

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

- DATE:** Thursday, January 31, 2013
- TIME:** 3:00 P.M.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Siddoway, Vice Chairman Rice, Senators Hill, McKenzie, Johnson, Vick, Bayer, Werk and Lacey
- 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.
- CONVENED:** **Chairman Siddoway** called the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.
- H 5** **Chairman Siddoway** invited Michael Chakarun, Tax Policy Manager for the Idaho State Tax Commission (Commission), to the podium to present **H 5**, relating to Cigarette and Tobacco Products Taxes. **Mr. Chakarun** explained current law makes it unlawful for a person to act as a wholesaler of cigarettes without a permit. The statute also requires that a permit shall be held only by persons actively engaged in making wholesale sales of cigarettes subject to tax. He said some manufacturers and wholesalers of cigarettes in Idaho may sell cigarettes to Indian tribes or military commissaries or other licensed wholesalers. **Mr. Chakarun** said there is no cigarette tax stamp applied to those cigarettes so some of the vendors think they don't need a permit because they're selling tax exempt cigarettes. He said this bill will clarify that a permit 'is' required by striking the words "subject to tax under this chapter." **Mr. Chakarun** said the Commission believes the change will prevent inadvertent noncompliance by cigarette wholesalers and imposition of penalties.
- Senator Hill** asked if there has been a problem with inadvertent noncompliance in the past and if this preventative measure is taken, could there be a possible positive fiscal impact. **Mr. Chakarun** answered he is not aware of any but it is a concern raised by the cigarette tax auditors that they don't want a potential problem to get out of hand, because there would be penalties imposed.
- Vice Chairman Rice** said his read of it before was that if the cigarettes weren't subject to tax under that chapter, they did not have to get a permit. He asked if this change will now require them to get a permit. **Mr. Chakarun** replied the first part of the statute reads it shall be unlawful for a person to act as a wholesaler of cigarettes without a permit. There is confusion because they think there is not a stamp on them, so therefore they're not subject to tax. **Mr. Chakarun** said the Commission is saying every wholesaler has to have a permit so the cigarettes can be tracked. This bill gets rid of the inconsistency in part three of section one of this statute.
- MOTION:** **Senator McKenzie** moved to send **H 5** to the floor with a do pass recommendation. **Senator Werk** seconded the motion. Motion carried by **voice vote**.

Mr. Chakarun presented **H 12**. He said Section 1 is a housekeeping measure. It relates to Idaho Code § 63-3622F which provides an exemption from sales tax for food purchased using federal food stamps or coupons issued under a variety of federal statutes, including the Food Stamp Act of 1977, Food Security Act of 1985 and the Federal Food, Conservation and Energy Act of 2008. Congress passed a bill in 2008 to rename and consolidate these programs, and it is now known as the federal Supplemental Nutrition Assistance Program (SNAP). **Mr. Chakarun** said food stamps are not issued anymore as they are now done on electronic benefit cards. This provision updates the statute to reflect current terminology and payment method. The provision makes no changes to the scope of the program or eligibility requirements. It strictly cleans up terminology.

Section 2 relates to military members who move into Idaho and whether or not there is tax on the goods they buy before moving to Idaho. **Mr. Chakarun** explained Idaho Code § 63-3621(l) gives a tax exemption on certain articles brought into Idaho by military personnel temporarily assigned to Idaho and their spouses who accompany them, if the articles were acquired in another state prior to their move to Idaho while a resident of that other state, and were purchased three months before moving to Idaho. This exemption for military members was added in the 2012 legislative session. He said, with hindsight, the language is overly restrictive, does not reach the intent of the bill's sponsor and could actually cause a hardship to the military member if not changed.

Mr. Chakarun shared a scenario as an example. He said, "The military member buys a car on Monday, receives orders to transfer to Idaho on Tuesday, moves to Idaho on Wednesday, and is required to pay use tax to Idaho on Thursday." **Mr. Chakarun** said in that scenario, the member would have to pay use tax because he didn't meet the three month window. The provision in this bill fixes the problem by exempting the goods from use tax if the goods were purchased before receiving orders to transfer to Idaho. He said it also removes the requirement that the military member must be a resident of the state in which the goods were purchased. The intent is to prevent hardship on military members moving to Idaho.

