

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 13, 2012

TIME: 3:00 P.M.

PLACE: Room WW53

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

**ABSENT/
EXCUSED:**

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

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

H 387AA

To Provide that the Owner of a Homestead Previously Qualified for Exemption is not Required to Make a Separate Application to Continue Qualification of the Exemption During the Time of Military, Humanitarian or Religious Service. **Chairman Corder** introduced **Senator Brackett**. **Senator Brackett** said this bill clarifies status of the residents' homestead exemption for property tax when someone leaves their primary dwelling place for military, humanitarian or religious service. This allows the home to be exempt as long as the homeowner intends to return upon conclusion of the service. The absence for other than military service would be limited to 36 months. There should be more done to encourage public service.

Chairman Corder introduced **Representative Luker**. **Representative Luker** said this bill started because of a letter from a constituent. See attachment #1. This bill is an improved version of H 30 from 2011 that failed. The Association of Counties has not taken a position; however, they helped craft some of the language, including limiting the time for humanitarian and religious service.

Senator Hill said on page 4, there is a provision that states the exemption would be allowed if the house were being rented. Can homeowners claim the exemption now if they are gone, but don't rent out the house. **Representative Luker** said there are two ways to lose the homeowners' exemption; if the owner is not residing in the house or if the house is being rented. **Senator Hill** asked if there were any recapture provisions. **Representative Luker** said that would depend on how the intent is looked at. The county commissioners could take away the homeowner's exemption because the intent changed.

Senator Werk said the original language on Page 4 already had an exemption for military members. **Representative Luker** said it was very narrowly defined; only those being sent to a combat zone. The current code says those serving in a combat zone can lease their house and not lose their exemption. **Senator Werk** asked if the legislation would be changed if the constituent had been working out of town and making money on the rental of their home. **Representative Luker** said if he had still been serving in the Peace Corps, it would not have been a problem. **Senator Werk** said with the exception of the combat zone deployment, in most instances people are making voluntary choices which leads to other implications that may not be taken into account. A voluntary personal decision may be made that results in a business decision. If someone has lived in the house for a long time, they would make money on the rental of that property. **Representative Luker** said the basic question is, does this cost the county money. It does not because these people already have a homeowner's exemption. They are being penalized if they want to go away for a period of time with the intent of returning. They are

not able to go serve elsewhere without the exemption and without being able to rent their home.

Senator McKenzie said the county may not lose money, but the tax burden is being shifted to the other taxpayers. The exemption applies to an owner-occupied dwelling and primary residence. Many of the military in Idaho are in the guard and they get a three-month notice when they are called up. People who want to serve in the Peace Corps have an option as to when they leave. This legislation forces the other property owners to pay for the exemption. **Representative Luker** said the principal is the same whether you are in a combat zone or a humanitarian trip. The county is providing the same services to the dwelling.

Senator Rice said if someone needs to rent a house, they will rent this particular dwelling rather than another place which could increase the demand for housing. This exemption does have the same effect as shifting the taxation. **Representative Luker** said whatever place they rented, the services would still be needed. If someone is able to rent out their house for what it costs them, they are then able to go serve.

Senator Hammond said currently if an assignment is accepted to proselytize for a given church or religion, the homeowner's exemption would be taken away. If they are granted a tax exemption for religious work, is that not a constitutional problem with the separation of church and state. **Representative Luker** said the exemption is not being granted based on their religious status, but rather based on homeowner's status. **Senator Hammond** said this legislation actually does grant an exemption because of the religious activity they are participating in. **Representative Luker** said that is one of the qualifying events, but not the only one. A lot of religious service involves humanitarian service. **Senator Hammond** said when he had worked on this issue in the past, the only reason the focus was on the National Guardsmen leaving for combat duty was because they do not have a choice where to go and when.

Senator Werk said if there was a large religious community in a specific county and there was a large number of people doing religious service in a given year, the result would be that those people who were left would pick up the tax burden.

Senator Bilyeu said when she was the assessor in Bannock County, when someone went on a mission, the homeowner's exemption was not taken away unless the house was rented. This legislation would not help those on an educational sabbatical.

Chairman Corder asked if service in a combat zone is considered to be the same as other military service. **Representative Luker** said no, the desire to be of service is the same. **Chairman Corder** said this legislation does equalize the types of service and has lessened the value of service in a combat zone. The combat exclusion was very specific. The original exemption was intended to be a distinct honor and privilege for the military going to combat zones and it is unlike any other service.

Chairman Corder said there is a mechanism already in place to protest the homeowner's exemption being removed on a taxpayer's home. The citizen can go to the county and appeal the decision. Should these people not go through the current appeal process that is in place. **Representative Luker** said there is a very short time frame to make an appeal and technically the law says if the home is not owner occupied, the exemption should be lost. A lot of counties have looked the other way in the past. **Chairman Corder** asked how religious service and humanitarian service is defined in this legislation. **Representative Luker** said they would be defined using the normal definition in the dictionary; service to others for an organization. **Chairman Corder** said there has been a lot of discussion as to the role of state and county governments and now the State is telling the county they have to grant exemptions. Who decides what is considered humanitarian service. **Representative Luker** said humanitarian service means service to others and it would include all religions.

Chairman Corder introduced **Colonel Bill Richey**, Special Assistant for Military Affairs Promoting Mountain Home Air Force for the State, who spoke in support. See attachment #1.

Chairman Corder asked if this legislation is for deployed military only or also for those being transferred. **Colonel Richey** said this is for all military which would include not only deployments, but permanent change of duty stations. The three years only applies to humanitarian service; military service would be exempt as long as they did not purchase another home anywhere else.

Chairman Corder introduced **Miguel Legarreta** of the Idaho Association of Realtors, who spoke in support. **Mr. Legarreta** said this is a fairness issue and the tax shift would be temporary until the homeowners come back from service.

Senator Werk said the example of a military family moving for Officer Training is very similar to a private corporation transferring a family overseas; would they receive the same exemption. **Mr. Legarreta** said there is a difference in the examples and the private corporation would not receive the exemption.

Senator Rice asked if there was any difference between being paid by the charity for the humanitarian work or going as a volunteer. **Mr. Legarreta** said that would be difficult to determine.

Chairman Corder introduced **Geoff Schroeder**, former Mountain Home City Councilman, who spoke in opposition. **Mr. Schroeder** said this legislation is a solution looking for a problem. This covers everyone on active duty, not just those on a military base. There is no time limit for the military with the exemption. This creates an economic incentive for people to rent their houses. There are already exemptions for military people who suffer a hardship by needing to move.

Mr. Schroeder said any law that is written today applies in future markets as well; even when people may be making money on renting their homes.

Senator Brackett said more needs to be done to promote and encourage public service.

Senator Hill said lawmakers are paid to figure the unintended consequences of legislation. In most cases, the people who would benefit from this legislation have good, pure intent. When you rent a home, you lose money. The people who would be affected are people who have lived in Idaho for a long time and are our friends and community members. This exemption is not an incentive to do good, but rather a penalty for doing good.

MOTION:

Senator Hill made a motion to send H 387aa to the floor with a Do Pass recommendation. The motion failed for lack of a second.

H 582

To Revise Provisions Relating to Taxation of Income of Owners on an Interest in a Pass-Through Entity, to Define a Term and to Provide Administrative Provisions.

Chairman Corder introduced **Bob Aldridge**, of Trust Estate Professionals of Idaho, Inc. (TEPI). **Mr. Aldridge** said this legislation is limited to pass-thru entities and non-residents. See attachment #2.

Vice Chairman Johnson asked **Dan John** if the Tax Commission is in favor of this legislation. **Mr. John** said the TEPI group identified issues they have had. The Tax Commission is supportive of the changes.

MOTION: **Senator Hill** made the motion to send H 582 to the floor with a Do Pass. **Senator Hammond** seconded, and the motion carried by Voice Vote. **Senator Hill** will be the floor sponsor.

ADJOURNMENT: **Chairman Corder** adjourned the meeting at 4:20 p.m.

Senator Corder
Chairman

Jo Ann Bujarski
Secretary