some clients that are not qualified for homeowner exemptions are also ineligible for circuit breaker benefits. This

rule asks the county assessor to notify the ISTC so they can make an informed decision about eligibility for the circuit breaker benefit.

Rule 626 is being amended to provide the reporting process that enables the taxpayer to file an affidavit in lieu of a personal property declaration.

Mr. Dornfest stated that this is an administrative rule and a companion rule to Rule 302 above. It outlines the procedures for taxpayers when there are multiple properties in multiple locations. **Chairman Hill** asked for further clarification on the penalty. Is that just for the year they don't file? **Mr. Dornfest** concurred. However, there is another provision that they have to receive the exemption in order to use the affidavit. If they miss a year, they have to start over with a new application.

Rule 802 is being amended to state the process regarding new construction when a taxing district annexes parcels.

Mr. Dornfest admitted that the rule is confusing. The issue arises when a taxing district gets an additional allowance when they annex and change their boundaries. They also get a similar budget allowance when they have construction. Those cannot be counted twice. If there is an annexation with a new building in it, the statute states that there cannot be an allowance for both. Also, if the annexation includes a RAA of an urban renewal district, it is improper to use the increment value of the RAA in calculating the new budget. Only the base value can be used in the calculation.

Senator McKenzie stated that if a revenue allocation district with significant construction is annexed into a district and additional services must be provided, yet the budget only includes the base value. Can you comment on the policy behind that? **Mr. Dornfest** explained that in the past, new construction within RAAS was counted toward the budget calculations of taxing districts. Where there is a large amount of construction in an area, and the taxing district takes advantage of that, the end result is high tax rates. The dilemma was solved a few years ago with legislation requiring that new construction within a RAA is accountable until the RAA dissolves and then the taxing district gets a lump sum. That obviously doesn't help them provide services in the meantime but it does prevent tax shifting.

Rule 988 requires that the personal property declaration form be filed for taxpayers who are eligible for, and expect to receive, the benefit of the Qualified Income Exemption (QIE).

Mr. Dornfest said this rule is consistent with the provisions of H83 and Rules 302 and 626 and basically states "designated property on which the QIE is selected may not file the annual affidavit." The specific amount must be reported, not just an aggregate amount. **Senator Bilyeu** asked how many QIEs have been used in the last year or two. **Mr. Dornfest** stated that they track the dollar amount and there are 15 or 16 counties reporting at least some dollars on their abstract. The total number of taxpayers is unknown.

Rule 989 amends the definition of the due date irrespective of any income tax extensions that may have been granted.

Mr. Dornfest stated that this rule is also regarding the QIEs and the due date for the remittance of the recapture payments. The statutes indicate that the due date is the date of the return regardless of any extension that was granted.

**DOCKET NO.
35-0103-0903**

Rule 801 is being amended to provide and explain the formula to compute the voter test and the proper handling of urban renewal increment value.

Mr. Dornfest explained that plant facility fund levies can be used by schools, library districts, and community college districts. The question was, can the district have a Cooperative Service Agency (COSA) plant facility fund if they also have a regular plant facility fund? Prior to H253 passing, there had been a restriction in plant facility fund statutes that a district could only have one plant facility fund precluding COSA funds being established. Based on H253, that was clearly not the intention. Also, a new formula was established for tiered voter approval to assure that the funding was voter approved. With regard to plant facility funds, the district can go to the voters to get dollar amounts adjusted.

Rule 804 is being amended to include schools with longer than two year temporary supplemental funds. The Cooperative Service Agency (COSA) funds are to be in the list of funds to be left in the base when computing levies for taxing districts encompassing urban renewal RAAS.

Mr. Dornfest related that this is a very small change in distributions to urban renewal agencies. Any temporary supplementals that are longer than two years will be treated the same. The COSA plant facility funds will not generate revenue for urban renewal agencies. COSA was also added to the list of plant facility funds. **Senator Bilyeu** asked about the difference between regular plant facility funds and COSA plant facility funds. **Mr. Dornfest** explained that a new statute allows the formation of COSA funding. At this time there are none.

Vice Chairman Heinrich thanked **Mr. Dornfest** for his expertise and patience in presenting the rules.

Chairman Hill reported that he had some concerns with the Income Tax Rule 201. After some investigation, those concerns have been resolved for now.

MOTION:

Senator McKenzie moved to approve the following dockets:

35.01.01 - Income Tax Administrative Rules

Docket No. 35-0101-0901

35.01.02 - Idaho Sales and Use Tax Administrative Rules

Docket No. 35-0102-0901

35.01.03 - Property Tax Administrative Rules

Docket No. 35-0103-0902

35.01.03 - Property Tax Administrative Rules

Docket No. 35-0103-0903 .

***35.01.09 - Idaho County Option Kitchen and Table Wine Tax
Administrative Rules***

Docket No. 35-0109-0901

35.01.12 - Idaho Beer Tax Administrative Rules

Docket No. 35-0112-0901

35.02.01 - Tax Commission Administration and Enforcement Rules

Docket No. 35-0201-0901 .

35.02.01 - Tax Commission Administration and Enforcement Rules

Docket No. 35-0201-0902

Senator Bilyeu seconded the motion. The motion carried by unanimous voice vote.

Vice Chairman Heinrich announced that the rules review has been completed and returned the gavel to the chairman.

Chairman Hill thanked **Vice Chairman Heinrich** and all those who helped with preparing, presenting and providing support to bring these rules before the Committee.

Chairman Hill introduced and welcomed Susan Mason, a professor from Boise State University who is teaching a new class, *Cities in the Metropolitan Century*.

ADJOURNMENT: There being no further business, the meeting was adjourned until Thursday, January 28th at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** January 28, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, Senators McKenzie, Corder, McKague, and Jorgenson,
- MEMBERS ABSENT/ EXCUSED:** Senators Stegner, Werk and Bilyeu
- CONVENED:** **Chairman Hill** called the meeting to order at 3:05 p.m. on Thursday, January 28, 2010 with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** **Chairman Hill** called for action on the minutes of January 19, January 20, and January 21.
- January 19** **Senator Jorgenson** moved to accept the January 19, 2010 minutes as written. **Senator McKenzie** seconded the motion. The motion carried by unanimous voice vote.
- January 20** **Senator McKenzie** moved to accept the January 20, 2010 minutes as written. **Senator McKague** seconded the motion. The motion carried by unanimous voice vote.
- January 21** **Senator McKenzie** moved to accept the January 21, 2010 minutes as written. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.
- GUBERNATORIAL CONFIRMATION:** *Lyle R. Cobbs - Confirmation of Appointment to the State Board of Tax Appeals*
- Chairman Hill** introduced Steve Wallace, Hearing Officer, Board of Tax Appeals (Board). **Mr. Wallace** introduced **Lyle Cobbs**, Chairman, who brings an extensive amount of experience in real estate, construction, and property management to the Board. In their absence, **Mr. Wallace** acknowledged the other members; **David Kinghorn** from Eastern Idaho with experience in appraisal and property tax assessment and **Linda Pike** from Northern Idaho who came from a rural background and is a practicing attorney and, in attendance, **Cindy Polluck**, a staff member who assists as a hearing officer when needed. All members participate in all cases bringing together different backgrounds that are similar but

unique providing for a balanced Board.

Vice Chairman Heinrich requested a brief comparison of the number of hearings over the last few years and asked if there is sufficient staff to handle these cases. **Mr. Wallace** said it has been record setting at over 1,000 appeals per year for the last four years involving about 28-30 counties each year. The first priority is hearing/deciding cases but they also have other duties. It is difficult to meet deadlines because they do not have a full staff.

Chairman Hill introduced **Mr. Cobbs**.

Mr. Cobbs stated that this is his fifth term. He has been appointed to this position by four different governors. **Mr. Cobbs** served in the House for two terms and then served in the Senate and was Chairman of the Local Government and Taxation Committee for three terms. **Mr. Cobbs** provided a handout outlining his background.

Mr. Cobbs stated they have heard 1,030 cases so far this year and over half have been modified or repealed. The members of the Board and the Director, Susan Renfro, are the best in the State. **Mr. Cobbs** asked for any questions.

Senator McKenzie asked if, from the perspective of a Board member, is handling that many cases is interfering with the ability of the Board to be able to act in a timely manner and give each case the attention that is needed. **Mr. Cobbs** said they are getting attention. They go to the place of residence, they have hearings, and they meet with the assessors and others as needed. It takes at least two hours for each hearing. They have 3-5 hearings each day. There is a problem when dealing with recreational areas. Land values have increased causing an increase in taxes that are beyond the means of the people living there.

Senator Heinrich asked if the increase in appeals was related to the validity of the property values or are the taxpayers more astute? **Mr. Cobbs** responded that it is probably the result of declining values while taxes are not going down.

Senator Corder inquired if the Board provided information about resources available to people who are at risk of losing their homes that would help them through that crisis. **Mr. Cobbs** stated that the Board had to be very careful in providing advice. Taxpayers have to get advice from their accountants and attorneys.

Chairman Hill requested an explanation of the process the taxpayer goes through before the case gets to the Board. **Mr. Cobbs** responded that they go to the county assessor to appeal the decision on the assessed valuation then can go to the Board of Equalization. The next step is an appeal to the Board of Tax Appeals. **Chairman Hill** questioned why, after appealing through the county and the Board of Equalization, a taxpayer would go on to the Board. **Mr. Cobbs** explained that a taxpayer goes to the assessor and the Board of Equalization where a number of those cases are settled. The cases that are not settled are the ones the assessor is certain about and those are the ones the taxpayer brings to

the Board.

Senator Corder asked what role the staff plays in preparing a case for the Board. Does staff give you a summary or do you do a more in depth study? **Mr. Cobbs** answered that the assessor and the taxpayer both bring a vast amount of information with them and present it to the Board. The Board can then come to a fair valuation. Most of the recent issues stem from decreasing market values.

Chairman Hill thanked **Mr. Cobbs** for his service on the Board and his years of public service throughout his lifetime. The vote on the confirmation will be on Tuesday, February 2nd.

ADJOURNMENT: There being no further business, **Chairman Hill** adjourned the meeting at 3:26 p.m. until 3:00 p.m. on Tuesday, February 2, 2010.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: February 2, 2010

TIME: 3:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Hill and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu

MEMBERS ABSENT/ EXCUSED: Vice Chairman Heinrich

CONVENED: **Chairman Hill** called the meeting to order at 3:02 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Senator McKague** moved to accept the January 26, 2010 minutes as written. **Senator Werk** seconded the motion. The motion carried by unanimous voice vote.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Jorgenson** moved to send the gubernatorial appointment of **Lyle Cobbs** to the State Board of Tax Appeals to the Senate floor with the recommendation that it be confirmed by the Senate. **Senator Bilyeu** seconded the motion. The motion passed by unanimous voice vote.

REVIEW RULE NO. 136: **Chairman Hill** introduced **Ted Spangler**, Idaho State Tax Commission (ISTC), to explain the reconsideration of the Sales and Use Tax Administrative Rule No. 136 (Rule 136).

Mr. Spangler explained that the ISTC discovered an error in Rule 136 relating to the Sales Tax Anticipation Revenue Program allowing a developer of a shopping center to pay for the construction of a highway improvement and then receive reimbursement by diverting part of the sales tax revenues from the stores within that development back to the developer.

Legislation passed last year provided clarification of when the revenue would be diverted to the developer. This legislation states that the funds are to be diverted into the Pilot Project Fund (PPF) when the developer certifies that he has: (i) identified the project, (ii) identified qualified retailers making sales within the complex, and (iii) included verification that expenditure requirements have been met. That revenue is to be held in the PPF until such time as (iv) the developer can provide certification from the Idaho Department of Transportation that the required amount was expended on the approved transportation improvements related to the

retail complex. At that time, the developer can draw upon those funds held in the PPF.

Rule 136 erroneously says there will be no diversion to the PPF fund until the project is completed. That is contrary to the intent of the statute. The ISTC is diverting revenue in compliance with the statute.

Chairman Hill asked Mr. Spangler what his preference would be to correct the error. **Mr. Spangler** explained several options, i.e. temporary rule, engage in regular process to correct the rule, reject the rule and rewrite it, or amend the rule and correct it. Whatever the choice, it won't change how the Tax Commission processes those revenues.

MOTION: **Senator Stegner** moved to reconsider Docket No. 35-0102-0901, Idaho Sales and Use Tax Administrative Rule No. 136. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.

Chairman Hill announced that Rule 136 was up for further consideration.

MOTION: Based on the report from the ISTC, the rule is in error and does not represent the procedures and policies of the ISTC or the statute, **Senator Stegner** moved to reject Docket No. 35-0102-0901, Idaho Sales and Use Tax Administrative Rule No. 136. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.

H 382 **RELATING TO INCOME TAX: TO PROVIDE AMENDMENTS AND ADDITIONS TO IDAHO CODE CONCERNING PASS-THROUGH ENTITIES.**

Mr. Spangler distributed a handout with a technical explanation of H 382. This bill changes the approach to taxing income earned for pass-through entities. **Mr. Spangler** reviewed the way pass-through entities work for both federal and state law and how, under current law, the ISTC deals with non-resident owners of pass-through entities.

The focus is on income earned by a pass-through entity in Idaho passing through to a non-resident owner's personal return and the requirement to pay Idaho income tax on that Idaho source income. When this pass-through entity generates the only Idaho source income for the non-resident owner, an election is provided to have that income reported by the pass-through entity on its return and the entity pays tax on that income.

Senator Stegner asked if Idaho is the only state that allows that election. **Mr. Spangler** responded that Idaho is not. Idaho differs when the non-resident owner does not make the election and does not file an Idaho return. Idaho statute says that if there is no election made and the owner does not file a return and pay the tax, the entity is responsible for that tax. The problem arises when the entity does not know they have this liability. H 382 proposes to eliminate that possibility. If the owner makes that election, then the entity must withhold Idaho income tax, eliminating the contingent liability. The non-resident owner must file a return to claim that withholding. About 25 states have withholding requirements for pass-through entities.

Mr. Spangler defined a pass-through entity for purposes of this bill, and then described the process. There were two questions raised about the bill. (1) Should there be some sort of *de minimis* exception? The ISTC intends to include such an exception in the rules and in the tables that will be prepared. (2) Should a non-resident owner be excused from the withholding requirement if an affidavit is filed? ISTC believes that such a provision would significantly undermine the major purpose of the bill. If a return is not filed voluntarily, it is difficult and costly to try to collect.

Chairman Hill referred to “back up withholding” and asked how withholding can occur if there is no distribution? **Mr. Spangler** said something must be paid in order to withhold. Eventually, there will be some distribution. **Chairman Hill** agreed; but it may not always be in the same calendar year. H 382 says tax will be paid on the owner’s “share of any income, loss, deduction or credit.” It doesn’t show any requirement that there must be a distribution. **Mr. Spangler** explained that this is the section dealing with the election. If the election is made, the distribution would be included on the entity’s return and taxes would be paid. The withholding is outlined in *Section 3, 63-3036B*. **Chairman Hill** said that is the problem, the two sections refer to each other and neither mentions distribution.

Chairman Hill asked what would happen if there was a distribution but the K-1 indicated that the entity had a loss. Would there be back up withholding? **Mr. Spangler** responded that if there was withholding, the owner could (1) elect to be included on the entity’s return, or (2) file a return and get it back. **Chairman Hill** provided a scenario with a capital gain deduction where distributions were made. Will the full rate be withheld? **Mr. Spangler** said that would be addressed in rules. **Chairman Hill** stated that clarification will be made in rules which would go into effect before the legislature gets a chance to review them. Is that a concern? **Mr. Spangler** responded that it should not be a problem because practitioners and taxpayers will be involved as the rules are developed.

Senator Stegner asked how the election will be made. Depending on who receives the election form, how does the other party get notified? **Mr. Spangler** stated that the election is not filed with the ISTC and a specific process is not prescribed, it is between the owner and the entity. ISTC finds out about the election when the entity files a return that shows taxes are being paid or a K-1 is issued. **Senator Stegner** stated that the burden is on the entity to have the elections on file and do the withholding or they will have to pay the liability. **Mr. Spangler** concurred. **Senator Stegner** asked if the real purpose of H 382 is to have leverage on the taxpayer to file an Idaho return. **Mr. Spangler** stated it changes the focus of the leverage to fit the practice of other states and to resemble what practitioners are familiar with now.

Senator McKenzie stated concerns with the varying definitions of income. **Mr. Spangler** said the reason they refer to “share of income” is that some of the entities are multi state so out of the total income, only a share of it is Idaho source income. **Senator McKenzie** reiterated that income is referred to between different sections and subsections but is not clearly defined.