Vice Chairman Rice asked if the Commission has checked with the military to see how long prior to a move they generally cut orders. **Mr. Chakarun** said several Commission staff members are in the military and when they saw the change made last year, they said it did not help very much and were upset that the provision wasn't right. He said this provision was designed to help fix that. He said he personally did not check with the military but he did hear from some of the staff who have first hand experience with this issue and thought this was a much better solution. **Vice Chairman Rice** asked what if their orders were cut longer than 'before three months' and would items they purchased after they got their orders be subject to the use tax, even though it was purchased more than three months before their move to Idaho. **Mr. Chakarun** answered yes, he believes so.

Senator Lacey asked about a sentence in the bill that still has a reference to the three month provision in it, and below that it says it does not apply, so he'd like to know what that reference relates to. **Mr. Chakarun** said that section still relates to other people that move into Idaho. The change being requested exempts and carves out that section strictly for the military and their orders.

Vice Chairman Rice asked Mr. Chakarun if the Commission would be opposed to this provision being amended "so that members of the military that moved 'after their orders or less than three months, whichever is shorter.'" **Mr. Chakarun** answered they would be amenable to that.

MOTION: **Vice Chairman Rice** moved that **H 12** be sent to the 14th order for amendment. He said he would like it to be changed to make sure there isn't a longer window for military personnel. **Senator Vick** seconded the motion. Motion carried by **voice vote**.

PRESENTATION: **Chairman Siddoway** invited Dr. Steven Cooke, Retired University of Idaho Agricultural Economist, to share a presentation called, "A Case for Implementing HB599AA (2008) Reforming Idaho's Personal and Operating Property Taxes."

Dr. Cooke said with this presentation, he is representing only himself and not the University of Idaho or any other organization. He thanked the Committee members for their service and called them the nine most important people in the state on this topic. **Dr. Cooke** said he divided the presentation into three parts: The Impacts of Eliminating the Personal Property Tax in Idaho and the Idaho Economy; The Current Labor Force in the Economy, in which he will argue that Idaho is currently in the low service, low skill, low wage economy trap; and, Reforming the Personal Property Tax as a way to Improve Idaho's Labor Force and Economy, in which he plans to demonstrate how to move Idaho into a high service, high skill, high wage economy. A complete copy of his presentation is available in the official record in the office of the committee secretary. (See Attachment #1)

Chairman Siddoway asked about centrally assessed operating taxes, specifically about how the electric utilities (electrics) have a virtual monopoly and the rates are set through the Public Utilities Commission (PUC). He said whether the tax is collected by the electrics or dropped and there is a shift, consumers will still pay a tax one way or the other, whether via sales tax or real property tax, either through the utility or through a shift. Given that information, **Chairman Siddoway** asked Dr. Cooke if he thinks there is any incentive to leave operating in or should they be exempted from the exemption.

Dr. Cooke said he thinks the "Big Fella" should continue to be taxed as personal operating. He said he thinks Chairman Siddoway is right that it is a pass-through tax to the consumer through the electrics. He said he thinks it is important to tax them because under current tax structure, the inputs are taxed more than the outputs are taxed.

Chairman Siddoway asked Dr. Cooke to contrast that with centrally assessed monopolies versus a wild west competitive private enterprise that is considering whether to build their operation in Idaho or build their operation in Bangladesh. **Dr. Cooke** said going back to the electric utility example, he said according to a study he read, the United States is not doing its fair share in having a carbon tax on electrics, so the United States already has a competitive advantage in that regard.

Chairman Siddoway asked Dr. Cooke if he thinks the environmental advantages of going to work in the United States outweighs all the other benefits that would be available in another country. **Dr. Cooke** replied he thinks "firms have a moral obligation to make a balanced decision between their shareholders, their workers, the environment and consumers, and part of an energy or carbon credit would be a way for firms to assume responsibility to the environment."

Chairman Siddoway suggested ignoring centrally assessed operating tax for a moment to focus on the tax on business, and whether it is a small business paying \$3 to \$7 or a big business paying half a million dollars worth of personal property tax per year. **Chairman Siddoway** asked if a \$100,000 exemption or a \$250,000 exemption goes through and 96 percent of all the businesses in Idaho are exempted from personal property tax, what message does it send to the four percent of businesses that hire virtually half of the people in Idaho.

Dr. Cooke replied, "To whom much is given, much is expected." He said Idaho Power does very well in this state and this is their ability to contribute back to the infrastructure that they use. He said, "We live in a beautiful state, and we enjoy the infrastructure that makes it that way, and we pay for that."

Senator Werk asked if the examples with operating property that Dr. Cooke used in preparing the analysis would stretch across other types.

Dr. Cooke replied he feels "a bit like the drunk who is looking for his keys under the street light because that's where the light is." He said the data he had available to use from the Idaho State Tax Commission was operating property tax. He said if he had the data for the local use tax he would prepare an analysis with that. He said he thinks what is happening with operating tax is suggestive of what is going on.

Senator Werk said when discussing operating property, what is being discussed is utilities. If there is a tax on operating property/infrastructure property, it encourages efficiency in utilization and creation of that operating property. So, if a utility is thinking about building a new power plant, it would impact their business decision to know by adding that power plant, there would be operating property tax on that power plant, so the utility might look toward conservation and take into account that cost. **Dr. Cooke** replied yes.

Senator Werk addressed another question that was raised about attracting business to Idaho. He said in some instances businesses may have high amounts of personal property, such that if they looked at moving to this state, Idaho would be at a disadvantage in bringing in that business compared to other states that didn't have the same tax. He said he assumes if Idaho wanted to make the playing field 'uneven' for a sector that was considering Idaho but had a problem getting over the hump because personal property tax still existed, the state could make an economic decision to exempt a particular sector to allow them to come in and operate in Idaho. **Dr. Cooke** said that is exactly right, and the state could do that, but he sees a problem. He said if Idaho sends a message that the state is open to negotiating its tax structure, companies will do that as a matter of course. He said instead, Idaho should send a message to companies that says, "We are going to provide you an educated work force, solid infrastructure, and top of the line research to make your business productive, and you're going to have to pay your fair share as everyone else is." **Dr. Cooke** said in that way, the company will have the foundation to be very profitable and not feel like it's being treated unfairly.

Senator Werk said it seems the job is to balance between public infrastructure that provides skilled workers and transfer of technology from university sector to private sector that paves the way to grow high wage, high skill jobs. On the other hand, if all those things that help create infrastructure are cut back, the low end will take over because the high skill is not being created. **Senator Werk** asked if he recollects correctly about a survey that said the highest and best investment the public sector could make is in higher education.

Dr. Cooke said he is not familiar with the study, unless he's referring to a legislative study done last year that shows many Idahoans are not going on to higher education whether because of cost or because of job opportunities, and he said that is symptomatic of the problems. He said Idaho is not getting high skill jobs, so students don't see the benefits of higher education. **Dr. Cooke** said he thinks higher education can be used as a tool to educate the labor force in new technologies.

Senator Hill asked about the table that showed the number of jobs that would be created if personal property taxes are cut. He pointed out where Dr. Cooke said if \$45 million was cut from personal property tax, it would create 62 jobs in utilities. **Senator Hill** said he'd like to know how it could create any jobs in utilities because those utilities are guaranteed a certain rate of return from the PUC. If their costs are cut, their profit increases, which means they will get less of a rate increase from the PUC. **Senator Hill** said when there is a monopoly with a guaranteed rate of return, there is not a lot of incentive for them to be careful with their costs, so how is cutting their personal property tax going to create 62 more jobs.

Dr. Cooke said Senator Hill's insight is very good, because the point Dr. Cooke is making is that jobs are not generated by giving tax breaks to utilities. **Senator Hill** said he means no disrespect, but he is questioning the validity of the numbers, which gives him lower confidence in the other numbers in this analysis. **Dr. Cooke** said he thinks his numbers are valid, because if the cost of capital is lowered, the demand for that capital increases. He said there may be a shift related to lower costs and that is where the jobs could come from.

