

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Friday, February 07, 2014

TIME: 9:00 A.M.

PLACE: Room EW42

MEMBERS: Chairman Collins, Vice Chairman Wood(35), Representative(s) Barrett, Moyle, Raybould, Denney, Anderson(31), Anderst, Dayley, Hartgen, Kauffman, Trujillo, Agidius, Burgoyne, Erpelding, Meline

**ABSENT/
EXCUSED:** Rep. Denney

GUESTS: Russell Westerberg, Raeleen Welton, Rocky Mountain Power; Tyler Mallard, IBCA; Tony Smith, Benton Ellis; Mike Chakarun, Idaho State Tax Commission; Rick Smith, Hawley Troxell; Rich Hahn, Idaho Power; Phil Homer, IASA; Ron Williams, ICTA; Dawn Justice, Idaho Bankers Association; Ben Davenport, Associated Taxpayers of Idaho.

Chairman Collins called the meeting to order at 9:01 am.

H 402: **Michael Chakarun**, Tax Policy Manager, Idaho State Tax Commission (ISTC), presented **H 402**. This bill will provide a method of computation for the calculation of Idaho Net Operating Loss (NOL) when a taxpayer recognizes Real Estate Mortgage Investment Conduits (REMIC) Excess Income Inclusion (EII). Currently, the method of computation for REMIC EII is not defined in statute. The lack of a clear definition creates confusion for taxpayers and the Idaho State Tax Commission. This legislation is the result of a joint effort between the ISTC and the Idaho Bankers Association.

Mr. Chakarun stated owners of REMIC who incur a NOL are required to pay taxes, since the Internal Revenue Code considers excess income to be taxable income of the entity, in the year of loss. This taxable income then flows through on to the Idaho return. Idaho statute is unclear on how NOL is treated and this bill will provide clarification. In Section 2, 63-3027 is modified to allow for multi-state corporations.

MOTION: **Rep. Anderson(31)** made a motion to send **H 402** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Anderson(31)** will sponsor the bill on the floor.

RS 22616: **Sen. Siddoway** presented **RS 22616** which is related to personal property tax exemption exclusion for rate-regulated utilities and railroads. **H 315** passed in 2013, allows public utilities to receive a \$100,000 exemption per county. Personal property tax exemption loss is replaced with state funds, to the county.

In response to a question on the fiscal note, **Sen. Siddoway** stated the current fiscal note is pretty conservative, in his opinion. The state will replace lost revenue at the county level, due to passage of **H 315**, at a flat, fixed rate. If operating properties and railroads are excluded from the tax exemption, the state won't need to replace those funds.

MOTION: **Rep. Wood (35)** made a motion to introduce **RS 22616**.

Sen. Siddoway acknowledged since small utilities are not rate regulated, there is a possibility competitive inequities could result from this proposed legislation. Sen. Siddoway stated he is assuming there will be further exemptions for personal property tax added to existing exemptions, in the future. **H 315** left all entities included as being eligible for the exemption. This proposed legislation would exclude rate regulated utilities and railroads from utilizing the personal property tax exemption.

VOTE ON THE MOTION:

Chairman Collins called for a vote on the motion. **Motion carried by voice vote.**

RS 22696:

Kris Ellis, Idaho Optometric Physicians, presented **RS 22696**. The intent of this proposed legislation is to align prescription glasses and contact lenses with other prescriptions and medical devices, making them exempt from Idaho sales tax. The prescription exemption has been around since 1966, when the Idaho sales tax was implemented. For tax purposes, vendors separate out the two categories of charges; services from taxable goods. Currently, close to 90% of some optometric practices are paid by insurance companies, who pay providers a 'global fee' which includes the fitting fee, lab fee and dispensing fee, as well as the product itself. In many cases, there is not a way to determine the cost of the product at the time of service, resulting in a tax on the entire payment.

Ms. Ellis stated she is asking for introduction only, not a hearing, and plans to work with the Governor's office and Joint Finance and Appropriations Committee, in the interim, to implement the entire exemption in a subsequent session.

MOTION:

Rep. Raybould made a motion to introduce **RS 22696**. **Motion carried by voice vote.**

RS 22708C1:

Tyler Mallard, Government Affairs Liaison, Risch Pisca, representing the Idaho Building Contractors Association presented **RS 22708C1**. This proposed legislation would adopt the current version of both the International Residential Building Code and the International Energy Conservation Code, identifying those codes as the Idaho Residential Building Code and the Idaho Energy Conservation Code. If future editions or amendments to the code are needed, they would be made through the Idaho Building Code Board negotiated rulemaking process, which requires written notice and a public hearing.

In response to a question, **Mr. Mallard** stated this proposed legislation would permit adoption of the most recent version of the International codes, which would become Idaho Code. Going forward, changes would be made through the negotiated rulemaking process, as needed and applicable for Idaho. Mr. Mallard stated there is no anticipated impact to the General Fund and nothing he is aware of would prevent modification of the code, at adoption, to meet Idaho's needs.

MOTION:

Rep. Trujillo made a motion to introduce **RS 22708C1**. **Motion carried by voice vote.**

RS 22826C1:

Rep. Eskridge presented **RS 22826C1**, which would establish an income tax credit for individual and small business broadband consumers making contributions to aid in the construction of broadband services to unserved areas of Idaho. The income tax credit amount would be capped at \$10,000 for individuals and \$50,000 for small businesses. The tax credit is taken over a five year period of time, 20% per year. The purpose of **RS 22826C1** is to help push broadband service to the remaining 5-10% of the state currently without access. Rep. Eskridge made a comparison of this proposed legislation to Rural Electric Cooperatives, which provides consumers an opportunity to pay the difference between cost of installation and anticipated revenue needed to pay for the cost of infrastructure.

Ron Williams, attorney and lobbyist representing the Idaho Telecommunication Association and Link Idaho Task Force stated this proposed legislation is a result of the work Link Idaho has been working on to address the 90% of consumers in unserved areas of the state who lack access to wireless services. The cost of cable installation is between \$25-40,000 per mile. Companies need to reach approximately 35 customers per mile to make the business investment feasible. This proposed legislation would allow customers to help fund the infrastructure.

Mr. Williams stated the proposed legislation would be somewhat self sunsetting since the more the tax credit is utilized, the less need there is for the investment. The fiscal impact statement comes from a financial model estimating 15% of households, 25% of businesses, currently found in unserved areas, would take advantage of this tax credit.

MOTION: **Rep. Wood(35)** made a motion to introduce **RS 22826C1**.

In response to a question, **Mr. Williams** stated the contribution in aid of construction is essentially when a customer in an unserved area, contributes toward the cost of line extension for broadband.

Rep. Kauffman declared Rule 38, stating he is a board member of a company providing broadband services.

Mr. Williams responded to a question stating he did not include assumptions of a possible multiplier effect related to economic development and the \$7 million is likely greater than will be the final impact. He said there are ongoing efforts at both the state and federal level to redirect Universal Service Funds into broadband services.

VOTE ON THE MOTION: **Chairman Collins** called for a vote on the motion. **Motion carried by voice vote.**

RS 22628: **Rep. Morse** presented **RS 22628**. Rep. Morse stated this is a simple repeal of Idaho Code 55-2109, which currently mandates property with a conservation easement, be valued for tax purposes without the easement. The existing statute violates the uniformity of taxation requirement in the Constitution. Repeal of this statute would result in uniformity is appraisal and taxation for all parcels of land. Rep. Morse stated an appraisal is really related to the right to use property. Idaho Code 55-2109 was enacted in 1988. While there is no reported case law there is a central Idaho case on record, which declared the statute to be unconstitutional.

In response to questions, **Rep. Morse** said there is typically a reclassification of property, in cases where the functional use results in a major economic impact. He stated a conservation easement can be compared to scenic easement. When a conservation easement is placed on a property, it must be in perpetuity, in order to get the federal tax deduction. In cases for timber property, harvesting rights or prohibition to harvest would be taken into determining the market value.

MOTION: **Rep. Anderst** made a motion to introduce **RS 22628**. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:05 am.

Representative Collins
Chair

Kathleen A. Simko
Secretary