Senator Jorgenson asked if there was a specific problem that caused the ISTC to bring this bill before the legislature and if so, can that be quantified? **Mr. Spangler** said that there are frequent problems regarding non-resident owners not filing returns and this has been identified as part of the tax gap. The fiscal note shows potential collections of \$500,000 for the first year. That may be conservative.

MOTION: **Senator McKenzie** moved to send H 382 to the Senate floor with a do pass recommendation. **Senator Stegner** seconded the motion.

Discussion: **Senator Jorgenson** asked **Chairman Hill** what his position was on this issue since it is in his area of expertise. **Chairman Hill** commended the ISTC for this effort but it seems to have some flaws. Discussion of wages and the share from the pass-through entity presents a problem. Distribution needs to be clarified separate from income, losses, deductions, and credits. **Chairman Hill** stated that the intention is well meant, it is a very difficult piece of legislation and he would have to oppose it as it stands now.

Mr. Spangler asked if those concerns could be worked out. **Chairman Hill** responded that, from his standpoint, absolutely.

Senator McKenzie is not adverse to a substitute motion. It is not fair that the entity should have an unknown liability.

Senator Stegner suggested holding the bill until new language can be written.

SUBSTITUTE MOTION: **Senator Stegner** made a substitute motion to hold H 382 temporarily subject to the call of the Chair. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.

H 388 **Dan John**, Idaho State Tax Commission, stated that H 388 comes from the ISTC. The bill makes two changes to the *Income Tax Act*. It **only** affects the *Income Tax Act*. This bill addresses a capital gain exclusion for certain property that has been in code since 1986 and relates to real property held for at least 12 months. The problem is that there is no definition of "real property" in the *Idaho Income Tax Act*. This bill proposes a definition of "real property" as "land and other tangible property permanently upon or affixed to the land." This is the way the ISTC has interpreted the law for the last 24 years.

The second change deals with the *Idaho New Jobs Credit*. The term "revenue-producing enterprise" appears in the *Idaho New Jobs Credit Statute* and in the *Idaho Long Term Capital Gains Statute*. Both had the same definition. The *Idaho New Jobs Credit Statute* was repealed in 1996 for a period of time. In the year 2000, it was reintroduced but it contained a slightly different definition of "revenue-producing enterprise." This change caused confusion for taxpayers. The object is to repeal the current definition of "revenue-producing enterprise" and replace it with the original definition found in the *Idaho Long Term Capital Gains Statute*. It is a much better definition and easier to understand.

Senator Bilyeu requested clarification for the words “upon or affixed” in the definition of real property. **Mr. John** stated that it emphasizes that items must be permanently placed.

MOTION: **Senator Corder** moved to send H 388 to the Senate floor with a do pass recommendation. **Senator Werk** seconded the motion. The motion carried by unanimous voice vote.

ADJOURNMENT: There being no further business, the meeting was adjourned at 4:22 p.m. until Wednesday, February 3, 2010.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** February 3, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- CONVENED:** **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- Chairman Hill** introduced **Dan John and Ted Spangler** from the Idaho State Tax Commission (ISTC) to present the bills on today's agenda.
- H 380** RELATING TO INCOME TAXES: AMENDMENTS TO SPECIFY CERTAIN FILING DATES AND TO ALLOW THE IDAHO STATE TAX COMMISSION SOME FLEXIBILITY IN SETTING FILING DATES
- Mr. John** said that H 380 is related to information returns or 1099s. There is not a specific due date in statute for filing information returns. This bill adds a due date that is the same as the one used by the Internal Revenue Service which is on or before the last day of February. This bill also gives the ISTC the authority to write rules to prescribe a different due date but no earlier than the last day of February.
- MOTION:** **Senator Werk** moved to send H 380 to the Senate floor with a do pass recommendation. **Senator Heinrich** seconded the motion. The motion carried by unanimous voice vote. **Senator Werk** will carry the bill on the Senate floor.
- H 381** RELATING TO INCOME TAXES: TO CLARIFY DEFINITIONS OF "NET OPERATING LOSS" PROVIDING THAT THOSE LOSSES WILL SURVIVE A MERGER IN CERTAIN CONDITIONS
- Mr. Spangler** stated that this bill does not change the state income tax law. It only puts ISTC practices and the existing rule into statute. The bill will permit a net operating loss (NOL) carryover to survive a merger. See the handout provided for a technical explanation.
- MOTION:** **Senator Jorgenson** moved to send H 381 to the Senate floor with a do pass recommendation. **Senator McKenzie** seconded the motion.

Discussion: **Senator Stegner** asked **Chairman Hill** if there were problems when Idaho statute referred to other federal or state provisions of the law by number if those provisions or numbers were to change. **Chairman Hill** responded that the Internal Revenue Code stays stable. If a section is repealed, the number is not reassigned.

The motion carried by unanimous voice vote. **Senator Jorgenson** will carry the bill on the Senate floor.

H 384

RELATING TO MOTOR FUELS TAXES: TO PROVIDE FOR CORRECT CODE REFERENCES

Mr. John explained that H 384 is based on actions taken late in the 2009 session amending the definition of "motor fuel" to include ethanol, ethanol blends, and other blended fuel effective July 1, 2010. Other sections were amended to update the cross references and make the effective date retroactive to July 1, 2009.

MOTION:

Senator McKenzie moved to send H 384 to the Senate floor with a do pass recommendation. **Senator Stegner** seconded the motion. The motion carried by unanimous voice vote. **Senator McKenzie** will carry the bill on the Senate floor.

H 385

RELATING TO UNCLAIMED PROPERTY: AMENDMENTS TO ALLOW THE ADMINISTRATOR DISCRETION WITHIN THE LIMITS OF THE LAW WHEN PROCESSING UNCLAIMED PROPERTY

Mr. Spangler stated that H 385 is not really a tax bill but deals with unclaimed property. This bill addresses four areas of administration: 1) An estate where there are no heirs and the County Treasurer becomes the administrator. At the end of five years, the property is disposed of and the funds transferred to the public school permanent endowment fund. 2) Anyone reporting unclaimed property must, if there are ten or more transactions, report electronically. 3) When the ISTC receives physical property rather than funds as unclaimed property, there is a change in the time limits for disposal of the property. ISTC is authorized to use their discretion rather than a set period of time. 4) Allows the ISTC discretion to waive interest and penalties.

Senator Jorgenson asked if the 12% interest rate was usurious at this point in time. **Mr. Spangler** responded that the interest rate was in the uniform act that was adopted and there has never been any action taken to change it.

Senator Corder asked why a holder of unclaimed property would argue with the ISTC about who it belonged to and could that contention extend long enough to go beyond the compliance time period. **Mr. Spangler** said that there is not an issue of ownership but of requirements and holding periods. Controversies do arise occasionally. If someone is out of compliance but acting in good faith, then the same standard would be applied as for tax purposes except in the case of interest. Interest cannot be waived for tax purposes but both interest and penalties can be waived for unclaimed property.

Senator Heinrich questioned the requirement to file electronically for those that do not have that capability. **Mr. Spangler** answered that individuals cannot be holders, it would have to be a business. If they didn't have that capability, they would fall into the provision of waiving penalties for good faith effort if they could not do the report. That would probably be a very rare circumstance.

Senator Bilyeu inquired about the length of time it takes for the county treasurer to report to ISTC and when does the five year period begin. **Mr. Spangler** stated that the report would be made at the conclusion of the probate proceedings when the court order is entered and the property escheats to the state of Idaho. That is also when the five years begin.

MOTION:

Senator Heinrich moved to send H 385 to the Senate floor with a do pass recommendation. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote. **Senator Heinrich** will carry this bill on the Senate floor.

Senator Bilyeu asked about comments made by Commissioner Chigbrow to JFAC regarding interstate transactions and the tax gap. **Mr. Spangler** said that, to his knowledge, the discussion revolved around when a resident sells real property on an installment basis and reports it for federal and state tax purposes then becomes a non-resident. That person continues to report on a federal return but loses connection to Idaho and does not report that income to Idaho. Conversations have occurred regarding tools that are available to close that tax gap.

Chairman Hill stated that capital gains is taxable in the state of Idaho. It is an administrative problem in collecting from those people who have moved out of the State. Legally, a non-resident should be reporting that income in Idaho. **Mr. Spangler** agrees. However, some attorneys have said that the state no longer has jurisdiction over a non-resident's income. **Chairman Hill** asked if those same tax lawyers take the position that non-resident owners selling property outright, not on an installment basis, are not subject to Idaho tax on that sale. **Mr. Spangler** answered that the state would have jurisdiction in the year of the sale.

Chairman Hill stated a concern about the effect of the capital gains exclusion for Idaho non-residents and how the amount of that tax is divided between Idaho and another state. It becomes a constitutional issue when trying to tax non-residents differently than residents. **Mr. Spangler** agreed that it was an issue.

ADJOURNMENT: There being no further business, **Chairman Hill** adjourned the meeting at 3:45 p.m. until Thursday, February 4th at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: February 4, 2010

TIME: 3:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu

MEMBERS ABSENT/ EXCUSED:

CONVENED: **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES:

January 27, 2010 **Senator Jorgenson** moved to accept the minutes for January 27, 2010 as presented. **Senator Bilyeu** seconded the motion. The motion carried by unanimous voice vote.

January 28, 2010 **Senator Corder** moved to accept the minutes for January 28, 2010 as written. **Senator McKenzie** seconded the motion. The motion carried by unanimous voice vote.

RS19380 RELATING TO SINGLE COUNTYWIDE HIGHWAY DISTRICTS TO PROVIDE ADDITIONAL REQUIREMENTS FOR A VEHICLE REGISTRATION FEE RESOLUTION.

Senator Bock stated his appreciation for the adjustment to the agenda. In 2008 there was a ballot measure for a vehicle registration fee increase and a constituent called attention to the language that was not in a neutral format. There is a general rule requirement that neutral language should be used when stating a proposition. Research showed that the one exception was Ada County Highway District (ACHD). This bill requires that ACHD should use neutral language.

Chairman Hill asked, why is the same section with the same language in the same bill being amended? **Senator Bock** explained that these are amendments to the statutes that cover different periods of time.

Senator McKague asked if this came about because ACHD initiated a ballot to raise registration fees. **Senator Bock** said the bill came about because a constituent raised a question about the language in the ballot.

However, Senator Bock pursued that concern because it is good government for all propositions to be neutral.

MOTION: **Senator Werk** moved to send RS19380 to print. **Senator Bilyeu** seconded the motion. The motion carried by unanimous voice vote.

RS19425 RELATING TO CERTAIN AMBULANCE DISTRICTS TO CLARIFY A SPECIAL TAX LEVY

Senator Heinrich stated that two county commissioners from Washington County brought a dilemma to his attention regarding a small ambulance district in their area. Research revealed that the district was formed in 1976 and singled out in legislation that said "if an ambulance district was formed prior to January 1, 1976, they could use a levy rate of .10 instead of any other levy rate which normally, for ambulance districts, is .04. They have used the .10 rate since that time. Last year the ISTC identified a longstanding error, 4-5 years, showing that the district's value had exceeded \$300,000,000. The effect of the ISTC's interpretation of the statute reduced the levy rate to .04, reducing income by about \$87,000 out of a request of \$267,000. This legislation corrects and maintains the original interpretation of the legislation. The ISTC is certain that this change only affects the one ambulance district.

Senator Werk expressed interest in understanding the original framing of this language and what alternatives might be available in the future if the district fell into other areas of funding. This discussion can occur when the bill comes back.

MOTION: **Senator Stegner** moved to send RS19425 to print. **Senator Werk** seconded the motion. The motion carried by unanimous voice vote.

Chairman Hill announced that the State Tax Commissioners will be giving their report on Tuesday.

ADJOURNMENT: There being no further business, **Chairman Hill** adjourned the meeting at 3:16 p.m. until Tuesday, February 9, 2010 at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** February 9, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- CONVENED:** **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- Chairman Hill** welcomed the Idaho State Tax Commissioners to present their annual report to the Committee:
Chairman Royce Chigbrow
Vice Chairman Sam Haws
Commissioners: Tom Katsilometes and David Langhorst
- Commissioner Chigbrow** introduced the Commissioners and Dan John, Legal Services. **Commissioner Chigbrow** outlined the activities of the Idaho State Tax Commission (ISTC) over the last year. All agencies and business units were directed to do a self analysis of the services they provide. The analysis was to include their involvement with statutes, rules, policies and determine how many employee hours were expended for each function. Measurements were established with a focus on process improvement. Some employees were moved to provide more effective service and generate additional revenues. Departments were combined for efficiency, and software was improved that resulted in a savings of 14,000 employee hours that could be redirected to collection activities. Improvements in phone collection services will produce approximately \$1.2 million of revenue each year. This is a work in progress and efforts will continue to be reviewed on a quarterly basis to improve and change the culture at ISTC.
- Senator Werk** asked about the progress for improving transparency and accountability. **Commissioner Chigbrow** responded that efforts have been made to address transparency. Each commissioner is copied on all emails. There is a monthly open business meeting and the agenda is published, weekly meetings are conducted, compromise cases include discussions with auditors and all pertinent staff.

Chairman Hill inquired about the State Refund Fund. Are those funds used to make refunds when sufficient revenues haven't been received? **Commissioner Chigbrow** answered that yes, those are reserve funds and at the end of each quarter the fund is replenished to keep it at a certain level.

Chairman Hill welcomed **Commissioner Haws**.

Commissioner Haws reported on ISTC's reorganization. As part of that process, the division administrators were asked to review their processes and, at the same time, look at one another and see what could be fixed. As one of the results, the unclaimed property program was transferred to the Treasurer's Office. In most states, unclaimed property programs are handled by the state treasurers. Two activities that tie the unclaimed property program to the Treasurer's Office are: 1) Third party contracts for the sales of securities and 2) conducting state audits.

Chairman Hill welcomed **Commissioner Katsilometes** as the next speaker.

Commissioner Katsilometes presented the Five-Year Appraisal Progress Report that is required by law to be given to the governor and legislators each year. All but one of the counties has met the 35% threshold for physical inspections. An inspection rate of 100% is required over a 5-year period. If the threshold is not met, ISTC may attach sales tax revenue and hire appraisers to do those inspections. **Chairman Hill** asked how often does sales tax have to be attached. **Commissioner Katsilometes** said that it has only happened once during the last five years.

Senator Bilyeu suggested that indexing with good data should be adequate for valuing properties every year. **Commissioner Katsilometes** agreed. They also use a mass appraisal program that is somewhat better than indexing. The appraisal process involves \$125.0 billion worth of property assessments every year for residential, commercial, industrial, and other types of properties resulting in \$1.3 billion in collections by the counties. Adequate levies and budgets must be set so they don't go over the 3% limit set by statute.

Internet services have been improved to expand the ability to remotely dial into counties to train county personnel and trouble shoot data and program problems resulting in savings in dollars, staff time, and travel. The Circuit Breaker Program is now a web-based source with a secure application developed by the Technical Support Bureau for the property tax section. All of these changes have resulted in multiple cost savings, saved hundreds of hours, and improved county support.

Senator Heinrich asked why the growth in the maximum income for the Circuit Breaker has remained at \$28,000 for the last three years. **Commissioner Katsilometes** responded that the amount is set by statute and there haven't been any requests for increases. **Senator Heinrich** asked if the ISTC provided any support to programs other than Manatron. **Commissioner Katsilometes** answered that they support

seven counties on Manatron, three counties use their own support for Manatron, and they support one other mass appraisal program. ISTC also has its own program. **Senator Heinrich** stated that it has been suggested that appeals have increased since the introduction of Manatron because many appraisers do not understand how the value is derived. Are there educational programs for appraisers? **Commissioner Katsilometes** explained that ISTC conducts a school each winter and fall to assist the assessors with that program.

Senator Bilyeu requested information about the centrally assessed properties. **Commissioner Katsilometes** said that when the different assessments are made for those utilities and an increase occurs, they can end up with an appeal. Some are happy with the appraisal, some are not. **Senator Bilyeu** asked about the railroads. **Commissioner Katsilometes** responded that the railroads are up. Last year they withstood a significant increase but accepted the assessments. Cars, trackage, and mileage have increased.

Senator Heinrich asked if the 20% increase applied to commercial appraisals as well as residential. **Commissioner Katsilometes** said that it does.

Chairman Hill welcomed **Commissioner Langhorst** back.

Commissioner Langhorst explained that the "tax gap" was the very first thing he was introduced to when he joined the ISTC. **Commissioner Langhorst** quoted *Idaho Code Section 63-105(3)* that outlined the requirement for a tax research section and its powers and duties. The quote was to emphasize that the ISTC was not in the policy making arena but it is their job to do research. Any revenue department should want to analyze activities and assess effectiveness.

Commissioner Langhorst outlined the contents of two attachments: 1) Idaho's Tax Gap, 2009 and, 2) STC Business Plan - Compliance Initiative FY2011. Both reports are "living documents" showing what can be done when funding and staffing is available.

Senator Stegner asked for clarification about the timing. Will that \$9.9 million in investment go into effect for fiscal year 2011? **Commissioner Langhorst** answered yes; there are many permutations that this could take, i.e., phased in or funded up front. The budget shows that the \$9.9 million investment will raise \$64.5 million. **Senator Stegner** inquired if that was a linear number. **Commissioner Langhorst** said it is a curve because it reflects marginal utilities. The earlier cases are the easiest and then it costs more money for the tougher cases. There are some cases that are uncollectible so there will always be a tax gap. **Senator Stegner** asked if there would be a tax gap from year to year.

Commissioner Langhorst responded that it would be ongoing. As collection efforts occur, voluntary compliance increases empirically so the tax gap will shrink. **Senator Stegner** referred to past years and the possibility of going back three years and collecting more money.

Commissioner Langhorst agreed that they could go back three years and could go back an unlimited number of years for non-filers. There is

an unlimited number of cases to pursue depending on the limit of the resources.

Chairman Hill asked if a comparison of those collections made by ISTC versus those where information came from the IRS were recorded.

Commissioner Langhorst said that breakdown is available and can be provided. The most recent cases were related to compliance issues.

Senator Heinrich asked if records show how much of the \$64.5 million relates to income, sales, and corporate collections. **Commissioner Langhorst** answered that the allocations are available but they are estimates.

Senator Bilyeu asked how funding could occur in FY2011.

Commissioner Langhorst explained that the Governor received \$7.5 million in discretionary funds from the budget stabilization fund. Out of that, the ISTC received \$1.5 million. That money was used to hire additional staff and by January, that investment had a return of \$5.8 million. Using the same time frame, 2011 funding would affect 2011 revenues. **Senator Bilyeu** stated that if money is not available, the budget cannot be set at that figure. **Commissioner Langhorst** said that the hypothetical situation does assume that funds will be available to carry out the program. Whether the funding is phased in or there is a "chunk" of money, the revenues projected would accrue in the year the program was in existence.

Chairman Hill thanked the Commissioners for their report. It helped to understand the ISTC's challenges as well as contributions to the citizens of Idaho.

MINUTES:

Senator McKague moved to approve the minutes for February 2, 2010 as written. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.

ADJOURNMENT:

There being no further business, **Chairman Hill** adjourned the meeting at 3:50 p.m. until Wednesday, February 10th at 3:00 p.m. There will not be a meeting on Thursday.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: February 10, 2010

TIME: 3:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, McKague, Jorgenson, Werk, and Bilyeu

MEMBERS ABSENT/ EXCUSED: Senator Corder

CONVENED: **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Senator Bilyeu** moved to accept the minutes of February 3rd as written. **Senator Heinrich** seconded the motion. The motion carried by unanimous voice vote.

H 382- Reconsideration RELATING TO INCOME TAX: TO PROVIDE AMENDMENTS AND ADDITIONS TO IDAHO CODE CONCERNING PASS THROUGH ENTITIES.

Ted Spangler, Idaho State Tax Commission (ISTC) revisited H 382, a bill relating to non-residents and how they pay tax on Idaho source income. Current law provides for an election to have income reported by the entity on an informational return. If that election is not made, the non-resident is required to file a return and pay the tax. If they do not, then the entity is held liable for that tax. This bill proposes to change that system.

The option for the non-resident to file an election to have income collected by the entity and paid by the entity would be maintained. The proposed change in H 382 says that if the election is not made, the entity is not responsible for the potential liability.

Also, H 382 was not clear about what determined a distribution. It is not necessarily the entire amount of income passed through to the owner. New language to amend H 382 clarifies how withholding on distributions is determined.

Chairman Hill asked if the payment requirement for the entity is the same as all other withholding requirements. **Mr. Spangler** responded that they were.

MOTION: **Senator Werk** stated his appreciation to **Mr. Spangler** for making these clarifications and moved to send H 382 to the 14th Order for possible amendment. **Senator Heinrich** seconded the motion. The motion carried by unanimous voice vote. **Chairman Hill** will sponsor the bill on the Senate floor.

Chairman Hill concluded the meeting and announced that there would not be a meeting on Thursday, February 11th but there is a full agenda for Tuesday, February 16th.

ADJOURNMENT: There being no further business, the meeting adjourned at 3:11 p.m. until Tuesday, February 16th at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** February 16, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- CONVENED:** **Chairman Hill** called the meeting to order at 3:05 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** **Senator Jorgenson** moved to accept the minutes of February 4th as written. **Senator Heinrich** seconded the motion. The motion carried by unanimous voice vote.
- GUESTS:** **Chairman Hill** introduced his wife, Julie; his sons Justin, who is living in Atlanta, GA, and Michael who lives in Vermont.
- RS 19535** RELATING TO REVENUE AND TAXATION TO PROVIDE FOR ANNUAL REVIEW OF CERTAIN EXEMPTIONS AND FOR THE EXPIRATION OF CERTAIN EXEMPTIONS.
- Senator Winder** brought RS19535 before the Committee for approval to send it to a privileged committee for printing. This legislation attempts to establish some incentives to do an annual review of sales and use tax exemptions. This could be a way to have leadership and/or germane committees review the exemptions on a five year rotation that would eliminate the need for an interim or special committee.
- Senator Corder** stated his appreciation for this attempt although it has been tried many times before without success.
- Senator Bilyeu** asked how many exemptions would be reviewed in each of those five years. **Senator Winder** said that would have to be determined by the committee. There are about 100 so it could be divided evenly or by time constraints and need. The idea is to review each one.
- Senator Werk** said there is a Senate bill that places expiration dates on exemptions. How would a committee be established? **Senator Winder** responded that the Statement of Purpose (SOP) states that the Senate

and House Leadership would make that determination. **Senator Werk** asked if there was language in statute to provide guiding authority. **Senator Winder** responded that when the RS was developed the criteria would be that it meet the requirements of existing codes.

Senator Stegner stated that he would not oppose the print request but it may be a different matter when the bill came before the Committee.

**UNANIMOUS
CONSENT
REQUEST:**

Senator Stegner asked for unanimous consent to send RS 19535 to a privileged committee for printing. There being no objections, **Chairman Hill** so ordered.

S 1319

RELATING TO AMBULANCE DISTRICTS TO CLARIFY A SPECIAL TAX LEVY FOR CERTAIN AMBULANCE DISTRICTS

Vice Chairman Heinrich stated that this legislation will only affect one ambulance district. The county provided financial information (handout). The change in Section (4)(a), line 39, page 2 changes the word "is" to "had been" to maintain the original mill levy.

Testimony in favor of S1319

Greg Owen, Director of Weiser Ambulance District
Rick Michael, Chairman, Washington County Commission
Roy Mink, Commissioner, Washington County

Chairman Hill asked if the people within the district were aware that their taxes may go down if this change isn't made. **Mr. Michael** said there had not been much feedback but there had been publicity in the newspapers.

Senator Werk directed his remarks to **Vice Chairman Heinrich**. Why was the law originally written as it was? Have conditions changed that would alter the original intent? **Vice Chairman Heinrich** based his response on conversations with past county clerks. The ambulance district could not succeed at a maximum levy rate of .04% so they were granted a rate of .10%. The intent of that legislation was to keep the Weiser Ambulance service in operation. Two years ago the Tax Commission questioned the viability of the continued use of the .10% rate. This legislation codifies the actual practice and allows this district to continue to levy at the .10% rate so they can continue to function.

Senator Stegner referred to the handout and the levy rates that were over .04%. Have those been the rates that have been assessed over the past years and were they assessed outside the boundaries of state law? Current law indicates there is some sort of maximum. Are there other counties that would automatically benefit from this change for a variety of reasons. **Vice Chairman Heinrich** stated that it is the Tax Commission's opinion that there will not be another taxing district this change will affect. If the valuation was adjusted, then other taxing districts may be affected.

Dan John, Idaho State Tax Commission, said that the way the language is stated, it would not affect any other district now or going forward.

MOTION:

Senator McKenzie stated that there is no clear history as to why this limit was set for the Weiser Ambulance District or why the dollar limits were set. Since it doesn't seem to affect other districts **Senator McKenzie** moved to

send S 1319 to the Senate floor with a do pass recommendation. **Senator Werk** seconded the motion. The motion carried by unanimous voice vote. **Vice Chairman Heinrich** will carry S 1319 on the Senate floor.

H 435

RELATING TO SALES AND USE TAX TO PROVIDE FOR A CERTAIN TIME THAT DONATIONS TO, SALES TO, AND PURCHASES BY, CERTIFIED TAX EXEMPT HOMELESS SHELTERS BE EXEMPTED FROM THE SALES AND USE TAX

Representative Durst describes his social agenda as one where faith based and community organizations within the State should have a social services component to complement government services. That is a proper roll and the more engaged in the system they become the less the State has to do. Given the state of our economy for both non-profit and state services, helping homeless shelters by way of some tax relief would be appropriate.

H 435 provides a two year sales tax exemption for 501(c)(3) non profit shelters. This meets a very specific purpose and is for a specific time period. As people are losing their homes, the non-profit community can fill their needs as well as public services and do it for less money,

Senator Jorgenson requested an explanation of the method for determining the fiscal impact. **Representative Durst** stated that there are five qualified homeless shelters in the State of Idaho: City of Refuge in Idaho Falls, Jubilee House in Twin Falls, Boise Rescue Mission in Boise and Nampa, Bonners County Mission in Ponderay, and Interfaith Sanctuary in Boise. The combined total of goods purchased times 6% sales tax is the calculated sales tax amount. This is only the amount affecting the sales tax account. There could be a positive effect for other state agencies as well.

Testimony in favor of H 435

Rev. Bill Roscoe, Boise Rescue Mission

Christine Tiddens, Catholic Charities of Idaho (see attached testimony)

Chairman Hill asked **Ms. Tiddens** if people are being turned away from homeless shelters and what is the basis for turning them away. **Ms. Tiddens** responded that when the beds are full they allow people to sleep on the floor but they cannot provide the social support services that others receive.

Chairman Hill asked **Rev. Roscoe** what percentage of their capacity is filled. **Rev. Roscoe** stated that most of the time 100% of their capacity is filled in the men's facility. They do have the room and resources to accommodate sleeping on the floor so no one is turned away and the same services are available to all who are in the facility. Boise opened 58 new beds in November for women and children so they are just below capacity at this time.

Chairman Hill asked what the annual revenues are for Catholic Charities, how many paid employees were on staff, the number of volunteers, and the highest paid person within Catholic Charities. **Ms. Tibbens** responded that she could get that information for the Committee.

Chairman Hill stated that there are 3,763 charities registered in the State of Idaho and only a few are exempt from sales tax. Why should the organizations contained in this bill be exempt? **Ms. Tibbens** answered that homeless shelters provide the last resort, they are the buffer for people on the street. By helping those people they are saving the State money by keeping them from being arrested or on welfare.

Representative Durst noted that Catholic Charities would not benefit from this legislation since they are not certified as 501(c)(3) shelters. In regard to prioritizing charities, when people become homeless and destitute rates of self medication increase; drugs, alcohol and crime increase resulting in incarceration and other expensive sorts of social remediation. Homeless shelters specifically try to meet that need. The people being served are the most needy. This is worthy – two years at \$15,000 per year will demonstrate that those who have lost homes and jobs will benefit by getting back to being productive citizens. Today, homeless shelters provide many services such as counseling and job training; things that the State would have to provide. These are some very good reasons for passing H 435.

Senator Bilyeau asked who is providing the financing at this time and are there differences in the missions of the various entities providing these services. **Representative Durst** answered that financing comes from private contributions. There could be some federal and state support. The scopes of the missions vary. **Rev. Roscoe** stated that there are differences between the rescue missions and mission shelters throughout the state. The ones in Bonner County, Idaho Falls, Twin Falls and Boise are not federally funded as a primary source of funding. Boise Rescue Mission does not receive any government money. All of these missions are primarily funded by individuals, businesses, churches, and associations.

Chairman Hill expressed appreciation to **Rev. Roscoe** and **Ms. Tibbens** for the work their organizations are doing for the homeless.

Senator Corder commented on the number of difficult decisions the Committee faces when considering exemptions. When an exemption is granted, it means someone else must pay the bill. A few years ago, this Committee took a stand to draw the line on exemptions and over the last three years only two exemptions have made it through the Committee. These people are absolutely needy but there are other folks that will have to pay for this if it is approved. If my constituents choose to pay for it, they will contribute their fair share.

MOTION:

Senator Corder moved that H 435 be held in Committee. **Senator Stegner** seconded the motion.

Senator Stegner stated that these are the toughest issues the Committee faces. There is no doubt that these facilities provide an incredible need to the State. However, there is a fundamental challenge for Idaho and that is basically a lack of a clear policy direction of how we hand out favors of State government. The power of government is to tax or not tax. When we arbitrarily pass individual bills to help individual people, we degrade the system. We should have a policy that defines a service and whether or not

that service should be taxed and not put ourselves in the position of only benefitting friends or those with influence. To continually vote for tax exemptions is not something that can be supported and so I will oppose this bill.

Senator Jorgenson commented that, coming into this session, everyone knew that tough decisions would have to be made. I can't discriminate as to who has the greater need. Thanks to those who do this glorious work. As individuals, it is our responsibility to pick up the burden, it is not my responsibility to determine who should pay more taxes, I will be voting no on supporting this bill.

The motion carried by voice vote.

ADJOURNMENT: There being no further business, **Chairman Hill** adjourned the meeting at 4:20 p.m. until Wednesday, February 17th at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** February 17, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** Vice Chairman Heinrich
- CONVENED:** **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** February 9, 2010
Senator Werk moved to adopt the February 9th minutes as written. **Senator McKague** seconded the motion. The motion carried by unanimous voice vote.
- February 10, 2010
Senator Stegner moved to adopt the February 10th minutes as written. **Senator McKenzie** seconded the motion. The motion carried by unanimous voice vote.
- Chairman Hill** welcomed **Dan John** from the Idaho State Tax Commission (ISTC).
- H 386a** RELATING TO INCOME TAXES: TO REVISE HOW WITHDRAWALS FROM THE STATE COLLEGE SAVINGS ACCOUNT ARE ADDED TO TAXABLE INCOME, TO REVISE THE INCOME TAX CREDIT FOR RESEARCH ACTIVITY, AND PROVIDE A CALCULATION FOR THE INCOME TAX CREDIT FOR CAPITAL INVESTMENT.
- Mr. John** explained that this is a technical corrections bill from the ISTC. The first change applies to Idaho Code that allows for college savings accounts where taxpayers can put money into the account and deduct that amount on their return. The original language says that if a taxpayer makes a withdrawal that is not authorized, the amount must be added back into income. Idaho's law did not consider rollovers. Rollovers were not taxable unless those funds were pulled out for an unauthorized reason and they would have gone untaxed because the ISTC would not have known about them.
- In 2007 the law changed and transfers to another state's plan became

taxable income. In 2008, an attempt was made to lesson the effect of the rollovers so that only the taxable amount was that amount put into the account during the prior 12 months. That was good except, people put in more than the limit that was deductible. This happened in such cases as multiple grandchildren. With the 2008 language, all of the additional monies were taxable even though there had not been any tax benefit from the additional contributions.

This correction says that only the amount that is transferred and was deducted on the tax return must be added into income for prior years.

The second change relates to the Idaho Research Grant. In this section, certain language will be moved to conform to the IRC language.

Section three of the bill deals with the additional tax credit for capital investment within the Small Employer Act. The language is being clarified to say "the qualified investment made during the project period" rather than referring to a taxable year. This also makes the language similar to other similar credits.

The fourth section was changed by amendment in the House to clarify the language about effective dates; the first section is retroactive to January 1, 2008.

Senator McKenzie noted that all the sections deal with different types of taxable income. Single subject rules should not be an issue since all changes are related to the Income Tax Act. **Mr. John** agreed.

Senator Werk asked if the change of the retroactive date to 2008 would result in any change in the fiscal impact. **Mr. John** stated that there will not be much fiscal impact.

Chairman Hill referred to lines 36-37 on page 3 relating to contributions that were rolled over to another state's plan. The only contributions that will be added back are those that were deducted on the return for the year of transfer. **Mr. John** concurred.

MOTION: **Senator Werk** moved to send H 386a to the Senate floor with a do pass recommendation. **Senator Stegner** seconded the motion. The motion carried by unanimous voice vote. **Chairman Hill** will carry H 386a on the Senate floor.

PRESENTATION: In absentia, **Chairman Hill** presented **Page Danni Petersen** with a watch, a letter of recommendation, a letter signed by each Committee member, and an album in recognition of her service to the Committee.

ADJOURNMENT: There being no further business, Chairman Hill adjourned the meeting at 3:19 p.m. until Tuesday, February 23rd at 3:00 p.m. There will not be a meeting on Thursday, February 18th.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: February 23, 2010

TIME: 3:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu

MEMBERS ABSENT/ EXCUSED:

CONVENED: **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Hill welcomed Page Rachael Anderson. **Ms. Anderson** provided an overview of her interests and family.

Chairman Hill introduced representatives from the Jefferson County Montessori School.

H 471 RELATING TO INCOME TAX TO PROVIDE FOR CONSTITUTING CERTAIN INCOME DISTRIBUTED TO BENEFICIARIES OF AN ESTATE OR TRUST AS IDAHO SOURCE INCOME

Robert Aldridge, attorney, brought H 471 before the Committee. There are standard tests made as to when a state may tax income. There are two components: (1) source of the income; and (2) residence of the receiver of income. The source receives the income and the state of residency will get the credit for the taxation paid to the other state on that income to avoid double taxation.

The problem arises when there is a resident estate or trust that is administered in Idaho but the beneficiary is a non-resident and income is from a non Idaho source. Discussions with the Tax Commission have resulted in two bills to fix this problem. One, H 382, identified source income and has already passed through this Committee. H 471 is the second part and adds language; "income distributed to beneficiaries of an estate or trust shall constitute income from sources within this state only to the extent the income would be Idaho source income if such income had been received directly by a nonresident individual." This is a good way to fix the existing problem and will resolve some court and audit cases as well as increase funds to the State by identifying unreported

income.

Senator Jorgenson commented on the reporting requirement. Is the main issue residency and source income? **Mr. Aldridge** said that the income must be reported on the Idaho form and, depending on the situation, there may be a credit from the resident state.

Senator Stegner said the language in the bill talks about specific incomes that can be traced back to the source. Can a trust with multiple types of income distinguish what each source will be so it won't add a burden to anyone? **Mr. Aldridge** replied that was the case and those principles and methods had been in place for a long time.

Senator Corder asked for an explanation of the fiscal note. **Mr. Aldridge** stated that the fiscal note from H 382 must be combined with the fiscal note for H 471 to get a total amount. In addition, there is an estimated amount of revenue from trust departments, attorneys, and CPAs that is lost resulting in reduced revenues to the State and to the economy.

Senator Bilyeu requested that the Tax Commission comment on the fiscal impact. **Dan John**, Idaho State Tax Commission, responded that the \$110,000 per year since 2008 is an actual amount that is sitting in appeal or in the audit pipeline that will be generated if this bill passes.

Mike Brassey, appearing on behalf of the Idaho Bankers Association, supports H 471.

MOTION:

Senator Jorgenson moved to send H 471 to the Senate floor with a do pass recommendation. **Senator Werk** seconded the motion. The motion carried by unanimous voice vote. **Senator Jorgenson** will sponsor the bill on the Senate floor.

H 472

RELATING TO THE UNIFORM PROBATE CODE TO PROVIDE FOR CONSTRUCTION OF CERTAIN FORMULA CLAUSES

Mr. Aldridge stated that in 2001, the National Congress made a major change in estate taxation, gift taxation, and generation-skipping taxation laws that would cause estate tax to go away in 2010 and in 2011 the rules would revert back to those existing prior to 2001. It was expected that Congress would fix this situation prior to 2010 but, to date, that has not happened. As a result, there is no existing law to determine the distribution of trusts, wills, or any legacy of that nature.

In coordination with other states and groups, language has been developed to do what amounts to "a patch" to get through this temporary problem. H 472 adds a new section to Idaho Code that for anyone who dies between now and the effective date of new legislation coming from Congress, distribution of the estate will be construed to be under the same rules as if that person had died on December 31, 2009. Several options are included that will allow ways to opt out of that provision if it is the intent of the originator of the will or trust.

This legislation is thought to be the best answer to get through this problem until Congress does something or the year 2011 is reached.

For the benefit of the visitors from the Jefferson County Montessori School, **Chairman Hill** explained the process that bills such as these go through to become law

MOTION: **Senator Stegner** moved to send H 472 to the Senate floor with a do pass recommendation. **Senator Corder** seconded the motion. The motion carried by unanimous voice vote. **Senator Stegner** will carry the bill on the Senate floor.

ADJOURNMENT: **Chairman Hill** announced that there would not be a Committee meeting on Wednesday, February 24th. There being no further business, the meeting was adjourned at 3:25 p.m. until Thursday, February 25th at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** February 25, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** Chairman Hill
- CONVENED:** **Vice Chairman Heinrich** called the meeting to order at 3:05 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** **Senator Corder** moved to accept the minutes of February 17, 2010 as written. **Senator Werk** seconded the motion. The motion carried by unanimous voice vote.
- S 1295** RELATING TO SALES AND USE TAXES TO ADD A NEW CHAPTER TO PROVIDE FOR PROPOSED LEGISLATION TO IMPLEMENT THE PROVISIONS OF THE STREAMLINED SALES AND USE TAX AGREEMENT
- Senator Jorgenson** outlined ways that business transactions have expanded over the past twenty years moving from a brick and mortar environment to internet sales, catalog sales, and other online services. The potential revenue stream for the State from these types of sales is estimated to be \$80.0-82.0 million per year. These are not new taxes but taxes that, by Idaho law, should be paid voluntarily. S 1295 calls for Idaho to join 23 other states including our neighbors Wyoming, Washington, Utah, and Nevada, to develop a uniform sales tax that will be governed by the Interstate Commerce Commission. Opponents say we will be giving up our State sovereignty but ICC oversees other commerce within the State and our sovereignty has not been lost. **Senator Jorgenson** introduced Intern **Emily Patchin**, who will provide a more detailed explanation of the proposed streamlined tax project.
- Ms. Patchin**, stated that this legislation will allow the Idaho State Tax Commission (ISTC) to participate with 23 other states in the Streamlined Sales Tax Project. The ultimate purpose of this bill is to close a giant tax loophole without creating new taxes and will enhance the way sales tax is collected by putting all businesses in Idaho on an equal and level playing field. Idaho will lose \$30.0 million in uncollected sales tax this year on internet sales alone. It is expected that those sales will increase 15-20%

each year. Small local business are operating at a disadvantage as online retailers sell products without charging sales tax. People already owe these taxes under current Idaho law and should report that tax as Use Tax on their Idaho Individual Income Tax Return. The State of Idaho is not able to enforce the collection of that tax when the sale originates in another state even though the tax is due. Last year, approximately \$300,000 was actually remitted out of the \$50-\$80 million that should have been collected.

This legislation begins the process to address this tax issue by allowing ISTC to participate in discussions regarding the Streamlined Sales Tax Project. Idaho will be involved in crafting, collaborating, forming and decision making to develop the Streamlined Sales Tax Agreement in preparation for adopting federal legislation. A significant amount of state revenue comes from sales tax; 40% compared to other larger states that are only 20%. Idaho needs to level the playing field making taxation equal for every business. Furthermore, Idaho will be able to collect over \$80.0 million annually in current uncollectible sales tax.

Senator Corder suggested that there may be a conflict in language on page two where 63-4605 may pre-empt the language of 63-4604. **David Langhorst**, Commissioner, ISTC, responded that ISTC does not consider that the language in 4605 countermands 4604. They administer the laws but they do not advocate for them; they can prepare draft legislation but that doesn't predispose the passing of it. In relationship to this bill, the ISTC assisted with the fiscal note and compiled a list of ten potential changes that would be required based on best practices and the status of a national agreement. **Senator Corder** agreed.

Senator Stegner stated that this is an attempt to conform to some standard definitions that would allow Idaho to fit into a new system. Participation doesn't require us to adopt other states' definitions but it does require us to clarify our own definitions. Streamlining doesn't mean that we are giving up any kind of decision making authority other than agreeing, like all other participating states who want to be part of this endeavor, what those definitions will be. **Dan John**, ISTC, responded that the agreement only requires conforming states to adopt the definitions of the Streamlined Sales Tax Agreement.

Senator McKenzie asked for a brief history of Executive Order 2005-09. **Commissioner Langhorst** stated that the Executive Order, signed by Governor Kempthorne, was not exactly like this bill but it allowed for the ISTC to participate, as observers only, in discussions for the streamlined program. That Executive Order expired in 2009.

Senator McKenzie raised the issue of starting legislation that raises revenue in the Senate rather than in the House. **Senator Jorgenson** responded that a House colleague has been working with him to develop the bill and bring it forward in the Senate. This is not to imply that we are taking any authority away from the House.

Senator Bilyeu asked if the pool of candidates for the advisory group would be limited to those living in close proximity to Boise if they did not receive compensation of any kind. Would that advisory group be advising the ISTC?

Mr. John answered that ISTC can be reimbursed but the advisory group to ISTC would not be reimbursed; that is a common practice. That group would be advising the ISTC.

Vice Chairman Heinrich stated that it is customary for advisory committees to travel at their own expense. **Senator Jorgenson** pointed out that the advisory group isn't a requirement, only that one could be appointed.

Testimony in Support of S1295

Pam Eaton, representing the Idaho Retailers Association testified in support of this bill. **Ms. Eaton** circulated handouts explaining their position.

John Watts testified on behalf of the Idaho Chambers of Commerce Alliance. This issue is a top priority for them.

Senator Corder asked why the Committee should move forward if it is certain that the body across the rotunda views it as a constitutional issue.

Mr. Watts responded that through unofficial discussions some of those in the House that voted no were ready to discuss this tax issue. There are issues of venue, a question of state's rights, and the question of the tax itself. There is a need to negotiate out the issues.

Senator Bilyeu asked where the last bill originated that came out of the House Revenue and Tax Committee to the House floor and was voted down.

Ms. Eaton stated that it was House legislation but was similar to S 1295.

Senator Bilyeu asked why this bill wasn't started in the House. **Ms. Eaton** said she supports this bill 100%; it is not her bill; and she can't answer that question.

Senator Jorgenson summarized by saying that consideration should be given to what is good for Idaho. There are two motivations for sponsoring this bill: 1) Protecting the small businesses in Idaho; and 2) To look for additional revenue streams that are within current law and do not represent a new tax.

Senator Werk stated that there may be a similar bill in the House and asked if the House Revenue and Tax Committee was going to hear it. **Senator Jorgenson** responded that his colleague is a Representative and he was not aware of what the House Committee would or would not do.

Senator Stegner stated that he supports this attempt to join the Streamline Sales Tax Project. There is value for Idaho businesses and fairness rather than a tax generation issue and those businesses should continue to be supported.

MOTION:

Senator Stegner moved to send S 1295 to the Senate floor with a do pass recommendation. **Senator Werk** seconded the motion.

Senator Corder explained that his questions were only to ascertain if there was hope that this bill might have a chance. This is a great effort and he will support it.

Senator McKague stated that she cannot support this bill because she views it as a tax increase and this is not the right time to do it.

VOTE: The motion carried by voice vote. Senator McKague is recorded as voting no. Senator Jorgenson will be the floor sponsor.

S 1381 RELATING TO REVENUE AND TAXATION TO PROVIDE FOR ANNUAL REVIEW OF AND EXPIRATION OF CERTAIN EXEMPTIONS

Senator Winder explained that this legislation will allow the Legislature, on a regular basis and on a rotation of not less than five years, to review all tax exemptions. This time frame will allow flexibility to the leadership in both the House and the Senate to go through the process. It is not the intent to either do away with or add to tax exemptions. This type of review would be beneficial by providing transparency so the public would know that exemptions were being reviewed by the Legislature. The economy is not the same as it was 15-20 years ago. The tax situation needs to be reviewed focusing on how we generate revenue and how that applies to the basic needs of the State.

It is not the objective to look only at revenues. Exemptions were put in place to generate jobs and help the economy and this review is not to add to or do away with the exemptions. This is not part of the plethora of "job creation" bills that, in actuality, add more tax exemptions. H 1381 only requires a review on a regular basis to increase transparency and awareness to the public and to all legislators. S 1381 also provides that any exemptions enacted after July 1, 2010, shall expire five years after the effective date unless they are extended by statute.

Senator Corder relayed his appreciation to **Senator Winder** for this bill. Similar bills have been tried before but Section (2) stating an expiration date is new and that is a great idea. There will be a general criticism that this puts more volatility on the taxing system and businesses are afraid of that. Other questions are: What part of the Legislature will determine what analysis will be done and who will do it? Will the ISTC be asked to do them? **Senator Winder** stated that the collective authority of the Leadership of both the House and the Senate would be the most effective way to do this with assistance from the ISTC and business groups. Our State economy is changing from a base of mining, agriculture and natural resources to an intellectual base. If the needs of the people in our state are going to be met then we must take a serious look at our tax structure in total. This is only one piece and does not eliminate the possibility of taxing services or making other changes.

Senator Stegner stated that some services could be taxed just as some products are taxed with the objective of spreading the tax burden and ultimately reduce the sales tax rate. That is a better formula than what is currently in place. Doing this means a significant policy shift that opens up the door to all services and then selectively adds certain ones back. That is not the objective of this bill.

This bill would "shine some light" on all exemptions and foster discussion and debate about what an overall, effective tax policy should be. That broad discussion suggests that S1381 deserves some initial support.

Senator McKenzie registered his concern that there is no direction about how the Legislature and the House and Senate Leadership will direct this

activity. These issues have been studied before with Senator Bunderson and the Local Government and Tax Committee along with the ISTC. Interim committees have studied property and sales tax but nothing was resolved. The question is, where is the accountability and enforcement of this requirement as it is implemented? **Senator Winder** responded that it requires the Legislature to take certain actions although it doesn't say what those are. The bill doesn't require that Leadership should make demands on any committee chairman. There may be other methods rather than going through a germane committee.

Senator Werk said that the players need to come to the table ready to do business as part of the review process and determine the fiscal impact. One way to accomplish that is to sunset all exemptions and in order to keep them, they would have to reapply. **Senator Winder** suggested that type of an approach would be explosive. This bill allows review with the knowledge that no one has to lose anything. There will be better understanding, and it will provide information for the whole tax policy review process. In summary, this legislation will benefit the citizens of Idaho as well as the members of this and future legislatures because everyone will have a better understanding of the current tax exemptions, the reason they are in place, and the impact they have on the State's revenues and economy as well as the ability to meet the needs of the citizens of Idaho.

MOTION: **Senator Jorgenson** moved to send S 1381 to the Senate floor with a do pass recommendation. **Senator Stegner** seconded the motion.

Several Committee members commented on the value of this piece of legislation and stated their appreciation to **Senator Winder** for bringing it forward.

VOTE: The motion carried by unanimous voice vote.

ADJOURNMENT: There being no further business, **Vice Chairman Heinrich** adjourned the meeting at 4:10 p.m. until Tuesday, March 2, 2010 at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** March 2, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- CONVENED:** **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- Chairman Hill** welcomed the committee and asked for motions on the minutes.
- MINUTES:** February 16th
Vice Chairman Heinrich moved to accept the minutes of February 16, 2010 as written. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.
- February 23rd
Senator McKenzie moved to accept the minutes of February 23, 2010 as written. **Senator Bilyeu** seconded the motion. The motion carried by unanimous voice vote.
- Chairman Hill** introduced **Representative Lake** who will present HCR 45 in Representative Collins' absence.
- HCR 45** STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE TAX COMMISSION RELATING TO IDAHO SALES AND USE TAX ADMINISTRATIVE RULES
- Representative Lake** stated that the Idaho State Tax Commission (ISTC) has requested that HCR 45 be rejected. Tax Rule 136 appears in the Sales and Use Tax Administration Rules. There is a misstatement in the rule and the ISTC would like to rework that rule over the summer and bring it back to the Legislature next year.
- MOTION:** **Vice Chairman Heinrich** moved to send HCR 45 to the Senate floor with a do pass recommendation. **Senator Stegner** seconded the motion. The motion carried by unanimous voice vote.
- Chairman Hill** welcomed Representative Raybould.

RELATING TO TAXES TO DELETE UNNECESSARY VERBIAGE AND TO PROVIDE THAT PURCHASES MADE WITH COUPONS ISSUED UNDER THE FEDERAL FOOD, CONSERVATION AND ENERGY ACT OF 2008 ARE EXEMPT FROM SPECIFIED TAXES

Representative Raybould explained that this legislation is an amendment to *Idaho Code Section 63-3622FF* dealing with a new group of federal food stamps(coupons) that falls under the Farm Bill of 2008 and the elimination of sales tax on purchases made with those coupons. These coupons are available to low income senior citizens for the purchase of fruits, vegetables, and locally grown foodstuffs that are sold at road side stands and farmers markets. By updating this portion of Idaho Code, senior citizens in Idaho would be eligible to receive and use these coupons.

Senator Corder asked if those foods are subject to sales tax.

Representative Raybould responded that, currently, they are subject to sales tax. **Senator Corder** raised a question about the fiscal note that stated that there would be no fiscal impact. If sales tax was being removed that is currently being collected, there would be a fiscal impact.

Representative Raybould stated that it is believed that the people who receive these coupons to purchase food items without sales tax would then purchase other merchandise that would be taxable and that would offset any loss in tax dollars.

Senator McKenzie inquired if there was an estimate for that exchange of revenues. **Representative Raybould** said there was not an estimate because it would depend on how much of the recipient's food expenditures would be replaced by the coupons and how much of that money would be spent on other merchandise.

Chairman Hill said the State has applied for \$400,000 worth of coupons, but they expect to receive \$100,000 the first year.

Representative Raybould said the theory is if the sales tax that would have been spent when buying these foods is saved, the people will spend it on taxable merchandise rather than saving it since they are low income and would be expected to spend it on other necessities.

Testimony in favor of H513

Bill Clark, Volunteer Manager of the Kuna Farmers Market
 Karen Hoodman, Senior Representative of Low Income Seniors (age 75)
 Paige McMichael, Director, Caldwell Senior Center
 Matthew Scott, Member, Area 3 Council on Aging Advisory Council and participates in the nutrition programs at Eagle Senior Center

Senator McKague asked if federal food stamps were separate from Idaho food stamps. **Mr. Scott** said that food stamps are not taxed. The farmers market nutrition program provided by the agriculture department coupons has not been included because it has not been put in code to be non-taxed. **Chairman Hill** explained that the food stamp program is a federal program that is administered by the State. The State does not have its own food stamp program.

Representative Raybould commented that this section of Idaho Code has to be changed every time the federal government comes out with a new issue of food stamps. In regard to the fiscal note, the State will probably

have an advantage with those saved dollars that will be spent elsewhere.

MOTION: **Senator Werk** moved to send H 513 to the Senate floor with a do pass recommendation. **Senator McKague** seconded the motion. The motion carried by unanimous voice vote. **Chairman Hill** will carry this bill on the Senate floor.

ADJOURNMENT: **Chairman Hill** announced that there would be a meeting on Wednesday but not on Thursday. There being no further business, the meeting adjourned at 3:30 p.m. until Wednesday, March 3rd at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** March 3, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- Congratulations to Justin, Emile and Elisabeth Hill. They won a trip to Philadelphia to perform with Justin's favorite band, the Good Old Wars. The Committee enjoyed their winning rendition of Coney Island via YouTube.
- CONVENED:** **Chairman Hill** called the meeting to order at 3:10 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- Chairman Hill** welcomed Tony Poinelli, representing the Idaho Association of Counties.
- H 514** **Mr. Poinelli** explained that H514 does not change the current process for destroying records at the county level. An elected official or department head compiles a list of records to be destroyed. The list is usually reviewed by the prosecuting attorney who then drafts a resolution for presentation to the Board of County Commissioners. The Commissioners review the resolution and list and then adopts the resolution and orders the records to be destroyed. Currently, the county clerk is responsible for supervising the destruction of the records. This legislation changes that oversight responsibility to the elected official or department head responsible for the records associated with that department.
- Senator Stegner** restated for clarification that it is an elected official such as a treasurer or assessor who has the responsibility for the destruction of files. **Mr. Poinelli** concurred. They can also assign one of their deputies to supervise file destruction.
- MOTION:** **Senator Corder** moved to send H 514 to the consent calendar. **Senator Werk** seconded the motion. The motion carried by unanimous voice vote.
- H 516** **Mr. Poinelli** introduced **Donna Peterson**, Payette County Treasurer, representing the Association of County Treasurers.

Ms. Peterson stated that this bill repeals the current \$10 fee for issuing a Warrant of Distrain and allows the Board of County Commissioners to establish the fee to reflect the actual cost to serve these documents. This must be done by resolution which is similar to the process adopted for the sheriff's fees in *Section 31-3203, Idaho Code*.

Procedures followed prior to serving Warrants of Distrain include letters, follow-up calls, pictures, and other types of documentation. Most treasurers say the fee will stay at \$10 but they like the option to increase that amount if the actual costs increase. Once established, any increase must comply with *63-1311A, Idaho Code* which states that anytime a fee increases by 5% or more it must be advertised..

Senator Stegner asked **Barbara Fry**, Nez Perce County Treasurer and member of the Idaho Association of County Treasurers, if she was in favor of this legislation. **Ms. Fry** responded that she strongly favors H 516.

MOTION: **Senator Stegner** moved to send H 516 to the Senate floor with a do pass recommendation. **Vice Chairman Heinrich** seconded the motion. The motion carried by unanimous voice vote. Senator Stegner will carry H 516 on the Senate floor.

ADJOURNMENT: **Chairman Hill** announced that there would not be a meeting on Thursday. There being no further business the meeting was adjourned at 3:20 p.m. until Tuesday, March 9, 2010 at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: March 9, 2010

TIME: 3:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, Jorgenson, Werk, and Bilyeu

MEMBERS ABSENT/ EXCUSED: Senator McKague

CONVENED: **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: February 25th
Senator Werk moved to accept the minutes of February 25th. **Vice Chairman Heinrich** seconded the motion. The motion carried by unanimous voice vote.

March 2nd
Senator Corder moved to accept the minutes of March 2nd. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.

March 3rd
Vice Chairman Heinrich moved to accept the minutes of March 3rd. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.

Chairman Hill welcomed **Ray Stark** to lead the discussion on H 490.

H 490 RELATING TO PROPERTY TAXATION TO PROVIDE THAT THE ANNUAL APPROVAL PROVISIONS SHALL NOT APPLY TO A CERTAIN PROPERTY TAX EXEMPTION WHEN CERTAIN CONDITIONS OCCUR

Ray Stark, Boise Metro Chamber of Commerce and a State Representative for the Boise Valley Economic Development Partnership, introduced H 490. This bill is preceded by H 550 passed by the legislature two years ago. It was crafted and marketed for a rural economic development exemption if a project was \$3.0 million or more. The property tax exemption could be up to five years as decided by the County Board of Equalization (Board). There were several barriers to the use of this program as H 550 is written. H 490 addresses the issues that prevented

the use of the tax exemptions by:

- Amending *Idaho Code 63-602* to remove the annual approval provision.
- Defining the specific project.
- Adding personal property related to the new plant facility.
- Qualifying a leased facility for the exemption.
- Eliminating the rural definition as defined by the United States Department of Agriculture.

The working group that addressed these issues included the Boise Valley Economic Partnership. They met with Ada and Canyon County people, the Nampa Economic Director, and the Idaho Association of Counties to discuss ways to improve H 550. The results of this effort were reviewed by the Idaho State Tax Commission (ISTC) and its suggestions were incorporated into the amendments contained in H 490 as were suggestions from Legislative Services (LSO). **Mr. Stark** explained each of those changes.

Chairman Hill asked if this exemption would apply to all types of taxes. i.e., city property taxes, school district, library district, fire and water districts, and mosquito abatement. **Mr. Stark** said it would apply to all property taxes. **Chairman Hill** asked if there would be any conflict with these other taxing districts like a city since this will involve some urban areas. The city may not want to grant the exemption but the county has full authority to do so. Does the city council need to be involved? **Mr. Stark** responded that this issue had been discussed with The Association of Idaho Cities. Cities will be involved in those discussions.

Senator Werk referred to the “defined project,” “a written plan,” and the “contract arrangement.” As these elements cross the subsections of the bill, is it clear that they retain the same definitions? **Mr. Stark** stated that LSO was very careful that the end result was a written contract by the county commissioners giving them primacy over what is in the contract. For instance, the lumber mill in Clearwater county met the criteria of the \$3.0 threshold, the life of the contract was five years, and the facility had to be completed by a specified time.

Senator Werk was concerned that the agreement has not been clearly defined. **Vice Chairman Heinrich** clarified that the defined project is developed by whoever the taxpayer is. The agreement is developed by the county commissioners using facts based upon the defined project.

Senator McKenzie asked if the effect of this exemption would take some property off the tax roll that was now on the tax rolls. It applies to new plant and building facilities including related parking facilities; if those are on land that was previously taxed, does that land now go off the tax rolls? **Mr. Stark** stated that the county commissioners can put whatever value they want on the existing land but the facility would be exempt.

Chairman Hill asked if this exemption could be for land as well. If the parking lot was already there, can they exempt something that becomes part of the facility? **Mr. Stark** answered that yes, according to the contract, that property would be exempt but it is up to the county commissioners whether or not to include the land in the contract. The land portion would

fall under an ISTC rule.

Senator Bilyeu pointed out that the bill referred to “new plant and building facilities” so land could not be considered under that definition. **Dan John**, ISTC, stated that it could be interpreted as only on plant and building, it would be difficult to include land.

Senator Corder stated that the county commissioners can analyze the project and then set the value at a rate that would protect other taxing districts and keep them stable. Is that correct? **Mr. Stark** concurred.

Senator Bilyeu observed that the project can be within city limits. Can it also be within an urban renewal district? Would there be a conflict? **Mr. Stark** responded that the increment on the increased value would go into the urban renewal district. **Senator Bilyeu** asked if they are exempt from taxation, how will they pay the increment? **Senator Stegner** stated that if the county writes the contract and grants that exemption, the ISTC needs to clarify that issue. **Mr. John** was requested to bring an answer back to the committee on this issue.

Testimony in Support of H 490

John Watts, Partner in Veritas Advisors representing the Idaho Chamber of Commerce. The Idaho Chamber Alliance supports H 490 for the same reasons **Mr. Stark** outlined. There is a need in our State to promote businesses engaged in production—“they are making things.” This bill provides some stimulus for those kinds of businesses.

In answer to the question about the parking facility, page 2, line 10 includes related parking facilities. Adding the option of a leased facility is another primary component of this bill because it will be relative to small and medium sized businesses.

Senator Bilyeu asked if, after the property is exempted for five years, would it then go onto the new construction rolls? **Bob Quade**, Ada County Assessor, said that once the exemption ceased, it would go on the new construction roll.

Cliff Long, Economic Development Director with the City of Nampa voiced support for H 490. This bill provides some needed improvements to existing legislation.

Tony Poinelli, Idaho Association of Counties, stated that they have worked with the sponsors of H 490 and the Association has taken a supportive position on this bill. The Board of County Commissioners will be meeting with the various entities to discuss a project before any kind of decision is made.

Chairman Hill asked for clarification of the wording in *Subsection 2(a)* “defined project” means.....taxpayer “outlining projected investment in new plant for new plant and building facilities during a project period and located at a project site.” Why is “new plant” in there twice? **Mr. Watts** answered that this was language suggested by LSO. It is a way they use to get to a common definition that can be used throughout all legislation.

MOTION:

Vice Chairman Heinrich moved to send H 490 to the Senate floor with a do pass recommendation. **Senator Jorgenson** seconded the motion.

Senator McKenzie expressed some reservations about H 490. 1)“The legislature declares this exemption necessary and just” comes from the Idaho Constitution, Article 7, Section 5 where it states everybody is treated the same except where the legislaturenecessary and just. The legislature has a lot of discretion to do that. That is a concern. The effect of this bill is to shift some of the tax burden to existing manufacturing businesses even if the definition does not include the land; that may still be an open question as in the case of a parking facility. 2) Another concern is giving counties jurisdiction over other taxing districts. Those are the same concerns when H 550 was approved – it seems we are broadening those exemptions.

VOTE:

The motion carried by voice vote.

ADJOURNED:

Chairman Hill announced that there would not be a meeting on Thursday. There being no further business, the meeting was adjourned at 3:45 p.m. until Tuesday, March 16th at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** March 16, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Bilyeu, and Werk
- MEMBERS ABSENT/ EXCUSED:**
- CONVENED:** **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- INTRODUCTIONS:** Susan Mason, Professor, Boise State University and students from her class "Cities in the Metropolitan Century."
- H 425** RELATING TO THE COORDINATE SYSTEM OF LAND DESCRIPTION to define terms and to delete obsolete language and to provide for a single-zone coordinate area.
- David Curtis**, Executive Director, Board of Engineers and Land Surveyors, stated that the purpose of this proposed legislation is to eliminate obsolete references and create a single-zone coordinate system. **Mr. Curtis** explained each of the main points of the bill as indicated on "Talking Points for House Bill No. 425." (Attached)
- Letters of Support:
Curtis Smith, Geodesist, United States Department of Commerce
John M. "Jack" Clark P.L.S., Ada County Assessor's Office and
Idaho Society of Professional Land Surveyors (ISPLS)
- Senator Bilyeu** asked what the ramifications would be if this bill was not passed. **Mr. Curtis** responded that this would provide a framework that all surveyors and people who work in record information systems could use that would be uniform throughout the state.
- Jack Clark**, Ada County Assessor's Office and Editor of the Gem State Surveyor, provided a brief history about the modernization of the coordinate system definitions. **Mr. Clark** responded to **Senator Bilyeu's** previous question stating that H 425 serves to establish global, mathematical parameters from system to system. It will be codified in statute. Also, the software providers will be able to embed the information into the software to simplify moving from system to system. This is very important for technical purposes.
- Senator Bilyeu** asked if presentations would be made to the counties and the Idaho State Tax Commission (ISTC). **Mr. Clark** said that this legislation

has been reviewed by ISTC, counties, mapping departments, and other consultants for guidance on sections and townships. It is important that there is a single 1983 projection and a single-zone projection.

MOTION: **Vice Chairman Heinrich** moved to send H 425 to the Senate floor with a do pass recommendation. **Senator Bilyeu** seconded the motion. The motion carried by unanimous voice vote. **Vice Chairman Heinrich** will carry H 425 on the Senate floor.

H 608aa RELATING TO LOCAL LAND USE PLANNING to revise provisions relating to a recommendation for an amendment or modification to the comprehensive plan.

Representative Jeff Thompson brought H 608aa before the Committee. There are instances where someone may want to look at a comprehensive plan but has to wait six months in order to do so because of the difference in timing for approval between the text of the plan and the associated map which can only be amended every six months. This legislation removes the six month time limit so an amendment can be acted upon at any time. This legislation is supported by the Association of Idaho Cities and the Idaho Association of Counties. **Representative Thompson** introduced **Justin Ruen**, Lobbyist, representing the Association of Idaho Cities, to support and further explain the bill.

Mr. Ruen presented a letter from the Association of Idaho Cities that explains what a comprehensive plan is and how it works. (Attached)

Senator Stegner asked why the six month restriction is in the current law. **Mr. Ruen** stated that the rationale was that it was a means to keep the comprehensive plan stable and predictable for property owners, developers, and others who rely on the plan. **Senator Stegner** inquired if changes would be requested more frequently to the extent that it would become a burden. **Mr. Ruen** answered that for most communities there are very few applications to amend a comprehensive plan. In growing communities there are more.

MOTION: **Senator McKague** moved to send H 608aa to the Senate floor with a do pass recommendation. **Vice Chairman Heinrich** seconded the motion. The motion carried by unanimous voice vote. **Senator McKague** will carry H 608aa on the Senate floor.

H 596aa RELATING TO COLLEGE AND UNIVERSITY IMPROVEMENTS to provide that certain improvements on state college or university lands may be included on the new construction roll and they shall be exempt from property taxation.

Bruce Newcomb, Boise State University (BSU), explained that H 596aa is a bill specifically requested by BSU to be used as they transition to a residential university. The challenge is to meet student needs without being encumbered in the process. BSU came in contact with a company that would build student housing on BSU owned property. Upon completion, the buildings would revert to BSU. That company would then enter into a leaseback agreement with BSU and subsequently lease the units out to students. The company cannot encumber the property and when the agreement terminates, all ownership rights revert back to BSU.

The company would have possessor rights. Ada County was asked if the same property tax exemption would apply to this type of an agreement that would apply if the State provided funding. The county could not provide a clear answer so H 596aa was written to clarify that those improvements that exist for university operations, as approved by the State Board of Education, will remain tax exempt. If there is a conversion of that improvement to non-university operations, those exemptions cannot be claimed.

Senator Werk questioned how a company using this method would be profitable. Is the contract a long term contract? **Mr. Newcomb** answered that the term being discussed is 65 years and rents must be comparable to all other University housing rates. This is an economic benefit for a university since there are no funding costs.

Senator McKenzie asked what happens at the end of the term. Does it revert back to the university or is the agreement renegotiated? **Mr. Newcomb** stated that at the end of 65 years, the possessory right is forfeited and all rights go back to the university. A cost per square foot is included in the agreement to cover maintenance.

Senator Bilyeu asked if there were occupancy costs. **Mr. Newcomb** said that there were none.

MOTION:

Senator McKenzie moved to send H 596aa to the Senate floor with a do pass recommendation. **Senator Bilyeu** seconded the motion. The motion carried by unanimous voice vote. **Senator McKenzie** will carry H 596aa on the Senate floor.

H 488

RELATING TO SALES AND USE TAX by the addition to Idaho Code to provide for a rebate of such tax paid for parts for certain aircraft repairs.

Russ Westerberg, representing Western Aircraft, opened the discussion for H 488 and introduced **Alan Hoyt**, President/COO, Western Aircraft. Copies of both testimonies and an overhead presentation are included as part of the minutes. (Attached)

Mr. Westerberg explained that H 488 was crafted in response to Western Aircraft's expressed need for a state tax policy change in order to enable that Idaho company to attract more non resident aircraft owners to bring or send their turbine powered aircraft to Idaho for repair, maintenance, and overhaul.

Mr. Hoyt gave a presentation that explained what Western Aircraft does and the specifics of investments and employment within the state.

Senator Jorgenson said that Western Aircraft is competing with other companies right now even with the sales tax disadvantage. Is the company paying wages commensurate with other states, is that the way the company is competing? **Mr. Hoyt** responded that competitive wages have always been paid. **Senator Jorgenson** asked what state is closest to operate from that would provide this type of tax break. **Mr. Hoyt** said they could operate out of Oregon where there is no sales tax. There is no intent to move and there is no intent to go out of business but in order to compete nationally and internationally, there must be a level playing field. **Senator Jorgenson** asked how much savings would be gained with this tax rebate. **Mr. Hoyt** answered that it would not necessarily be a savings to the company, but it

would allow them to continue growing.

Mr. Westerberg summarized his remarks stating that this is the right approach, at the right time, and for the right reasons. H 488 does not exempt anyone from the imposition/payment of taxes, it has a sunset, it will boost the economy, it will create jobs, and the tax commission will be able to report the results.

Chairman Hill asked if Western Aircraft stock was publically traded or if they were a subsidiary. **Mr. Hoyt** responded that Western Aircraft was a subsidiary of W. R. Berckley Corp., a publically traded insurance company. **Chairman Hill** asked if any of the states that waived the sales tax offered investment tax credits on income taxes. Are any of those states exempt from personal property tax or any future provisions for exemptions for personal property taxes? **Mr. Westerberg** responded that he had not investigated those items.

Don Dietrich, Director, Idaho Department of Commerce, offered testimony in support of this bill. It is really about jobs and growth. Idaho is an easy fly-by for aircraft to go on to Colorado to get this work done. **Mr. Dietrich** supports the job growth it will bring to the county and the state.

MOTION:

Senator Jorgenson moved to send H 488 to the Senate floor with a do pass recommendation. **Senator McKague** seconded the motion.

Senator Stegner explained that he would be voting against that motion. This presentation was well organized and well done and it was a creative way to craft this unique bill. However, this is not a good year when considering the problems of the economic times. At another time, a bill such as this would elicit affirmative action.

Vice Chairman Heinrich agreed with **Senator Stegner**. There is a bill going through the House, H 490, and Western Aircraft would be an excellent candidate for a waiver of property taxes on new investments.

Senator Bilyeu asked for clarification about those parts exempted on repairs to aircraft in Idaho. **Mr. Westerberg** answered that parts are exempted from sales tax for commercial aircraft. In Idaho the only parts subject to taxation are the ones installed for privately owned aircraft.

VOTE:

Roll call vote showed three ayes and five nays. Motion failed.

Ayes: Jorgenson, McKague, Bilyeu

Nays: Heinrich, Stegner, McKenzie, Corder, Werk

ADJOURNMENT:

There being no further business, **Chairman Hill** adjourned the meeting at 4:02 p.m. until Wednesday, March 17, at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** March 17, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Bilyeu, and Werk
- MEMBERS ABSENT/ EXCUSED:**
- CONVENED:** **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** March 9, 2010
Senator Werk moved to accept the minutes of March 9th as written. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.
- S 1403** RELATING TO THE FIRE PROTECTION BOARD to revise certain provisions for district commissioners.
- Senator Melinda Smyser** stated that this bill does two things: 1) Changes the area of requirements in preparation for redistricting related to one man-one vote and affects crossing county lines, and 2) Allows small districts that do not hold regular meetings to swear in new members at the first regularly scheduled meeting in January after the general election.
- Vice Chairman Heinrich** drew attention to obsolete language that should be changed due to the election consolidation requirement where fire districts can have an election in odd or even years. **Chairman Hill** stated that if this change was made, the bill wouldn't get through the process before end of session.
- MOTION:** **Vice Chairman Heinrich** moved to send S 1403 to the Senate floor with a do pass recommendation. **Senator Stegner** seconded the motion. The motion carried by unanimous voice vote. **Senator Smyser** will be the floor sponsor.
- H 607** RELATING TO FIRE PROTECTION DISTRICTS to provide an additional process for certain annexation procedures.
- Scott Turlington** is appearing on behalf of Avimore and Eagle Fire

District. **Mr. Turlington** introduced **Dan Friend** and **Mike Winkle**, Eagle Fire Department, and **Kevin Courtney**, Star Fire Department.

Avimore owns property that touches three different counties and currently no one lives there. Last year, an effort was made to annex that property into the Eagle Fire District. Current statute allows annexation of property in adjoining counties into a fire district under certain conditions. H 607 provides that if 100% of the owners of the land agree and the aggregate land is not less than 100 acres, then proceedings for annexation may be initiated without an election.

MOTION:

Vice Chairman Heinrich explained that annexation involving county lines can be onerous. This bill protects people and is a really good “fix.” **Vice Chairman Heinrich** moved to send H 607 to the Senate floor with a do pass recommendation. **Senator Bilyeu** seconded the motion. The motion carried by unanimous voice vote. **Vice Chairman Heinrich** will be the floor sponsor.

H 630

RELATING TO INCOME TAX CREDITS AND CHARITABLE CONTRIBUTIONS to increase the maximum amount of tax credits individuals and corporations may receive for certain contributions for a five year period.

Jason Kreizenbeck, Chief of Staff for Governor C.L. “Butch” Otter, presented H 630 to the Committee. This bill increases the existing state tax credit for charitable contributions for individual and corporate taxpayers that make monetary donations to public and non-profit private K-12 schools and universities in Idaho, Idaho Public Broadcasting, Idaho State Historical Society, and Idaho Libraries and museums.

It also expands state entities eligible to receive the tax credits to include Idaho Commission for Hispanic Affairs, Idaho Commission for the Blind and Visually Impaired, Idaho Council on Developmental Disabilities, the Idaho State Independent Living Council, and the Idaho Council for the Deaf and Hard of Hearing.

The tax credit remains the same for individuals; 50% of the total contributions. The limit is increased from 20% to 50% of the taxpayers total Idaho income tax liability with the maximum annual amount of credit increased to \$500 (\$1,000 for joint filers). The corporate taxpayer credit remains at 50% of the total contributions and is limited to 10% of the corporation’s total Idaho income tax liability with the annual maximum contribution increased to \$5,000.

The fiscal impact is estimated at \$5.0 million. Due to the effective date of January 1, 2011, the state will not need to budget for this impact until FY 2012. The legislation includes a five year sunset clause and then the statute will revert back to current law.

Dan John, Idaho State Tax Commission (ISTC) explained how they arrived at the \$5.0 million fiscal impact. Factoring in a correlation from the last time this type of action was taken tempered with the maximum donation a couple would make amounted to the \$5.0 million fiscal impact.

Chairman Hill restated that this would not be effective until January 1, 2011 and would not affect the budget until FY 2012. **Mr. John** concurred.

Senator Stegner asked if an estimate made for the increases is expected for these various organizations. **Mr. John** responded that the sponsors made those estimates. If the credit was increased, the contribution would have to be increased. **Chairman Hill** said that not all current contributors will increase their contribution to get a larger credit. Others won't meet the 50% income requirement. It will not be an exact 2-1 ratio. **Senator Stegner** asked if there was any basis for the analysis. **Chairman Hill** said that first, the analysis came from the ISTC for the \$5.0 million and then the estimates were made from that direction.

Testified in support of H 630

Marty Peterson, Assistant to the President, University of Idaho, introduced **Frances Ellsworth**, President, University of Idaho Foundation. **Mr. Peterson** stated that they support H 630.

Chairman Hill noted that there is a trailer bill coming from across the rotunda that will insure that foundations will be covered.

Representative Wendy Jaquet brought forward an amendment to H 630 that would add the Idaho Chapter of the Cystic Fibrosis Foundation. The Health and Welfare budget has included Cystic Fibrosis in the health services section for the last five years. This year the agency requested \$322,500, up from \$205,000 in 2005. The Governor recommended \$105,000 for this organization. This is a line item that is not being funded. One option to overcome the reduction in funding is to go to the amending order and include the foundation with these listed agencies.

Representative Jaquet asked the Committee to consider sending H 630 to the amending order.

Chairman Hill stated that everything listed in H 630 is actually part of Idaho government. They are all agencies funded from the General Fund. This is different although there has been some funding through Health and Welfare. It is a private, charitable organization and is not a part of state government. **Representative Jaquet** explained that this could be structured as a line item for cystic fibrosis under Health and Welfare. This amendment is just for the foundation which is outside what Health and Welfare funds. Hopefully, by the time the five year sunset occurs, Health and Welfare will be able to assume some of this.

Chairman Hill asked **Senator Stegner** for his opinion on the success of a piece of legislation from the House if it went to the amending order at this point of time. **Senator Stegner** responded that it would be a challenge to get through the amending order. It would require a suspension of rules and the time is short for amending bills – it is a risk.

Senator Corder voiced a concern about: 1) How would the distribution work; and 2) Could it be more temporary – less than five years? **Chairman Hill** asked for clarification on the first question. **Senator Corder** stated that there were ten organizations. Will the distribution be equal? **Chairman Hill** explained that funding will not go through the state at all

and the state will not know who receives the donations. Funds will be distributed however the taxpayer directs them. This started with the Governor's discussions about phasing out those first five agencies over five years, that is why the sunset is set at five years.

Senator Corder stated that there is no correlation between what those agencies are losing from budget reductions and what the maximum they could potentially receive from this plan. **Mr. Kreizenbeck** said that the Governor saw value in a program that has been proven effective and could be transferred to this scenario. Whether or not one agrees that this is an appropriate use to offset general fund appropriations is not a decision that has to be made today. This bill provides a time period to ascertain if these agencies do have the ability to find private support. The final decisions will be made by the Joint Finance Committee. **Mr. Kreizenbeck** touched on the amendment adding the Cystic Fibrosis Foundation and stated that the sponsors would support that action. **Chairman Hill** and **Senator Stegner** both were concerned the bill would not get through the 14th Order.

Senator Werk stated a concern with the enhancement for the K-12 system because the distribution of the funds will not be uniform which could be in violation of uniform funding for free public schools. A large inequity in this kind of funding could exacerbate that situation. Has the idea been evaluated where wealthy districts will reap the benefits while small, more rural districts that do not have ways of raising capital will be left out? **Mr. Kreizenbeck** stated that he didn't believe such an analysis has been run. However, we know the legislation for the entire section dealing with K-12 public and private schools has not been modified since 2003. **Chairman Hill** stated that the reasons for limits for the taxpayer is to encourage many people to contribute and one affluent person cannot "stack the deck." That does not alter the fact that some school districts are in more wealthy districts than others. That is what the cap is for, to protect against excessive donations.

Senator Werk raised a question about the tracking aspect. It is possible that taxpayers have given more in the past without reaping the benefit of the credit. By increasing the credit, they can continue to give the same amount but will receive a larger benefit. There is nothing in this bill that reports what happens when this goes into effect. **Mr. Kreizenbeck** responded that they did talk with the tax commission. When the tax credit was increased in 2003, it resulted in a 60% increase. This should create an even larger fiscal impact. There probably won't be a direct proportionate increase but it will entice some new individuals. The sunset clause will also provide the opportunity to evaluate whether this system will be effective.

Mr. John explained that there is a line item on the return but it does not show specifics about the amount given to each qualifying entity.

Senator Werk said that there is no report required so there is not a way to track where the money goes for the \$5.0 million fiscal impact. Where is that \$5.0 million going to come from? **Chairman Hill** answered that it came from the school budget but they may receive \$10.0 million more.

Senator Bilyeu asked if this wasn't an exemption for those who have

money to contribute. **Chairman Hill** responded that he did not view this as an exemption where someone would come out ahead monetarily. With this type of credit, the contributors will always come out with less money in their pocket. The schools will get more funding than they would have through the general fund.

Senator Bilyeu asked if future years will bring additional charitable organizations that want the same opportunity. **Chairman Hill** expressed that concern when this was opened up to private organizations. These organizations did not request to be on this list; they were added at the Governor's request and are organizations that were going to have substantial cuts from the general fund. Potential requests could be a possibility.

Senator Stegner chose to debate the bill before a motion was made and declared that he could not support this legislation. Another section of code, 63-3029C, gives the same credit for specifically listed charitable organizations such as Anchor House, Idaho Youth Ranch, Children's Home Society of Idaho, Kinder Haven – about 20 organizations. It is not the proper roll of government to be making these selections that give them an advantage over other organizations. There are many charitable organizations within the state that deserve to be on these lists but do not have the political influence to change state law. **Senator Stegner** stated that he consistently tries not to expand these lists and put pressure on the system. Money should be found through a sound tax system and go through the appropriation process. In good conscience, additional tax credits in the amount of \$5.0 million cannot be supported due to the economic situation the state is in.

Senator Corder stated that this is a reverse appropriation except it is not one we can choose. Funding goes directly to the entity and the credit of \$5.0 million is an appropriation to these entities. This is a difficult process and it is going to be difficult for the entities to redesign how they are to function. The short budgets have given agencies and divisions the opportunity to revisit how they do things and, over the long term, serve a valuable purpose. **Senator Corder** stated he can't support a way to appropriate where the joint committee has no control.

Senator McKenzie commented that **Representative Jaquet's** amendment is not a bad idea but there is the issue of timing when trying to advance this bill and the motion at this time should be a do pass recommendation and look at the amendment next year. **Senator McKenzie** supports this concept for these agencies so they will not need funding from the general fund that they have had in the past. This is a way to continue the good functions they do through charitable contributions.

MOTION:

Senator McKenzie moved to send H 630 to the Senate floor with a do pass recommendation. **Vice Chairman Heinrich** seconded the motion.

Senator Werk stated he would like to support the motion but he agrees with **Senator Stegner** and appreciates the intent but cannot support the motion.

VOTE:

The motion passed with a roll call vote with 5 ayes and 4 nays.

Ayes: Senators Heinrich, McKenzie, Jorgenson, McKague, and Hill
Nays: Senators Stegner, Corder, Werk, and Bilyeu

ADJOURNMENT: There being no further business, **Chairman Hill** adjourned the meeting at 4:02 p.m. until Thursday, March 18th at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: March 18, 2010

TIME: 3:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Bilyeu, and Werk

MEMBERS ABSENT/ EXCUSED: Senator Jorgenson

CONVENED: **Chairman Hill** called the meeting to order at 3:00 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

H 605 RELATED TO LOCAL LAND USE PLANNING to conform a standard of review for land use permits and add certain attorneys to act as hearing examiners.

Jeremy Pisca, Attorney at Risch & Pisca, representing the Idaho Association of Realtors, opened the discussion on H 605. This is a consensus bill that was drafted in partnership with a prosecuting attorney in the civil division in Kootenai County; with Jerry Mason, the attorney for the Idaho Association of Cities; with JoAnn Butler, a local land use planning attorney; and Mr. Pisca.

H 605 addresses three rulings made by the Idaho Supreme Court which severely restricted someone with a vested interest in property to have judicial review over some types of decisions. The Supreme Court said that the only instances where there can be judicial review are those when a permit has been denied. **Mr. Pisca** explained that the first change defines applications and types that would be acceptable instead of limiting the wording to "permit." The bill also allows for notification to an applicant regarding the right to request a regulatory taking analysis. This bill is expanded to enable attorneys to be hearing examiners even though they are not technically listed in statute.

Senator Werk asked if these changes are necessary? **Mr. Pisca** argued that this is the way the law has been understood and it wasn't until the Supreme Court rulings in three recent cases that there was a question. **Mr. Pisca** gave an example where two parties filed for the same type of land use permit in the same county, one was granted and one was not. The party that was denied took the claim to the Supreme Court. The court

said that there was only the ability to have a denial of a permit when it was initially reviewed, therefore, the Supreme Court had no jurisdiction to hear this case. Those court decisions fundamentally shifted what was thought to be the law.

Senator Werk questioned the idea of doing a judicial review of a takings analysis. This is a very expensive process for a municipality. **Mr. Pisca** stated that citizens who believe they have had a taking on their property currently have the right to request the Attorney General for a regulatory takings analysis. It isn't an expensive process, just a matter of filling out forms.

This provision does not expand anything in Idaho law, it says that if an application is denied, you must be notified of the right to request a regulatory takings analysis.

Testimony in support of H 605

JoAnn C. Butler, Attorney, Spink Butler (Copy of testimony is attached as part of minutes.)

Senator Bilyeu asked for an example of what a regulatory takings analysis would entail and if it is consistent between all entities. **Ms. Butler** stated that the Attorney General's office provides a check list for all cities and counties so it is consistent.

MOTION:

Senator Corder moved to send H 605 to the Senate floor with a do pass recommendation. **Vice Chairman Heinrich** seconded the motion.

Senator Werk commented that he was concerned but would support the bill.

The motion carried by unanimous voice vote. **Senator McKenzie** will carry H 605 on the Senate floor.

H 647

RELATING TO THE SMALL LAWSUIT RESOLUTION ACT concerning a certain sunset provision.

Senator Corder stated that this legislation doesn't amend code, it amends and clarifies session law. The Small Lawsuit Resolution Act was codified in 2002 but it was missing two things – provisions for an emergency clause and a sunset clause. However, the emergency and sunset clauses appeared in session law. In 2003 there were other changes made to the Act itself but not to either the emergency or sunset clause. Those were rewritten in the 2003 session laws. In 2006 the code was amended to remove the sunset clause. Now, in 2010, to rectify the session law, this bill is retroactive to 2003 and strikes the sunset clause and clarifies and adds language that is retroactive to January 1st in order to validate all of the actions that have taken place under the Small Lawsuit Resolution Act since 2003.

MOTION:

Senator Werk moved to send H 647 to the Senate floor with a do pass recommendation. **Senator Stegner** seconded the motion. The motion carried by unanimous voice vote. **Senator Corder** will carry H 647 on the

Senate floor.

H 583aa

RELATING TO URBAN RENEWAL and single highway districts revising certain highway district funding responsibilities and use of parking meter revenues for certain improvements.

Representative Bob Nonini stated that H 583aa relates to an issue that involves local units of government. In the 1970s the legislature created the framework for a single countywide highway district to be formed by voter approval. Ada County Highway District (ACHD) was formed to provide coordinated and consolidated transportation planning to effectively meet the needs of the public.

The purpose of this bill is two-fold: 1) To clarify that a single, countywide highway district is not responsible for funding transportation related to construction for urban renewal projects; and 2) To provide that if the cities that choose to place landscaping in a public right-of-way, they are responsible for funding those landscaped improvements. **Senator Corder and Senator Stegner** crafted a change that more clearly states the intention of this legislation and those changes are supported by the sponsors of H 583aa. **Senator Stegner** said that discussion about those amendments should be held until after testimony has been heard.

Testimony in Opposition to H 583aa

Jade Riley, City of Boise, stated that the City of Boise strongly opposes this legislation for the following reasons:

- It addresses a purely local government issue.
- It is a poorly crafted solution in search of a nonexistent problem.
- It sets a dangerous and misguided precedent.
- It duplicates an existing effort to address overall coordination issues.

This legislation would force the city to limit its options in determining how to expend funds to meet needs that may have a higher priority. There is no policy nexus between parking meters or fines and right-of-way landscaping.

- Meters are not designed for long term parking.
- Most cities expenses for landscaping are outside the downtown core.
- This legislation targets specific revenues and expenditures.

This is a local issue that should be worked out between the cities and ACHD. (A full copy of the testimony is included as part of the minutes)

Senator Werk referred to “contact between staff” at ACHD and Boise City. Are those ongoing discussions? **Mr. Riley** answered that they are ongoing discussions.

Chairman Hill asked why the changes on page one, lines 40-42 of the bill would be harmful. **Mr. Riley** stated that the changes were unnecessary, the practice is very clear, the court had no problem in finding clarity in code, and it dampens public dialogue between the entities.

Senator Werk said that it appears that the amendment by the House is a

change. Right now there is an option for discussions on funding by ACHD on road projects and this bill says "shall not be responsible" which changes current code to take away ACHD's options. **Mr. Riley** agreed that it becomes much more restrictive.

Senator McKague recounted an experience that Meridian had with ACHD and the reconstruction of the road system resulting in losses to businesses in that area. In that case, did ACHD get funding from the urban renewal district? **Mr. Riley** responded that ACHD receives its own funding. Ultimately, the decisions rest with the highway district when determining what happens with roads. The five member board has control to choose the plan and fund it.

Senator Stegner agrees that it is not a good precedent for the state of Idaho to be suggesting what happens with monies from parking meters. The language on page two, lines 36-39 should be deleted although there should be some clarifications to ensure that cities are responsible for those costs. If the parking meter language is removed and there was some clarifying language on page one, would that remove Boise City objections to this bill? **Mr. Riley** answered that it would not. It is perplexing to know what the problem is. The language is very clear that the district is only responsible for funding items outlined on page one, lines 10-17. No one can force ACHD to fund anything they choose not to.

Senator Stegner suggested that there is some ambiguity in the responsibility of ACHD in regard to an urban renewal district. The highway district has very little to do with the planning of the urban renewal district. There may be a concern that the language is not very clear as to what ACHD's responsibility is for that plan. It could be that ACHD could be given a significant financial obligation. ACHD wants to clarify that they do not have that responsibility. **Mr. Riley** declared that it goes against the whole concept of interaction between ACHD and agencies. There has never been an instance when ACHD has been forced or legally challenged to do something it did not want to do.

Senator Werk pointed out that the changes on page one, lines 40-42 remove any flexibility because it says they "shall not" be responsible. This precludes any chance of working together.

Testimony in Support of H 583aa

Steve Price, General Counsel, ACHD, stated a disbelief that statements have been made that there is no problem between the cities and ACHD over landscaping within the rights-of-way. The issue has been that ACHD should be expending transportation dollars on capital improvement landscaping of a public and private way. There is a difference between a city that is a general purpose government and ACHD that is a special purpose government. ACHD is a creation of the legislature and can only expend those funds that are identified in the enabling legislation which includes paved medians, not landscaped medians.

There was to be a meeting with Boise City (cancelled) to discuss cost sharing and requests are continually made for ACHD to fund maintenance

and improvement of landscaping in the public rights-of-way. This is a hotly disputed issue between the entities. This bill will create an environment of cooperation.

Within this legislation, ACHD has the same obligation that exists in current law for roadways within cities and that carries over to an urban renewal project.

Senator Werk referred to the engrossed version of the bill that said that even if ACHD wanted to be involved in an urban renewal project for enhancements, this would preclude that desire. **Mr. Price** disagreed. This is saying ACHD is not obligated but they can still expend money on enhancements for roads, curbs, and sidewalks. **Senator Werk** asked why landscaping couldn't be part of maintenance. **Mr. Price** answered that statute does not indicate landscaping, only paved medians. ACHD is not statutorily authorized to expend money on landscaping issues. ACHD is in the business of building roads and does not have the facilities to do landscaping where cities do because of maintaining parks—they are in the best position to do landscaping.

ADJOURNMENT: **Chairman Hill** announced that the time is up for today and the hearing on H 583aa will be resumed at the next meeting. H 616 will also be heard at the next meeting.

There being no further business, the meeting was adjourned at 4:10 p.m. until Tuesday, March 23rd at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

DATE: March 23, 2010

TIME: 3:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Bilyeu, and Werk

MEMBERS ABSENT/ EXCUSED: Chairman Hill

CONVENED: **Vice Chairman Heinrich** called the meeting to order at 3:02 p.m. with a quorum present.

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Vice Chairman Heinrich called for testimony for H 583aa.

H 583aa cont. Testimony in Support of H 583aa

Fred Tilman, Chairman, Ada County Commissioners is representing the Ada County Commissioners who support the bill and approve of the amendments that have been submitted. The urban renewal project should be responsible for funding the transportation requirements. Urban renewal districts receive the increment financing and that should be the money used to fund the project.

Senator Werk asked if the highway district should have the flexibility to participate or not participate. **Commissioner Tilman** is a proponent of local control and is supportive of flexibility.

Nathan Mitchell, Mayor, City of Star, addressed the proposed amendments. The Mayor agreed that cities are capable of making those decisions. Language is appropriate for landscaping and rights-of-way for urban renewal projects. Anything above and beyond basic transportation needs should be funded from other sources.

Testimony in Opposition to H 583aa

Tammy de Weerd, Mayor, City of Meridian, stated that if problems exist, they should be worked out at the local level. Until this legislation came forward, **Mayor de Weerd** was not aware of any problems. ACHD has a good, working relationship with the city. Meridian has not been included in any discussions but would be impacted by this piece of legislation.

John Evans, Mayor, City of Garden City and a Board of Director for the Association of Idaho Cities stated that he also has experience as a member of the Capital Improvement Citizen Advisory Committee. There is no statutory

obligation that cities can place on the highway district to force it to spend money on landscaping, roadways, sidewalks, street lights, or any other component of its authority. It is confusing to know what the issue is other than, based on Chief Counsel Price's testimony, there has been an ongoing argument about the landscape issue since 2002. This should not be an issue to be dealt with at the legislative level. **Mayor Evans** is opposed to the bill and asked that it be held in Committee.

Scott Schoenherr, Developer, Rafanelli & Nahas, discussed their experience with development in downtown Boise. This bill seems to prohibit ACHD's ability to spend funds. Restrictions should not be placed on ACHD from spending those funds as part of a development project.

Bill Nary, City Attorney, Meridian, stated that Meridian has worked well with ACHD. Legislative change is not necessary although there have been issues. Issues are meant for discussion to reach resolutions. This legislation is not going to make things better. There will be unintended consequences.

That is the end of public testimony in support of or opposition to H 583aa.

Steve Price, General Counsel for ACHD, addressed some of the comments made during public testimony. The issue of landscaping in a public right-of-way has been ongoing. This bill is clarification about whether the legislature wants ACHD to have the ability to spend transportation dollars for landscaping. There is also the question of legal authority to spend those dollars outside the specified statutory purpose.

There is nothing in this legislation that prevents the highway district from expending money on road improvements within an urban renewal planned area. It does remove the mandatory language that requires the highway district to spend funds on urban renewal projects. ACHD foregoes tax increment financing that goes to the local urban renewal agency on an annual basis in the amount of \$680,000. If an urban renewal agency develops a project, money for that project should come from the increment the highway district foregoes. This legislation cuts out ACHD's responsibility for urban renewal projects.

Senator Werk asked what ACHD gains from urban renewal if you forego \$680,000 annually other than the increased property values that apply to the levy amount. **Mr. Price** said there are more indirect costs than there are direct costs. There will be more tax dollars. **Senator Werk** asked if the highway district had flexibility in the amount to invest if it was in the best interest of the highway district within the urban renewable area. **Mr. Price** said the proposed language is not mandatory, it is obligatory meaning ACHD is not required to fund but they are responsible to expend monies for statutory functions. The authority exists to enter into a contract to fund for motorist and pedestrian improvements within the project. This legislation only takes away the mandatory requirement. **Senator Werk** stated that his understanding of the project is exactly the opposite.

Senator Bilyeu asked if ACHD has been expending tax dollars for trees, grass, etc. mentioned on page 2, (7). **Mr. Price** answered that they have in the past but are not currently funding all of them. A cost sharing program has been developed over the last year where a portion of the landscaping will be

paid for facilities that ACHD would otherwise fund. **Senator Bilyeu** inquired if they have reached an agreement with the city of Boise on cost sharing. **Mr. Price** responded that they had not. There are three projects where the City has refused to adopt our precautionary policy; they have entered into agreements that deviate from policy; and we have not resolved a related issue on another project. **Senator Bilyeu** asked if the disagreements were mostly with Boise. If so, why have other cities been brought into this disagreement? **Mr. Price** said, predominately it is Boise. The legislation specifically addresses authorization of the landscaping in urban renewal areas and it is really a function of the legislature to determine what jurisdiction ACHD has. This will stop the ongoing conflict with local governments.

Senator Bilyeu inquired if ACHD had a dedicated source of funding in impact fees from developers. Are you asking for a shift of some of your responsibility for which you are receiving money? **Mr. Price** responded that they did get some funds from impact fees and they are going to their intended purposes. **Senator Bilyeu** asked if landscaping was part of the plan within a project. **Mr. Price** explained that ACHD uses a process as part of project development to allow the cities to participate in choosing the landscaping features they would like to incorporate into the plan.

Representative Nonini remarked that some say this is a local issue and local government should be able to work together and resolve the issue. ACHD and Boise City have not been able to resolve their issues. Idaho law created ACHD as well as urban renewal agencies so this is a proper venue to resolve the situation. The amendments added in H 583aa will help clarify these issues. This legislation should go to the amending order.

MOTION:

Senator Corder noted that this legislation is not going to stop ACHD and the city of Boise from coming back to the Legislature. ACHD wants clarity that when they build a road within an urban renewal district, that district will pay for landscaping improvements. **Senator Corder** moved to send H 583aa to the 14th order for possible amendment. **Senator Stegner** seconded the motion.

Senator Stegner stated that he and **Senator Corder** developed the amendments after talking with Boise and ACHD and that they would add clarity about responsibility. Additional language will provide the highway district with options for paying for some landscaping. The Senate does not normally support specific amendments or offer committee amendments. Once it goes to the amending order, it is "fair game" for any additional amendments. There has been an effort to strike a balance and provide some clarity to the issue.

Senator Bilyeu agrees that the amendments improve the bill. However, this is an issue that should be given the opportunity to be solved by discussions between the parties.

SUBSTITUTE MOTION:

Senator Bilyeu made a substitute motion to hold H583aa in Committee. **Senator McKague** seconded the motion.

Senator McKenzie supports the substitute motion by **Senator Bilyeu**. Whether this bill is passed or not, even with proposed amendments, it does not resolve the issue. There is value in having the parties come back to the table to resolve the issue. Some of the affected parties have not been "at the

table” because these changes affect more than just ACHD and the city of Boise. Other cities, i.e., Meridian, Star, Eagle, and Kuna should all be at the table as well. Those dialogues can be continued at the local level.

**VOTE ON
SUBSTITUTE
MOTION:**

Roll call vote was taken with 4 ayes, 4 nays, and 1 excused.

The motion failed.

Ayes: Senators McKenzie, McKague, Bilyeu and Werk

Nays: Vice Chairman Heinrich and Senators Stegner, Corder, and Jorgenson.

**VOTE ON
ORIGINAL
MOTION:**

The motion failed by voice vote. H 583aa is held in Committee.

Vice Chairman Heinrich announced that both Chairman Hill and Representative Labrador are involved with a bill with the body across the rotunda and has requested that H 616 be held over until the next meeting.

Vice Chairman Heinrich presented **Ted Spangler**, Idaho State Tax Commission, with a gift from the Committee in honor of his retirement and in recognition of his many years of service to the Legislature and to Idaho.

Ken Harward, Association of Idaho Cities, added his appreciation and congratulations to Mr. Spangler. Regarding H 616, **David Swindell**, Finance Officer, City of Pocatello, cannot return tomorrow and would like to give his testimony at this time.

Mr. Swindell testified in opposition to H 616 and submitted his written testimony. **Mr. Swindell** also represents the Mayors of Idaho Falls, American Falls, and Soda Springs. **Richard Horner**, Mayor of Rexburg, is also in attendance. There are certain circumstances where this legislation would limit the community’s ability to authorize LIDs at a time when they need all the “tools in their toolbox” they can get.

ADJOURNMENT:

Vice Chairman Heinrich asked the Committee members to leave all the information in their folders for the next meeting. There being no further business, the meeting adjourned at 3:56 p.m. until Wednesday, March 24th at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** March 24 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Bilyeu, and Werk
- MEMBERS ABSENT/ EXCUSED:**
- CONVENED:** **Chairman Hill** called the meeting to order at 2:00 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** **Senator McKague** moved to approve the minutes of March 16 as written. **Senator Jorgenson** seconded the motion. The motion carried by unanimous voice vote.
- H 691** RELATING TO AMBULANCE SERVICE revising provisions for authorizing a special tax levy in certain counties.
- Vice Chairman Heinrich** stated that H 691 gives an ambulance district an additional option for funding. Currently, the only option would be to reduce services or form a countywide ambulance district. This bill allows them to go to the electorate and, with a two-thirds vote, to increase the levying authority from .04 up to .06.
- MOTION:** **Vice Chairman Heinrich** moved to send H 691 to the Senate floor with a do pass recommendation. **Senator McKague** seconded the motion. The motion carried by voice vote. Senator Werk is recorded as voting nay. **Vice Chairman Heinrich** will carry H 691 on the Senate floor.
- H 645aa** RELATING TO PROPERTY TAXATION revising placement on the new construction rolls and revise procedures on the three percent calculation.
- Representative Ken Roberts** explained that H 645aa deals with an issue about property tax on new construction rolls. When there is a remodel, new construction, or a land use change occurs, that change in market value is added to the new construction rolls. Then a formula is used to determine the budget growth that is allowed on new construction for property tax. This bill provides a mechanism to deduct the market value when funding the adjustments required on p. 1 in (f)(I), (f)(ii), and C(f)(iii). There have always been provisions in code for increases but not for

decreases.

This bill also includes a provision to add in new construction that was allowable but never included on the new construction rolls. Instead of adding it on in the year of discovery, it would go back to the first year it should have been included.

Senator Werk asked for the reason that the property would go back to the original year. **Representative Roberts** explained that if an assessor added a property three years after it should have been added, the property would be valued at the original value and not the value at the three year point. Year three could be substantially different than year one. **Senator Werk** asked if there was a way to go back and see what the first year value should have been. **Dan John**, Idaho State Tax Commission (ISTC), responded that the property was on the roll for property tax just not the new construction roll so there are records to show the original value.

Senator Bilyeu inquired about the expected outcome of this change. **Representative Roberts** said that there were cases where taxes were increased for all taxpayers because of an error in determining increment values. This bill provides for corrections.

Testimony in Support of H 645aa

Max Vaughn, Assessor, Minidoka County and Chairman of the Idaho Association of Counties (IAC) Legislative Committee. **Mr. Vaughn** and IAC support the bill. There are some changes that need to be made in (f)(ii) but those can be addressed next year.

Richard Horner, Chief Financial Officer, City of Rexburg liked the bill. There are some problems with (3)(h). Going back to the smaller number is unfair when, in some cases, revenue had already been lost. Also, on page 3, lines 16-17 regarding land use classification, there is a concern that affects the new construction rolls when a change in property classification causes values to dramatically increase, that jump in increase is important. If this change takes that away, then they would oppose the change.

Mr. John addresses Mr. Horner's question. The deleted language on page three was redundant. It has no meaning.

MOTION:

Vice Chairman Heinrich moved to send H 645aa to the Senate floor with a do pass recommendation. **Senator Bilyeu** seconded the motion. The motion carried by unanimous voice vote. **Vice Chairman Heinrich** will carry H 645aa on the Senate floor.

H633

RELATING TO TAXES AND MINING and the Idaho Silver Gem Act to provide for a certain deduction from corporate income tax and to provide for the Idaho Silver Gem Act of 2010.

Representative Phil Hart said that H 633 is about the Silver Valley and the silver industry which was once a vibrant part of Idaho's economy. Now the silver is sent overseas to various nations for processing. This bill

is to create an incentive to bring a plant to Idaho that will process silver ore from Idaho. This would put about 400-800 miners to work and that would have a multiplier effect of 1:1.3 jobs.

The legislation authorizes the State Treasurer to authorize an Idaho firm to make an Idaho silver medallion that could be used for the payment of taxes. There is currently a company in Northern Idaho making silver blanks for the U. S. Government that is interested. **Representative Hart** presented a handout showing the history of the value of the dollar and explained the inflation rates over time.

The bill also allows the exemption to be extended to a company in North Idaho that could process mine tailings belonging to the state of Idaho. These toxic materials are currently stored in large plastic bags in areas around the State. Those bags are starting to deteriorate. That material contains about \$100 million in Indium belonging to the State that could be processed by a new hydro-metallurgical technology.

This legislation offers a ten year property and income tax exemption with a twenty year sunset provision. The tax break is for a new facility that would process silver ore or the tailings and one that would produce the medallion.

Chairman Hill asked if this would apply to all income tax or just the income tax from the facility. **Representative Hart** said it only applies to that particular facility.

Representative Hart stated that there would be a positive fiscal impact as outlined on the Statement of Purpose.

Senator Jorgenson asked if this bill was to provide a hedge on a security such as a currency; can't a person do that already by purchasing gold or silver? **Representative Hart** answered that they can already do that. This legislation is unique in that it will allow the payment of Idaho taxes with the silver medallion.

Senator Jorgenson asked how an intrinsic value would be created for an Idaho minted coin that would be greater than coins that are currently marketed. **Representative Hart** said that couldn't be done, it is not the object of this endeavor.

Senator Jorgenson inquired if the sponsors were aware of a discussion that occurred in Montana about processing precious metals similar to what is being suggested here. **Representative Hart** was not aware of that discussion.

Senator Jorgenson asked if Bunker Hill was a fully operational mine. **Representative Hart** replied that they had minimal operations. **Senator Jorgenson** asked if the major silver producers in the Silver Valley have given an opinion on the financial viability of this plan. **Representative Hart** stated that he had spoken to several of those mining operations. Bunker Hill is enthusiastic. Hecla, U.S. Silver, and Sterling had a "wait and see" attitude. Essential Metals, a subsidiary of Capital Formation out of Canada, is interested in this legislation and in expanding a facility that

could process silver ore.

Senator Jorgenson stated that he had spoken with the CEO of Hecla who felt there was no viability in this plan because there is not enough ore in the valley to justify the capital investment. **Chairman Hill** asked what the harm would be in the bill if there was no one to participate.

Representative Hart said this bill is intended to put people to work that are not working today.

Testimony in Support of H 633

Walt Holton, Citizen from Mountain Home submitted oral testimony. (Copy attached)

Larry Pegg, Citizen from Nampa submitted oral testimony. (Copy attached)

John Blattler, Citizen of Canyon County submitted oral testimony.

Chairman Hill asked for further testimony or remarks from the sponsor, being none, he called for the will of the Committee.

MOTION: **Senator Stegner** moved to hold H 633 in Committee. **Senator Jorgenson** seconded the motion.

Senator Stegner stated he is not in favor of offering a tax exemption. There are many industries asking for considerations. The Treasury should not be put into the position of being in the commodities market and all the subsequent requirements that entails.

Senator Jorgenson agreed with Senator Stegner's comments and putting the Idaho Treasury into commodities would not be a healthy situation.

SUBSTITUTE MOTION: **Senator McKague** made a substitute motion to send H 633 to the Senate floor without recommendation. The motion died for lack of a second.

VOTE: The original motion carried by roll call vote.
Ayes: Vice Chairman Heinrich and Senators Stegner, McKenzie, Corder, Jorgenson, Bilyeu, and Werk.
Nays: Senator McKague and Chairman Hill

H 616 RELATING TO LOCAL IMPROVEMENT DISTRICTS (LID) that when a LID is created then bonds, registered warrants, or interim warrants in an amount \$500,000 or more must be approved by vote or petition.

Representative Raul Labrador said that H 616 is a simple change in the law as stated above. There is a general consensus that LIDs are being abused in some way or another in different cities. This is one way to fix this situation. Although requests went out to a variety of parties, no other suggestions were forthcoming.

There may be a flaw in the legislation related to the voting provisions that was pointed out in an opinion by the Attorney General (copy attached). It was not the intention of the author of the bill to impede cities and counties

in their efforts, it only was meant to open up more opportunities. This could be remedied by striking lines 33-36 on page 2 of the bill.

An LID is a four-step process:

- 1) Initiate
- 2) Create
- 3) Assess
- 4) Bond

The reason the voting is at the end of this process is so that the information will be pertinent and correct and there will be time to educate the public. The voting period was a suggestion made by the cities and counties. Some cities and counties are already doing the right process so all this would do for them is to codify the process.

Testimony in Support of H 616

Russ Hendricks, Legislative Advisor for Idaho Farm Bureau, testified in support of H 616. (Copy Attached)

Testimony in Opposition to H 616

Bill Nichols, Attorney, has clientele that are municipalities of varying sizes, asked that this bill be held. **Mr. Nichols** stated that abuse has not been apparent in his experience and would not consider it a proper conclusion. **Mr. Nichols** countered the City of Eagle example stating that the system worked—it was a learning experience and he also referred to the disagreement between ACHD and Boise City.

One thing this bill does is to allow the creation of the levying assessment but does not permit the property owner to pay by installments. That removes an option for property owners. **Mr. Nichols** asked to hold this bill in Committee.

Sandi Bloem, Mayor of City of Coeur d' Alene, sent in written testimony in opposition via email. (Copy attached)

Association of Idaho Cities submitted written testimony in opposition to H 616. (Copy attached)

David Swindell, Chief Financial Officer representing Pocatello and Chubbuck, submitted written testimony in opposition to H 616. (Copy attached)

Representative Labrador summed up by pointing out that there were several statements made in opposition to this bill. This bill is not premature; The Legislature should not wait until there is a need for the bill, it should be addressed before there is a problem. The court will only review whether or not the process was proper, not if the LID was good or bad.

There has been abuses since 1912, the first being in Moscow. Abuses do not happen every day, but they could happen.

As far as choosing how to pay for an LID, the citizens should have the choice of a one time payment or payment over time through a bond with

the State. **Chairman Hill** asked if they have that option now. **Representative Labrador** replied that they do have that option now.

Chairman Hill asked if this bill was sent to the amending order and the lines regarding voting were struck and the amount raised to \$1 million, would that be workable. **Representative Labrador** said he would not be happy but would concur with the changes.

MOTION: **Senator Jorgenson** moved to send H 616 to the Senate floor with a do pass recommendation. **Senator McKague** seconded the motion. The motion failed by voice vote.

ADJOURNMENT: There being no further business, **Chairman Hill** adjourned the meeting at 3:11 p.m. until Thursday, March 25 at 3:00 p.m.

Senator Brent Hill
Chairman

Twyla Melton
Secretary

MINUTES

SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE

- DATE:** March 25, 2010
- TIME:** 3:00 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Hill, Vice Chairman Heinrich, and Senators Stegner, McKenzie, Corder, McKague, Jorgenson, Bilyeu, and Werk
- MEMBERS ABSENT/ EXCUSED:**
- CONVENED:** **Chairman Hill** called the meeting to order at 1:00 p.m. with a quorum present.
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** **Senator Bilyeu** moved to accept the minutes for March 17, 2010 as written. **Senator Werk** seconded the motion. The motion carried by unanimous voice vote.
- Chairman Hill** welcomed **Representative George Eskridge**.
- H 665aa** **Representative Eskridge** explained that this legislation clears up ambiguity on which foundations and organizations are eligible for a tax credit as well as those donations to foundations or organizations that are not a formal organization of an elementary, secondary or higher education but still directly support these institutions. There are currently five foundations that provide financial support for elementary and secondary schools in their area that are impacted by this legislation: Panhandle Alliance Foundation in Sandpoint; Textile Foundation in Coeur d Alene; Lewiston Independent Foundation for Education in Lewiston; Boise Public Schools Education Foundation in Boise; and, Madison Education Foundation in Rexburg.
- Donations to these foundations have been claimed as tax credits. A question arose at the Tax Commission about the qualification of these contributions and a staff member at the Commission said they were not eligible because they were not a formal part of the school.
- H 665aa clarifies that, in addition to other beneficiaries in the statute, the foundations referred to on page 1, lines 26-32 of the engrossed H 665aa would be recognized and designated as qualified for the tax credit.
- MOTION:** **Senator McKenzie** moved to send H 665aa to the Senate floor with a do pass recommendation. **Senator Werk** seconded the motion. The motion carried by unanimous voice vote. **Senator Kerby** will carry H 665aa on the Senate floor.
- Chairman Hill** introduced **Representative George Saylor**.

H 615

Representative Saylor stated that the purpose of this bill is to create an easy way for Idahoans to donate to the Opportunity Scholarship Fund. This bill will not create a tax credit or any additional liability.

Section 1 states that any taxpayer who has a refund from their state income tax can donate any portion of that refund to the Opportunity Scholarship Fund for the purposes outlined in *Chapter 56, Title 33, Idaho Code*. This donation can be made via the Idaho Individual Income Tax Return.

Representative Saylor outlined what other recipients listed on the tax form received in 2009 and extrapolated the expected return for the Opportunity Scholarship Fund. The Fund has not been able to meet the original amount of \$100 million designated at its inception. Only \$20 million has been reached. There has been no funding for 2009 and 2010. They have maintained enough for the renewal scholarships (525). There is a need for additional funding.

This bill is not going to be the final answer to support higher education but it is a small step forward to help deserving students.

Chairman Hill confirmed that this is not a new scholarship, just a request to add funds.

Senator Corder stated that **Representative Saylor** is not coming back next year and the Senator wanted to express his appreciation and to honor **Representative Saylor's** service to the Idaho Legislature. We will miss you.

Senator Jorgenson added his comments that he wanted **Representative Saylor** to know that he is one of the finest elected officials to serve and will be missed.

MOTION:

Senator Jorgenson moved to send H 615 to the Senate floor with a do pass recommendation. **Senator Werk** seconded the motion.

Senator Stegner echoed the sentiments and best wishes and regrets that he will not be able to support this bill. The cause is as good as many that come before this Committee and those on the donation list. **Senator Stegner** is not in favor of adding to the list and would like to eliminate it because it is troubling that one good cause should be favored over others.

VOTE:

The motion carried by voice vote. **Senator Jorgenson** will be the floor sponsor.

Chairman Hill welcomed Representative John Rusche to present H 597 which could possibly be the last bill before the Committee this year.

H 597

Representative Rusche stated that H 597 is a modification of *Section 63-3029F* which is a special credit available for new employees. Currently in code, there is a \$500 and a \$1,000 tax credit for new employees applicable to all size employers. The original focus was on small, new business and stimulating new employee development. Now it is not only applicable to new businesses but to existing businesses. The existing limitations will continue to apply. The purpose is to give a little extra stimulus to employers during this time of high unemployment.

Chairman Hill explained a problem with the fiscal note. Idaho is in the middle of a recession and employment is down from two years ago by over 50,000 jobs. There probably will be a recovery over the next few years regardless of what kind of tax credit is given. If only the jobs that were lost in the last two years were

replaced, (50,000 @ \$2,000 ea) it would amount to a fiscal impact of \$100 million. This credit will be used because there will be a recovery. **Representative Rusche** responded to the question that those employers coming out of the recession would use the tax credit.

Senator Corder asked if there was any other information that would help to better understand the implications that this bill would mean to those jobs. **Representative Rusche** replied that he had no data as to the effectiveness of this tax credit. The existing credits have been used sparingly. The report from the Tax Commission was \$300,000 to \$400,000 per year. There are some businesses expanding during the recession and this would apply to those as well.

Senator Corder stated that if there was a \$100 million impact and there is no sunset provision, is there information available so there could be a clear understanding of the fiscal impact. **Representative Rusche** answered that the 50,000 job loss is a total, not per year. There is information available about how many jobs exist to fit into the category to provide a baseline. **Senator Corder** reminded the Committee about the comments yesterday about the accuracy of the fiscal impact. This could not be taken to the floor of the Senate as it is.

MOTION: **Senator Corder** moved to hold H 597 in Committee until accurate information for the fiscal note is received. **Senator Stegner** seconded the motion. The motion carried by voice vote.

GRADUATION: **Chairman Hill** requested Page, **Rachael Anderson** to come forward. **Page Anderson** was presented a letter of recommendation and a letter of commendation signed by all Committee members in honor of her service to the Local Government and Taxation Committee during the Second Half of the 60th Session of the Idaho State Legislature. **Page Anderson** was also presented an Idaho Senate watch and a memory book.

Page Anderson plans to finish high school in Rexburg. She will then choose which college she will attend – she has been accepted at BYU-Idaho, Utah State University, and BYU-Provo. She is considering a Library Science degree.

Chairman Hill thanked **Rachel** for her time with the Committee.

Chairman Hill expressed his appreciation to the Committee in a very tough year. He commended them for their professionalism, the courteous way those who testified were treated, as well as each other and the Chairman.

ADJOURNMENT: There being no further business, the meeting was adjourned subject to the call of the Chair.

Senator Brent Hill
Chairman

Twyla Melton
Secretary