Vice Chairman Rice said Dr. Cooke just explained that if costs are decreased, the demand is increased. **Vice Chairman Rice** continued, if cost is decreased by eliminating the personal property tax on some of the businesses that have higher amounts of personal property, that would increase the demand to have more of that activity. So, if the cost of electricity is lowered because the personal property tax is removed, the demand for electricity would increase, and would that therefore increase more of the manufacturing sector jobs that would be higher wage jobs and change some of the other numbers. **Dr. Cooke** answered, "Potentially, yes. These things are not black and white." He said the point he is trying to make is a question of fairness among businesses, that if a tax break is given to businesses that are primarily operating property versus those that are real estate and buildings, then the economy is biased towards the one with high operating proportions. He said his point is "treating equals unequally is also unfair."

Senator Bayer commented that on the federal level, we have the national debt and a constitutional provision for a balanced budget on an annual basis. **Senator Bayer** said he thought he heard Dr. Cooke say he was not supportive of spending limitations. **Senator Bayer** said if one is to have adequate and stable taxes for public services, it would seem that one would want to have an adequate and stable appropriation process so that appropriation process doesn't balloon the bubble in the revenue flow. If that current is more stabilized, then when those differences are realized, **Senator Bayer** said as Dr. Cooke pointed out in another slide, they could be put in rainy day accounts to have a buffer to maintain an even keel tax appropriation process. **Senator Bayer** asked Dr. Cooke to comment on that.

Dr. Cooke said it would be limiting the taxes on operating property to zero if there is complete elimination of the tax. He said when that is done, he sees it as under funding infrastructure in favor of the firms that get the tax breaks, which in this case would be utilities. **Dr. Cooke** said therefore, it is under funding education so tax breaks can be given to electricity. He said, "The question before this Committee is, do we need more electricity and less education, or more education and less electricity."

Senator Bayer said he appreciates Dr. Cooke's comments. He said he'd like to follow up with another variable which is not just the term of adequate funding, but also the adequate management of said funds. He asked Dr. Cooke what his thoughts are in regards to tax policy and how it deals with taxing districts and local subdivisions of government that have budget-driven systems versus the legislature that has a revenue-driven system. **Senator Bayer** said it's like oranges and apples. He asked Dr. Cooke for his thoughts on potential changes in budget-driven systems, because, **Senator Bayer** said, he sees a big limitation as to how they can deal with tax policy because they deal with shifting. He said local level starts with a pie and says this is the budget, which is completely different than how it's done on the state level.

Dr. Cooke said he wanted to be clear about what Senator Bayer means, if he is referring to counties and school districts that determine how much they need and then take that ratio to the tax rate and then multiply that by the homeowner's property value. **Senator Bayer** said that is partly it, but he means when one starts with a budget template as opposed to an assessment of revenues and where they are coming from, which is what the state has to do. He said they start with budgeting and then 'back in' to revenue and make the pie whole one way or another.

Dr. Cooke said he ran for Latah County Commissioner and sat through budget hearings, and he has been on a University group that estimates for revenues from the state. He said he was waiting for the County Commission to go through a similar process at the local level, as Senator Bayer is referencing, and **Dr. Cooke** said the County Commission never did that. He said he asked the County Commission why they never sat down to figure out their revenues because he was shocked they only talked about expenditures. He said their response was they knew what their revenues would be, because property tax revenues were very stable. He said the only changes were the amount of construction. He said their practice is very straight forward and constrained. **Dr. Cooke** said he has some ideas on how to help out local governments. He said for example, he thinks housing transactions should be reportable so the assessor can have a comparison to market for assessed valuations. He said another idea for the local level would be to have impact fees that would require new construction to pay for itself. Impact fees are payments to the off site infrastructure that is needed as a community grows, like water and sewer services.

Senator Bayer said he thinks a frustrating situation for taxpayers is when there is a recession with unemployment and income issues and the revenue-driven system at the state level has checks and balances for changes in tax policies; however, at the budget driven local level, there are finite checks and balances for the taxpayers' tax burden.

Dr. Cooke said, "I would respectfully disagree." He said he thinks citizens of Idaho appreciate local services more than they appreciate the state services or federal services. He said they are least happy with property tax, and he would encourage making the property tax more transparent, fair and flexible.

ADJOURNED: **Chairman Siddoway** thanked Dr. Cooke and said the Committee is out of time. He adjourned the meeting at 4:30 p.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary