

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 14, 2013

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Senators Hill, McKenzie, Johnson, Vick, Bayer, Werk and Lacey

ABSENT/ EXCUSED: Vice Chairman Rice

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 meeting of the Local Government and Taxation Committee (Committee) to order at 3:02 p.m.

Chairman Siddoway asked the Committee for consent to reorder the agenda so that Representative Thomas Dayley could present first as he has a committee meeting to attend. With no objections, Representative Dayley approached the podium.

H 72 **Representative Dayley** introduced **H 72** relating to Income Tax Credits for Charitable Contributions. He said it's being called the Education Foundation Regulatory Relief Act. He gave the Committee two handouts that provide additional information and answers to frequently asked questions. (See Attachments 1 and 2.)

Representative Dayley said Idaho Code § 63-3029A offers Idaho income tax credit for voluntary donations to various components of our state's educational infrastructure; public schools, libraries, museums, qualified higher education institutions, and elementary or secondary institutions that are tax exempt under Section 501(c)(3) of the Internal Revenue Code. He said in order to take advantage of these credits, many eligible entities are required to form separately governed nonprofit IRS tax exempt foundations. He said for these organizations, the annual cost of keeping their nonprofit status in compliance with all state and federal regulations can eat up a significant portion of their annual revenue. Also, the organizations often rely on volunteers as they typically have no paid staff, permanent accountants or bookkeepers. **Representative Dayley** said historically, many small organizations have lost their tax exempt status through failure to file IRS Form 990 annually.

Representative Dayley said the proposed change to current law would establish a mechanism through the Idaho Community Foundation (ICF; Foundation) whereby small organizations would have the option to deposit their funds into a dedicated ICF account. This account would be established to exclusively support the charitable purpose that would otherwise qualify the donor for the tax credit. He said, again, this would provide that the ICF is available to assist small foundations, but it would not mandate that foundations participate with ICF. It is voluntary.

Representative Dayley said it may be helpful for him to review some of the management functions for which foundations are responsible and how ICF can help the small organizations. For example, the initial foundation setup costs including the application for the IRS 501(c)(3) status is between \$500 and \$1,000, plus the substantial consumption of time to develop. He said the ICF can help with this without the cost.

He said another example is that foundations must manage the portfolio of gifts. ICF provides individual portfolio management, but the dedicated fund assets are managed as part of the much larger ICF portfolio. Over the past decade, the ICF has an authorized "distribution rate" (the amount returned to the designated charity from endowments) that has averaged between 4.5 and 5 percent over the last two decades.

Other items required for foundation operations that ICF can assist with include: organizing annual board meetings, keeping minutes and other documents, manage and distribute grants, elect board members, provide and monitor conflict of interest forms for the board, provide directors and officers insurance, conduct fund-raising, and keeping members informed in newsletters and other communication.

Representative Dayley said under IRS regulations, an alternative to maintaining an individual nonprofit foundation is to have the charitable cause form its own account within an umbrella foundation known as a "Community Foundation." Idaho has only one statewide community foundation, the ICF. It was founded 25 years ago by Idaho's leading charities and philanthropists to provide the benefits of a community foundation in Idaho. No other similar organization exists statewide. The ICF is accredited by the Community Foundations National Standards Board and thus is certified to be in compliance with national standards for statewide community foundations.

Representative Dayley explained the cost of depositing funds with ICF. He said ICF offers a range of different types of accounts, with a fee between 0.5 percent and 2 percent. He said in general, accounts that require more service work on the part of ICF are assessed higher handling fees, but these fees do not reduce the board authorized "distribution rate."

Representative Dayley introduced Lauren Tassos with ICF, who is available to answer Committee members' questions as needed.

Representative Dayley said he thought it was important to note some of the things the bill does 'not' do. He said it does not change current law regarding contributions to the ICF. He said the tax credit will only apply to dedicated accounts within the Idaho Community Foundation, and this is not a new tax credit. He said this tax credit will continue to be only on the contributions to those 501(c)(3) entities.

Representative Dayley said this bill does 'not' change current law regarding how a school can qualify for the tax credit. Also, this bill will not require nonprofits to create a fund in the ICF. It simply provides an 'option' to create an ICF dedicated fund under the law.

Representative Dayley said he has visited with representatives of several of the more than one hundred school districts in the state, including three in his legislative district, and he said he has not received any negative comments regarding the bill. He said in fact, one school district indicated it would have saved them time and money had this been law before they formed their foundation. He said those same foundations look forward to visiting with the ICF regarding creating a dedicated fund should the language in **H 72** become law. **Representative Dayley** said many organizations have indicated support for the bill, including Idaho Association of Commerce and Industry, Food Producers, and the Idaho Association of School Boards. **Representative Dayley** said he believes this would benefit Idaho schools and asked the Committee to send **H 72** to the floor with a do pass recommendation.

Senator Lacey said he appreciates what ICF has done over the years and asked if ICF is going to act as an umbrella, why would other entities have to have a 501(c)(3) and go through all the other efforts. **Representative Dayley** said his understanding is under the law as it is right now, the 501(c)(3) organizations have the tax credit. ICF does 'not' have that tax credit. So all that is being done is putting them in that category.

Senator Lacey said he knows one can donate to the ICF and get tax credit, so why should organizations go through all this other work. **Representative Dayley** deferred to Lauren Tassos, Development Officer for ICF, for further clarification. **Ms. Tassos** said currently donations to the ICF do not qualify for a tax 'credit' but they do qualify for a tax 'deduction.' Organizations or groups do not have to set up a nonprofit status before coming to the ICF. Someone who wants to set up a charity can come set up an account with ICF instead of setting up a 501(c)(3). ICF is an alternative for them. If they do have nonprofit status, they can also set up a fund.

Senator Johnson asked for clarification that if someone donates to the Foundation, it is not a 'tax credit' but it is 'tax deductible.' **Ms. Tassos** answered yes, that is correct. Idaho Community Foundation is a 501(c)(3) organization and donations to our organization or any account under our management qualify for a tax deduction. **Senator Johnson** said if he donates directly to a private school, under current Idaho law, he can deduct 50 percent of that as a tax credit. **Ms. Tassos** said that is correct, it is an education credit. **Senator Johnson** asked to clarify if it is indeed 50 percent. **Ms. Tassos** said she is not sure of the exact amount of the credit, but Representative Dayley may be able to answer that.

Senator Werk said he is not entirely familiar with how this works, but one thing that stands out for him is that perhaps the Foundation is taking on a liability in hanging on to the accounts. He said what if a foundation is not a 501(c)(3) and didn't want go through the efforts to keep that status, but sets up an account with ICF, and then the things they decided to do with the account are questionable, like how much they want to pay the head of the foundation. Because that organization is not a 501(c)(3) with all of the controls that go along with that classification, the ICF is taking in that organization and receiving money and providing a tax credit for it, so the ICF has the liability for that organization in the ICF's portfolio. **Senator Werk** said he wonders whether or not that has been considered.

Ms. Tassos replied that currently, when a fund is set up at ICF for a group of people who do not have their own nonprofit status, they would act as 'advisors' to the fund. She said, for example, if it was a library that set up a fund, and they wanted to make a distribution, they would be 'advisors' to the fund. If they wanted to make a recommendation from the fund, they would make a recommendation to ICF. **Ms. Tassos** said the ICF Board has fiduciary responsibility to make sure those funds are used appropriately according to IRS regulations. She said during the due diligence process, which ICF does whenever a recommendation from an advisor comes through, they look into those issues, making sure those funds are being used in an appropriate manner according to national standards. If that was not the case, she said, they would go back to the advisors and say they cannot make these distributions. **Ms. Tassos** said they have procedures in place to handle these kinds of circumstances, because they think about it and plan carefully.

Senator Werk apologized for not knowing more about ICF, and asked if the groups that set up accounts with ICF have to be a 501(c)(3) or if it can be anyone who wants to come in and support the library or whatever other charity. **Ms. Tassos** said the community foundation is established to make it easier for anyone who wants to give back to their area. Anyone, whether an individual, business, group of citizens or established nonprofit organization, can set up a fund at ICF.

Senator Werk asked for clarification that when advisors come and ask for an expenditure, ICF would check it out first to make sure it was a reasonable use of funds. He asked, when a group initially set itself up for whatever purpose without having a nonprofit status, how are guidelines derived; "how do you create boundaries where none might exist?"

Ms. Tassos said she should clarify that if a group that is 'not' a nonprofit organization were to set up a fund, and recommend distributions, none of those distributions would actually go back to that group, so they would never financially manage or be responsible for those funds. In the library example, the Friends of the Library would be advisors and recommend, as a group, a distribution to the actual library, to the charitable entity; in that case, the advisors don't have to follow any sort of guidelines. **Ms. Tassos** said the ICF does due diligence to make sure what they're requesting is in support of the library because that is what the fund is actually set up for.

Senator Hill said he thinks "we're making more out of this bill than what this bill really does, so I'd like to back up a minute." He said the discussion has been about what the Foundation can do, but that has nothing to do with what this bill does. What this legislation does say is that entities that already qualify for the credit, like education institutions in Idaho, public television, and endowment of the arts, already have guidelines on them. He said all we're talking about here is many of the school districts have an educational foundation to which people can make contributions, and they use that money for that school. ICF makes the facilitation of funds easier than when it goes directly to the school. So, these foundations are set up for the benefit of that particular school. All this does is say this rural school district doesn't have to go through the hassle of setting up its own foundation, so if they want to, they can use the ICF to set up an account and people still get the same credit donating to ICF as if they donated to the school itself. There is no change in the role of the Foundation. It is just allowing school districts and other entities to use this as a vehicle. It is just an account. **Senator Werk** thanked Senator Hill for the clarification.

Representative Dayley said he wanted to correct himself in that he should say school 'administrators' and not school 'board.' He also wanted to answer Senator Johnson's question, pointing to line six on page three of the bill, that shows the amount of credit allowed is not to exceed 20 percent, and that is not changing in this legislation.

Chairman Siddoway invited Phillip Homer of the Idaho Association of School Administrators to the podium. **Mr. Homer** spoke in support of **H 72**. He said he spent many days here as this was his committee some time ago. He said if a bill does no harm, then it is probably a good bill, and **H 72** does no harm, and is therefore a good bill. He said if a bill is permissive and allows a choice, then it's probably a good bill, and this bill is permissive and allows a choice for school districts if they wish to invest their funds at the community organization. He said he thinks the larger school districts will probably maintain their autonomy, but there are smaller school districts, especially in rural communities, that could really benefit from **H 72**.

Senator Vick asked about the fiscal note and if there is anticipation of more contributions because this makes it easier for schools to contribute, which would cause more donations, resulting in a fiscal impact. **Representative Dayley** said he has no way to estimate participation, and that is why the fiscal note is written the way it's written. **Chairman Siddoway** pointed out the fiscal note does say "no anticipated" impact, which is indicative that it is not known.

MOTION: **Senator Lacey** moved to send **H 72** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion. In discussion, **Senator Hill** said Senator Vick brings up a good point. **Senator Hill** said he had been stewing about whether or not there should be a fiscal note. He said it is probably minimal, because people who are involved are already making donations and getting credit, and this bill just make the process easier.

He said there may be a small increase in donations, but it is just setting up an account in a different way, so he is okay with it not having a fiscal note. **Senator Vick** said he likes the bill, but just wonders if there would be more schools who have not used the process before because of the hassle and may now start doing it. **Senator Hill** said that is valid. Motion carried by **voice vote**.

S 1070 **Chairman Siddoway** invited Woody Richards of to introduce **S 1070**, relating to charges for motor vehicle traffic incident responses. **Mr. Richards** said he represents Allstate Insurance, American Family Insurance, Farm Bureau and Mutual Insurance Company. He said the bill is about what has been called "crash taxes, incident response fees or misfortune fees." He explained that the insured began receiving claims from fire districts for clean up after auto accidents, something that people have traditionally believed was paid for by property taxes. He said state law allows for an exception, in that someone who drives out of boundaries may be billed for that cleanup, and federal law allows an exception for billing of certain hazardous materials cleanup. These exceptions would not be changed by this bill.

Mr. Richards said fire districts have sent bills for supervision costs, accident assessment costs, scene stabilization and even cost of meals for responders. Some people are covered by insurance if they have opted for collision and comprehensive coverage, but insurance doesn't necessarily cover these types of bills and in some cases such items are exempted. Idaho law only requires liability coverage, so many people get bills they can't pay.

Mr. Richards said H 647 on this same issue passed the House last year 54-7-9, but it did not get a hearing in the Senate. He said prior to introducing the legislation last year, he met with counties, cities, tow companies, hospitals, fire chiefs and the firemen's association. He said he did try to provide language he thought was fair to fire chiefs to allow separate charges for the cost of materials, repair of public property, and something well outside their boundaries. He said he met with fire chiefs again this year, but there was no further progress.

He said ten to twelve fire districts out of the 156 in the state authorize "crash taxes" and he expects to see more districts authorizing such charges in the future, unless the legislature prohibits them. Many are using a company out of Washington state called EF Recovery to collect the charges, so the roughly \$50,000 that those districts have collected is not a net amount. EF Recovery charges the first \$50 or 14 percent, whichever is greater.

Mr. Richards said the public is aware of this issue and does not like the imposition of "crash taxes" and 68 percent of people in a Harris Interactive poll in May 2011 oppose the fees and said fire districts are already paid for this service through property taxes. He said thirteen other states have passed legislation like **S 1070** and other bills are being introduced in other states.

Senator Johnson said he spoke with the fire chief in Lewiston and he expressed the concerns Mr. Richards just identified. He asked if insurance companies collect a fee if insured people elect to have this coverage in their policy. **Mr. Richards** answered he can't speak for all insurance companies, but he can speak generally. He explained that when underwriting an insurance policy to determine a premium, agencies try to anticipate what costs there are. In the past the charges were not made and in fact many policies prohibit them, so obviously there would not be an insurance premium charged for that. He said as time goes on, though, if there were to be more and more of these charges, insurance companies would start to calculate that as part of their underwriting cost and insureds would be paying more for their insurance premiums.

Senator Johnson asked if policy holders currently pay a premium for this service or have any insurance companies that Mr. Richards is aware of ever paid a claim for this service. **Mr. Richards** said there have been a lot of insurance companies that have said they would 'not' pay that cost, as it is not an appropriate charge. He said he is anticipating that some have been paid, perhaps under protest, but still paid. **Senator Johnson** asked again if policy holders pay a premium for this service. **Mr. Richards** said he may be misunderstanding the question but as he said, the premium tries to anticipate the cost, and if the policy says it prohibits it, then they are not paying anything for that.

Senator Johnson cited his own insurance policy as an example, saying it lists collision, comprehensive, and other items. He asked Mr. Richards if there is a line item that would say "emergency recovery fees" or "will also cover these types of incidences." **Mr. Richards** said there may be some policies that specifically say it does not cover this.

Senator Johnson said he had some figures to share from the fire chief in the City of Lewiston. In 2010, they had 9 responses for recovery of \$5,891.81. In 2011, they had 20 responses for a recovery of \$5,148.58, and in 2012, they had 13 responses for \$1,531.29 (some cases still open), all using EF Recovery system. He said the fire chief's point was that it is good for the cities because there are some things that are not covered in the tax base, such as absorbents or disposal types of things. **Senator Johnson** said the fire chief said as long as this is not abused, it should be a good thing for the districts to have.

Senator Hill asked if every other emergency service provider is on board, except for the fire chiefs. **Mr. Richards** answered that as far as he knows, the only group objecting is the fire chiefs. He said he met with counties and hospitals and 'actual' firefighters.

Senator Hill asked if Mr. Richards knows what other states are doing to address this issue or is Idaho the only state facing it right now. **Mr. Richards** answered that "we all have respect for these guys who are doing dangerous jobs in commendable ways." He said there have been discussions in other states, and this is becoming a topic of national interest. He said thirteen states have passed bills that limit the collection of these fees, and other states have legislation pending. **Mr. Richards** said he is not sure what is being charged in other states, but Idaho is not the only state facing this issue.

Senator Hill asked Mr. Richards as this bill was being put together if they looked at what other states have done as a model, as far as verbiage for what other states are doing. **Mr. Richards** said he does not think there is a "model act" or anything like that, but they looked at some other states proposals, like Utah's, and through negotiation process, they came up with something that would make sense.

Senator Johnson asked for clarification about when an accident happens, and a stop sign is knocked down, if the insurance company can be billed for that. **Mr. Richards** said yes, any public damage would still be collectible as cleanup and covered by insurance.

Senator McKenzie asked if absorbants count as a material that can be on a billing. **Mr. Richards** answered yes.

TESTIMONY:

Chairman Siddoway invited Corey Child of the Madison Fire Department to the podium to testify. **Mr. Child** said he was respectfully standing in opposition to **S 1070**. He said he represents multiple agencies today, including Association of Idaho Cities, Madison County, City of Rexburg, and Eastern Idaho Fire Chiefs Association. He said he believes the decision of recovery should be left to the sound judgment of local officials rather than handed down by the state.

He said they provide a tremendous service for a very low cost. The department has to raise money through bake sales. **Mr. Child** provided a spreadsheet that lists every fire district and their property tax levies. (See Attachment 3.) He said it's important to note that most provide similar services in emergency response and extraction during an accident. He said he applauds those districts for doing so much with so little. He said it is very expensive, when considering the training, the tools and the trucks, which are high ticket items.

Mr. Child said funding services partially through tax and fee revenue is nothing new and does not constitute "double taxation." He noted the Bureau of Homeland Security bills for hazardous material spills on state highways. Another issue is that some departments have to respond to calls outside of their jurisdiction, which means some people, like tourists or commuters, who have an accident aren't paying the property taxes in the county in which the accident occurs. He said most of the accidents in Madison County are out of town drivers. That leaves the taxpayers paying the bill for people who don't live in their community. **Mr. Child** said Madison County and Rexburg have ordinances in place to allow for cost recovery; however, they do not currently engage in cost recovery.

Mr. Child said the insurance companies have concern about the lack of standardized practices. He said he agrees, and that is why his associates would support adopting a uniform fee schedule already in place and managed by the Idaho Department of Lands. He said the insurance industry has the ability to decide if fees will be covered under a policy, and the insured would decide if they want or don't want that coverage, rather than the lawmakers deciding for them. He thanked the Committee and asked for **S 1070** to be held in committee.

Senator Hill asked if the concept of a uniform fee schedule was discussed during negotiations with fire chiefs, or some other idea to bring consensus. **Mr. Child** said a uniform fee schedule was discussed at length, and the insurance industry was opposed to it. **Senator Hill** asked if fire departments are consistent with the billing for services, meaning are charges the same whether the victim has insurance or does not, or if they are residents or not. **Mr. Child** said it is very varied, which is why they liked the idea of a fee schedule to bring equality and standardization.

Chairman Siddoway noted the bill says cost shall be the actual expenses incurred, then any other charges would be portioned out for those costs. He said it seems to him that pretty well covers the costs that would be incurred for an incident, but what he's hearing from Mr. Child is that no, it doesn't cover it. **Mr. Child** said last week there was a semi truck accident at 3:00 a.m. and cleanup took until 4:00 p.m. They used two or three bags of kitty litter at a cost of \$15. He said this proposed legislation would let them bill \$15 for 12 hours worth of service and mitigation. He said all the labor, truck hours, extraction equipment used, not to mention wear and tear on the equipment, are not covered by this proposal.

Chairman Siddoway asked about 'volunteer responders' and how they fit into the department. He asked if overtime expenses would be considered actual expenses incurred, and if people in the department are being paid for that day's labor, whether they were in the station house or out responding to an accident. He said the way he reads it, those additional expenses would be covered, unless he's not reading it the same as Mr. Child.

Mr. Child said he does not read it that way, but rather that materials are the only expense allowed. He said when there is an accident, crews are tied up for twelve hours, so he has to "backfill the station" and pay both crews. He even has to pay workers compensation costs on a minimum wage rate for volunteers, so he has hourly compensation to pay for insurance, even if he is not paying the firefighters by the hour.

Chairman Siddoway invited Karl Malott, Fire Chief for the Nampa Fire Department, to the podium. **Mr. Malott** said he is before the Committee to oppose **S 1070**. He said this legislation is not needed in Idaho and is just a kneejerk reaction to situations elsewhere in the nation. He said fire departments have to take care of people who are not residents of the area in which the agency is responding. He referenced a questionnaire and asked for it to be distributed. (See Attachment 4.) He said he did a survey of how different fire districts handle fees, and he found that what is charged varies across the state. **Mr. Malott** said the Kooskie fire chief said they would not be able to provide service if they weren't able to charge fees. He said the departments that will be affected are the small ones with a state highway going through them that have crash victims who are not a resident taxpayer of that area. He said property owner taxpayers pay for the fire department to cover nonresident crashes.

Mr. Malott said some fire departments are displaying ingenuity with their lack of funding, like disassembling a truck to make it a flatbed to be used to for accidents. He said he took his EMT (Emergency Medical Technician) class 24 years ago, and a big component of that class was vehicle extraction. He said he couldn't say whether they charged a fee or not. He said back then, they used to go out and hose down antifreeze and gas spills and just hose it off the street, but with today's EPA (Environmental Protection Agency) rules, they can't do that, so it's much more expensive. He said extraction has changed a lot, especially with hybrid cars and newer heavily reinforced door posts, so it's much more difficult.

Mr. Malott said he would stand with the insurance companies if they had evidence this was being abused, but it is a pretty small issue and he would like to leave it to local control.

Senator McKenzie said he sees both sides. He said it seems reasonable to define somewhere what is charged for what and to have a maximum for it. Typically when there is discussion about local control over fees, it is usually the county employees who set them, and if the community doesn't like it, they can un-elect those people. He said it's the same with state officials. **Senator McKenzie** said his concern is for protecting citizens if fees were to become unreasonable.

Mr. Malott said under statute as a government entity, they are not allowed to charge more than actual cost for the accident responses. He said they try to be reasonable with insurance companies. He said every year they establish rates for different responding apparatus, from water tenders to fire engines to ambulance crews, whether with a crew or without. He said there is a fee schedule they would be willing to adopt, but in most cases they don't mind using the third party group in Washington to collect the fees. He said the \$50 administrative fee the company charges seems reasonable, compared with having to pay a secretary to process all the accident information and collect the charges.

Chairman Siddoway invited Russ Hendricks, representing the Farm Bureau Federation, to the podium. **Mr. Hendricks** said he is here to support **S 1070**. He said they believe, as do taxpayers across the state, that accident response fees are double taxation. He said people pay property taxes and through those receive general services, including responses to car accidents and other incidents. He said their big concern is if there is movement toward a fee schedule, they would like to see a reduction in property tax levies at corresponding levels. **Mr. Hendricks** said crash taxes are not a transparent way to raise fees. He said there are people from out of state who have no idea what these fees are, and it's like a form of roulette, where they will say, "Don't have an accident in this county, wait until the next county, because we don't know what the fee would be." He said if a fee schedule is set up for fire departments, then police departments will be next in line to get a fee when they respond to an incident. **Mr. Hendricks** said whether or not they need overtime, the costs should be handled under current property taxes. He said this bill does allow fire districts to recoup variable expenses, and this bill is an appropriate way to address this issue.

Chairman Siddoway called for Phil Barber of American Insurance Association to speak, and from the audience, **Mr. Barber** stood to say in the interest of time, he would stand in agreement with everyone in support of the bill and leave it at that.

Chairman Siddoway invited Justin Ruen of the Association of Idaho Cities (AIC) to the podium. **Mr. Ruen** said he opposes **S 1070**. He said "the ground has been pretty well plowed" on the big issues surrounding this bill. He said the AIC's position is they believe local elected officials are in the best position to make determinations based on the needs of their communities in relation to these fees. He said many communities see a large amount of traffic of people who don't reside in that community relative to their population size and that creates a burden for their property tax payers. He said cost recovery mechanisms provide a way for them to keep providing these essential services without overburdening the taxpayers in Idaho.

Next to the podium was Lyn Darrington, representing State Farm Insurance Companies. **Ms. Darrington** said the companies she represents are in support of **S 1070**. She provided a handout to demonstrate the types of bills that are being sent to accident victims. (See Attachment 5.) She said no one starts out the day saying, "I think I'll go cause or get in an auto accident today," because the last thing people need is another misfortune fee. She showed some examples of billing in Idaho in 2012. She cited one example from a vendor in California that billed for items like scene assessment and stabilization, and 'additional' time on the scene. **Ms. Darrington** showed an invoice from an accident in Bonner County, that was part of an invoice that included labor and materials, but this one was for 'lunch' for 20 responders.

On an invoice from EF Recovery in Washington, she pointed out they mention in the fine print the Idaho statute for "Hazardous Substance Emergency Response Act." They list labor, equipment and materials on the bill. She said she went to their website and the material was listed as \$17.95 online, but the bill was for \$30.80. In a phone call with another vendor, she said she asked about the \$360 charge for labor, and she said she was told there is no other time increment allowed for billing than a Flat Labor Rate of one hour at \$360 per hour. So, if they were only there for 15 minutes, they still charge for one hour. **Ms. Darrington** said another point she'd like to make is when Idaho districts use EF Recovery Service, the money is going out-of-state to Washington. She said many people only carry liability insurance, so when an accident happens they get these bills. She noted the Harris poll that said 68 percent of people said this is what they pay taxes for. **Ms. Darrington** urged the Committee for a do pass vote.

Chairman Siddoway introduced Mike Kane of Property Casualty Insurance Association of America (PCI), which is a trade association made up of casualty insurers, including Progressive, Geico, Liberty, Farm Bureau, American Family and others. **Mr. Kane** said he had a couple of "big disconnects." Even though the insurance companies are here, this is not a battle between insurance companies and the state of Idaho or the firefighters and the state of Idaho. He said what he thinks is going on is insurance companies are getting billed, and have to tell their insured they can't pay those bills according to their policy, and it's not appropriate for insurance to pay those items. Then the insured get angry with the insurance companies. In a very real sense, the insurance companies are standing up for the 'victims' of these situations. He said he says that intentionally, because there is nothing now that prevents people who are completely innocent from being billed. For example, he said, "You leave the house and you get t-boned by a guy who runs a stop sign. There is nothing that prevents you being billed because your car drops some antifreeze."

Mr. Kane said what he sees here is a fault-based crash tax bill, designed primarily to take care of the people who do wrong, and not the people who are innocent of any wrongdoing. He said that's why districts can charge, under certain circumstances, the person who is legally responsible for the accident. They can be billed for damage to public property and materials used for clean up, which is reasonable.

Mr. Kane said there is a 'manual' that serves as an agreement between the Department of Lands and individual fire districts. It allows that when people leave the fire district into the Department of Lands jurisdiction, the Department of Lands will pay. **Mr. Kane** said he is okay with that and doesn't want to interfere with that process. He said the numbers in the manual are off the charts as far what an individual has to pay, including hundreds of dollars an hour. He said those fees should not be imposed on an innocent party. He said this "crash tax" bill is based on a Utah law. He said for these reasons, PCI supports this bill.

Chairman Siddoway invited Paul Jackson, Farmers Insurance Group, Inc. to the podium. **Mr. Jackson** said he wanted to clarify one point for Senator Johnson's question about a line item in a premium. He said to his knowledge there is not a specific line item for incident response fees or something similar. He said insurance premiums are predicated on the costs and on statistical anticipation of costs. He said if insurance providers costs go up, insurance premiums go up.

Mr. Richards was invited back to the podium for his last points in the discussion. He said he is sympathetic to the increased cost of fire equipment over the years, but these fees cannot be the answer to that, philosophically or economically. This is not going to be able to solve a fraction of that problem. He said there are other avenues, like raising taxes, or get something else in the law, but these fees would be a great irritant to a lot of consumers and not raise a lot of money or accomplish what the fire districts hope.

Mr. Richards said they tried to cover the variable costs in this bill. He said fire districts are already setting budgets trying to anticipate equipment costs and labor costs over time, things that have traditionally been covered by property taxes. He said that is why the public is so surprised when they get a bill for a fire truck appearing at the scene. He said he doesn't think there is a big issue for a tourist from out of state, because he looks at it as they have paid things like hotel taxes and sales taxes. He said "we want the tourists' money, and we don't want to be known as the stay away from that state, like Jordan Valley was for a while, because they are hostile to people who come through the valley." **Mr. Richards** said he appreciates the time this was given today.

Senator Lacey asked how much money have insurance companies paid out in the state of Idaho in the last year, a lot or minimal, and then he asked if trucks and labor are not billed, but could that be interpreted as actual costs because they have to be there for the cleanup. **Mr. Richards** replied right now there is not a lot of money paid because there are not a lot of fire districts charging these fees yet, but it could become more significant. He said it is not going to break an insurance company, but it something both insured and people who do 'not' have insurance believe is inappropriate. In response to the second question, he said the reason they did not include equipment and labor as actual costs is because when property taxes are paid, it is assumed that fire districts are budgeting for something, including salaries and equipment. **Mr. Richards** said these fees are not the philosophical or economic solution.

MOTION: **Senator McKenzie** moved to send **S 1070** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion.

DISCUSSION: In discussion, **Senator McKenzie** said this is toughest bill he has personally considered in this Committee so far this session. He said he understands the plight of the fire districts, especially when looking at the numbers of property taxes that are going to support this critical basic function of government to protect its citizens. He said what led him to the motion is that he thinks there should be some boundary set by policy makers who are responsible to the people as to what the charges and amounts should be. He said they may come back and address this further in the future, but this is a starting point. Billing the person who caused the accident is an appropriate standard, including materials and damages to public property, but the cost to move the vehicle should be limited.

Senator Werk said he has been involved in hazardous waste activities and when an accident involves the release of materials that are hazardous to the environment, he does not see this bill as having an adequate vehicle for recovering those costs. He said he sees the philosophical debate about who charges and how much is being charged, but especially for the jurisdictions that have busy highways going through them, there isn't adequate recovery. He said he will be respectfully opposing the motion.

Senator Hill said he agrees completely with Senator McKenzie, but he would rather see these groups gather and work something out. He said this bill has some good things in it, like restricting liability to the person who caused the accident. He said he thinks the actual costs are too limited here and should be revisited. **Senator Hill** said his advice to the fire department people is, if they get a reprieve on this, they need to go back and put together some kind of uniform fee schedule to prevent excessive fees like Ms. Darrington showed. He said it would also eliminate the problems someone else mentioned about, "which county do you want to get in an accident in?" **Chairman Siddoway** said his advice is no matter what the vote is, the parties need to get together and straighten this out.

Chairman Siddoway repeated that Senator McKenzie had moved to send **S 1070** to the floor with a do pass recommendation and Senator Vick had seconded the motion. Motion carried by **voice vote**.

PRESENTATION: **Chairman Siddoway** invited the Committee Page, Brooks Nielson, to the podium. **Chairman Siddoway** thanked Brooks for his help during the first part of the session and asked him what he has learned from this experience. **Brooks** replied that he doesn't really like politics, but he has gained a better appreciation for it. He said it seems so frustrating at times, so the Committee hasn't changed his mind that much. He said he has enjoyed it though, and it's been fun, and he thanked the Committee.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 4:32 p.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary