

MINUTES  
**SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE**

**DATE:** Tuesday, March 11, 2014  
**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:** None  
**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 3:02 p.m. The Chairman noted that the Senate will reconvene on the floor at 4:00 so the Committee must adjourn by then.

**H 546** **Chairman Siddoway** welcomed Jeff Sayer, Director of the Idaho Department of Commerce (Department), to the podium to present **H 546**, relating to the Idaho Reimbursement Incentive Act. **Mr. Sayer** offered his thanks to the Governor and his office, the Idaho State Tax Commission (Commission), this Committee, members of the House committee, and other organizations who helped with this legislation. **Mr. Sayer** said there have been situations over the past year where Idaho found itself unable to be competitive in important projects that would have been wins for the State. He said through that experience, the Department has learned a few things about its incentive packages.

**Mr. Sayer** said the reality is the world is becoming very competitive and sophisticated and if Idaho wants to be competitive, the State needs to take a hard look at the incentives that can be put on the table. He said there are limitations in the current incentive tools, one of which is that the majority of the tools are limited to infrastructure only. **Mr. Sayer** said he's found this to be a significant barrier in the Department's ability to reach out to what he refers to as "professional service jobs" and projects that bring higher paying jobs that don't need infrastructure. He said Idaho also has an opportunity to embrace a trend occurring across the nation where states have figured out how to design their incentives in a way that makes them performance based. He said that means that "the reward does not come to the company until the results have been delivered." **Mr. Sayer** said what is before the Committee in **H 546** is a tool that addresses those three issues simultaneously.

**Mr. Sayer** began reviewing the bill by stating that the Fiscal Note was carefully designed with Derek Santos of the Idaho Division of Financial Management and the Commission. He said he would touch on the high points, and that the big part of the bill is in the definitions. He said the applicant, the business entity, and the application have all been designed with the help of the Commission and corporate attorneys "with the intent to not leave anyone out." He said the intent is to make this available to any business in the State or someone who wants to come to the State.

He said the next significant piece is the community match. He said this is done verbatim with what was passed in the Opportunity Fund last year. He said it is designed to be flexible to include the smallest to largest communities. He talked about the definitions of a meaningful project, the minimum number of new jobs, and the nature of those jobs must be met in order for a business to qualify. He said those minimums are 50 jobs or more for an urban environment or 20 jobs or more for a rural environment. He said he felt it is important to accommodate smaller communities and make this accessible for them. He said that is the main driver for the lower threshold for rural communities. **Mr. Sayer** said there are also a number of carefully designed sideboards in some of those definitions.

**Mr. Sayer** said another significant part of the bill is the definitions of new state revenue. He said this is the heart of the bill. He said if someone brings a meaningful project and a minimum number of jobs, they will be reimbursed up to 30 percent of three tax types: the sales taxes they pay, the income taxes paid by the entity, and the payroll taxes paid by the entity. He said there are definitions of rural and urban, which followed weeks of discussion on how to design those definitions. The threshold is a population of 25,000 or higher is an urban community, which are required to meet the 50 jobs or higher threshold. He said everything else is rural, noting that smaller communities and unincorporated areas are included in the rural definition. He said there is one nuance in the urban definition that will affect four communities whose populations are less than 25,000 but are right next to an urban community.

**Mr. Sayer** said the application process is a fairly extensive process. He said the Department is not saying someone can apply with a one-page request. He said there are many things the Department asks for when a company requests this incentive, including a description of the project, the nature of the jobs, the quality of the jobs, the number of jobs, the capital investment, and their intent to draw from Idaho suppliers and bring new business to Idaho. He said it also includes a very specific request for them to acknowledge the detriments that may come to Idaho markets because of their company coming and possibly being a competitor to another company. He said the application is specifically designed to draw out this information so the Department has a full scope of the situation before a decision is made.

**Mr. Sayer** said the bill designates the Economic Advisory Council (Council) as the approving body of these applications. He said this is not something that should be at the Director's discretion. He said there is very specific language that sets the Council apart in that position, and not as part of the negotiation process. He said having that separation and check and balance was critical in this design. He said the agreement with the applicant is also very extensive. In that agreement, the Department will establish with the company the performance requirements expected in order to qualify for the incentive. He said those requirements will be part of the negotiation from the beginning. He said the agreement will also outline the record-keeping requirements. He said the bill establishes the documents the Department has the right to look at to verify the ongoing reporting from the company. He said everything will be outlined at the outset so there are no surprises for either party.

**Mr. Sayer** said his favorite sideboard in this process is under the heading "Applicants Annual Reporting Procedure." He said this has been referred to as the annual checkup clause. He said, "We felt like this was critical." He said as a package with a company is negotiated, a percentage up to 30 percent will be established, for a term of years, which is established based on the nature of the project. He said during that term of years, the company must come in every year and certify that they have in fact met their projections and verify that they've paid the taxes.

**Mr. Sayer** said the most significant series of sideboards built into this bill is the annual reporting required by the Department to the Legislature, the Governor, and the public. He said this is where the Department establishes that it intends to be fully transparent in this process. He said there are stipulations that are required to be reported, which not only include the activity but also analyze the success of the tool and evaluate its effectiveness. He said the Department is also required to establish the estimated cost, the actual cost and "a laundry list of things we're required to disclose." He said the intent is to be fully transparent.

**Mr. Sayer** said one element that was added at the last minute that he feels is critical as an additional gesture of trust and goodwill is an annual independent third-party audit. He said a CPA firm will audit not only the activity, but more importantly, the internal controls of the Department surrounding this process. He said he felt that was important for public purview so they know exactly how the responsibility the Legislature is giving the Department is being handled.

**Mr. Sayer** said the final piece of the bill has been referred to as the safety valve feature. He said this was a recommendation from the Governor's office, and the Department likes the idea, which is under the heading "Suspension of the Idaho Reimbursement Incentive Act." He said if the economy collapses and the Governor has to issue a hold-back on State spending, he also has the ability by executive order to suspend this program until further notice, until such time he reinstates it by executive order. He said that way this program can be held back until the economy rebounds. He said in the event there are existing agreements under the Incentive, they will be honored to their fullest extent.

**Mr. Sayer** said the bill ends with a directive that the Department will be responsible for the rulemaking. He said that process is going to include a number of parties, many of whom have already been at the table to help think this process through, including economic development partners, corporate tax attorneys, the Commission, members of the Legislature, and as many minds as possible for implementation. He said the Department is hopeful and excited about having this tool in its hands to further and accelerate Idaho's economy.

**Senator Werk** thanked the Director for his explanations and the meetings. He said one of the concerns is where this bill is taking the State, with people talking about "cronyism" and who is making decisions and how they will be made, and if those decisions cannot somehow be appealed. He asked how this has been addressed to avoid that or the appearance of that. **Mr. Sayer** said that is a critical piece in how the Department tried to think this through. He said one of the first things is that the Department won't be the only party at the negotiation table. He said the community will be there as well to jointly negotiate the provision with the company. He said the group will negotiate the terms of the deal, and that will be presented to the Council. He said that Council is already established in statute as a seven member Council, with six from each region of the State, and the seventh member is at-large, each with a three or four year overlapping term with political balancing provisions, so no one party has more than four members. He said it has been a functioning council for several years. It is the Council's responsibility to approve or reject. The Council is not be a part of the negotiations.

**Mr. Sayer** said he feels the strongest control over this issue is that people will be able to see exactly what is going on. He said the intent, in order to meet the requirements in the bill, is to follow a model that Utah has used. He said Utah's website outlines every transaction using this incentive over the past five years, and it has descriptions including a summary of the project, number of jobs, the nature of the project, why it was granted the incentive, as well as the agreement with the company and the State. He said those items will be on full display for everyone to view. He said, "It will be our intent to follow the same pattern." **Mr. Sayer** said regardless, the Department will be required to report annually all activity, evaluate the activity, published publicly, and the independent third party audit. He said the Department felt all of these things together are an appropriate level of checks and balances to respond to the concerns Senator Werk mentioned.

**Senator Werk** said one issue Mr. Sayer did not address in his answer was the complaint about an appeals process if someone was turned down. **Senator Werk** said it doesn't make any sense to him since a decision is being made on a tax incentive based on the merits. **Mr. Sayer** apologized for missing that part of the question. He said that was discussed and what was decided was that with this design, the Council has the ability to approve or reject, and that decision is final. He said the challenge with making it subject to appeal would be that the Department would be put into a quagmire of processes and appeals. He said it is a simple mechanism where it is an approve/reject process, but the applicant has the opportunity to modify their application and re-apply. He said that way they are not blocked from accessing the process. If the company is rejected, the company will know what the reason was and can renegotiate.

**Senator Hill** asked to work through a practical hypothetical example. He said a manufacturing company in Boise decides over the next five year to add ten jobs per year for five years, for a total of 50 jobs. He said in exchange for that, the company and the Department negotiate that the Department will give back 30 percent of taxes over ten years. He said after one year, the company creates ten jobs, so would the taxes for the first year be received at that point in time. **Mr. Sayer** said no, that would not qualify for the incentive because the Department is requiring that there needs to be a minimum of 50 jobs or more. **Senator Hill** said ten times five is 50 jobs. **Mr. Sayer** said, right, but if the threshold is reached at the beginning of the fifth year, the minimum would then be reached and the company would qualify for the incentive, but not for the previous four years, only for the fifth year. **Senator Hill** asked to clarify that the minimum must be reached first before any of the incentive may be received. **Mr. Sayer** said that is correct, and it is clearly delineated in the definitions.

**Mr. Sayer** asked to build on that by saying what the Department wanted to accommodate is someone who had 20 employees and felt like they could go to 80 employees over the next five years. He said if they go from 20 to 80, the Department could still enter into an agreement with them, but the incentive would not actually kick in until the company reaches the minimum threshold. He said if someone added ten each year, in the third year reached 50, they would then get the incentive for years three, four and five.

**Senator Hill** continued with Mr. Sayer's example, saying if the company gets to 50 in the fifth year, but the bargain the company made is that it will get the taxes back for ten years. He said what happens if in year seven, the company drops down below the 50 jobs; would that disqualify the company from all of the rebate for that year or from year seven on, or does it make the company go back to the negotiating table to say it doesn't deserve the 30 percent, so how about 20 percent instead. **Mr. Sayer** said if the company falls below 50 employees, it would not get the incentive for that year, and the full amount would be gone. He said trying to prorate that was too complicated. He said the statute says in the year that milestone is not achieved, the company would not get the incentive. He said, however, if the company rehires those employees and restore the number to 50 (or the amount the company promised), the company would get the credit for the remaining years.

**Senator Vick** asked for more information about the appeal process, noting how Mr. Sayer answered the question in terms of someone who did not get approved. **Senator Vick** said he would like to explore what happens when an application "is" approved but someone else thinks it is inappropriate and wants to appeal that decision. **Mr. Sayer** said the way the statute is designed, they would not have the ability to influence that decision, so they could reach out to file a complaint to the Senator or the Department. He said decisions by the Council are final. He said at that point the Department would be instructed to enter into an agreement with the company and establish it based on the terms that had been negotiated.

**Senator Vick** asked Mr. Sayer if he is comfortable with that. **Mr. Sayer** said, "I am," and added that he feels this process is going to be fairly extensive, in that the Department is asking the company to come forward with a fairly broad portrayal and picture of how their company coming into the State or expanding will affect other industries and companies, as well as the local economy. He said the Department feels that it will have a fairly broad base of information to consider to make a careful decision. **Mr. Sayer** said that's another reason why he feels it is important for the Council to be that oversight body, so that there are seven additional sets of eyes from a different region of the State. He said there will be mixed perspectives, mixed backgrounds, and he feels that is an appropriate balance of people to be making that final decision. He said he feels like this will be able to catch most or all of the issues in that process.

**Senator Johnson** asked about local governments in this process. He said a concern that he has heard and has himself is that some of the smaller local governments may not have the same resources to draw upon to make these matching requirements. He asked if Idaho Opportunity Funds would be available by local entities to use for matching any of these projects. **Mr. Sayer** said he hadn't thought about that fund being a match. He said his preference would be that it would not be a match. He said the Department is looking for communities to come forward and put skin in the game in a way that is meaningful to them. He said the provision under community match has been designed to be flexible, and offered the example that all some communities have to help "match" is by contributing a backhoe and an operator for two weeks to help dig a trench for a water line. He said that was their "skin in the game." He said the county joined in adding to the match for the Opportunity Fund Grant given to them, but the purpose is to have the community join as partners with the Department and put what is meaningful to them on the table so they make the investment alongside the Department. **Mr. Sayer** said that meaningful contribution can range from a backhoe for two weeks up to an elaborate urban renewal district to draw from in a robust community like Twin Falls.

**Senator Johnson** asked why a full time job is defined as 30 hours per week. **Mr. Sayer** said that is a fairly common standard for full time designation. He said they felt that was adequate, rather than trying to elaborately describe jobs. He said the intent is to make sure they are non-seasonal full time, which would block anything part time. **Senator Johnson** asked about the Business Advantage Tax Credits and the New Jobs Income Tax Credits for small employers provisions from 2005. He said the thresholds companies had to meet to qualify are higher than what is contained in this legislation. He asked Mr. Sayer to address the reason why they're different and if the small employers would be able to take advantage of any of them. **Mr. Sayer** said the intent of this design is to make it accessible by as many people as possible who can meet those minimum thresholds. He said Senator Johnson is correct in that those other programs do have a lot of provisions and can be hard to meet, and they are not as accessible as he wanted this bill to be. He said a lot of thought and analysis has gone into those minimum thresholds of 20 jobs and 50 jobs, and into making sure that threshold isolated the big projects that Idaho is often competitive in, so they could access this incentive.

**TESTIMONY:**

**Chairman Siddoway** noted that several people had signed up to testify on this bill, but as the Committee is short on time to please make the comments brief.

**Chairman Siddoway** invited Wayne Hoffman, President of the Idaho Freedom Foundation, to the podium. **Mr. Hoffman** spoke in opposition of the bill saying that special incentives, perks and deals do not work. He said the way to improve Idaho's standing in tax ranking, since Idaho is one of the worst in the nation, is to reduce taxes for everyone, not just select businesses decided by a government agency.

**Mr. Hoffman** provided the Committee with a letter from former Senator Rachel Gilbert who wrote in opposition to this legislation (see attachment 1). **Mr. Hoffman** said people he talks with are horrified by this proposal and say it is colossally bad tax policy as it picks winners and losers, and the losers are small business owners, who are the backbone of the American economy. He said a business who has two people on payroll and doubles it to four would be a meaningful project, but this legislation would not consider it that way. He said in fact, the small company now has to pay 30 percent higher taxes than the competitor company who has the resources to hire more employees. His statement can be read in full in the attached document (see attachment 2).

**Chairman Siddoway** invited Julie Hart of Westerberg and Associates to the podium. **Ms. Hart** offered to pass due to time constraints.

**Chairman Siddoway** invited Christopher Guill of Blue Sun Energy with Juniper Resources to the podium. **Mr. Guill** said that is a biodiesel company based out of Denver, Colorado. **Mr. Guill** said he lives in Boise and owns a number of small and medium sized businesses in this community. He said Blue Sun Energy is looking to bring a biodiesel facility to Idaho. He said there is a 30 million gallon plant operating in Missouri, which was built there because of tax incentives that existed at the time. He said those incentives have expired and the business is incredibly competitive with the market as a whole. He said the company is looking to place a new 30 million to 100 million gallon plant somewhere. He said he prefers Idaho because he lives here, but the company is looking all across the nation. He said there are different reasons to put businesses in different places, like access to waterways, transportation, and feed stock, for example. He said he wants the plant to come to Idaho, and it would bring new high paying jobs to Idaho. He said he believes this is the sort of bill that would bring it to Idaho, and he will be going to his board of directors tomorrow to tell them about this bill to consider in their decision making process.

**Senator Bayer** asked for clarification on his statement about there being tax incentives elsewhere that have expired so that the company is now looking elsewhere, including Idaho. **Senator Bayer** asked for Mr. Guill to assess the long-term business parameters such as transportation infrastructure, education of workforce, and stable tax policy regarding income tax rates in comparison to incentives like those offered in this bill. **Mr. Guill** said when the Missouri plant was built, there was a 30 cent per gallon tax credit, which expired over a period of time. He said the company is not moving that plant as it remains operational. He said the consideration is where to place a new plant. He said some of the variables being primarily considered are access to transportation and feed stock, which Idaho has. He said on a whole, he thinks Idaho is highly competitive in those areas, especially with research at Idaho National Laboratory and Boise State University. He said he thinks it is the whole package that would bring something like this to Idaho. **Mr. Guill** said in his opinion, a policy like this is a long term policy because it is performance based to bring jobs over a long period over time to meet certain thresholds. He said if the incentives have to be there for the business to be profitable, it wouldn't make sense. He said he feels the incentive of what brings that investment here is more important.

**Chairman Siddoway** invited John Runft of Runft & Steele Law Offices PLLC to the podium. **Mr. Runft** spoke in opposition to the bill. He said he is representing the Tax Accountability Committee (TAC), which is a volunteer nonprofit organization, so despite his green tag, he's not being paid for this presentation. He said he is not here to address tax policy or most of what has been discussed here. He said he is here with what he feels is a dagger at the heart of this legislation, which is the exemption of any function by the judiciary in this process. He said what has been created under the name of an advisory council is not really an advisory council, because it is a deciding organization. He said seven people make a decision that is not reviewable by the judicial branch. He said this is the dream of every executive branch to not have judicial oversight over anything it does. He asked who guards the guardians. He said this bill is fundamentally wrong. **Mr. Runft** provided a handout to the Committee with further explanation of his position, which can be read in full in the attached document (see attachment 3).

**Senator Vick** asked about Article 7, Section 7 of the Idaho Constitution which says, "All taxes levied for state purposes shall be paid into the State Treasury and no county, city, town or other municipal corporation, the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for state purposes." He said this legislation seems to be changing the way that companies pay the same proportionate share, and he asked **Mr. Runft** if he sees a problem with this violating the Idaho Constitution. **Mr. Runft** answered that he would have to look at that statement at more length, but he said this provision cuts out the entire judiciary branch and that is a problem in itself.

**Chairman Siddoway** invited George Gersoma of the Idaho Business Alliance (Alliance) to the podium. **Mr. Gersoma** said he's here representing himself as a small business owner. He said he has three reasons to oppose this bill. He said as a business owner, this bill does nothing for him. He said he has an Idaho owned, Idaho based and Idaho headquartered company. He said after 28 years he has 35 Idaho based employees. He said there is no way under the sun for him to qualify for any benefit from this bill. He said secondly, other members of the Alliance tend to be small businesses, like Idaho Cowboy Supply, run by a woman and her daughter, and American Trailer Sales and Bert Tractor all in Caldwell. He said none of these existing businesses who have built and supported the Idaho economy will garner any benefit from this bill.

Secondly, **Mr. Gersoma** said, because of the competitive nature of Idaho, "we'd like to whip Oregon, beat Montana and outlast Utah and win the prize" in attracting new businesses to the state. He said he has high respect for Mr. Sayer as he has done a fabulous job in the Department. He said no one is able to know which businesses and industries are going to be successful, and governments don't create jobs, businesses do.

**Mr. Gersoma** said thirdly, the mere fact that there are special incentives should indicate that there is something wrong with the model. He said if Idaho is not competitive and attracting new business, there is a problem, so rather than having special programs or bandaids to make Idaho more appealing, the state should create an environment so compelling that businesses will want to come here. He suggested things like no corporate income tax or relief for the unemployment insurance burden, which he said is the second highest tax burden in the nation.

**Chairman Siddoway** invited Michael Ferguson, Director of the Idaho Center for Fiscal Policy, to the podium. **Mr. Ferguson** said he is not in favor or in opposition of the bill but planned to provide information for the Committee to consider in its decision. **Mr. Ferguson** said he would address the questions what will it cost the state's revenue stream over time; whether it is likely to achieve its intended purpose; and, whether there are any weaknesses in how it is designed. He provided a handout outlining all of these issues (see attachment 4).

**Chairman Siddoway** invited Margaret Watson of the Economic Advisory Council to the podium. **Ms. Watson** passed due to time constraints.

**Chairman Siddoway** invited Mr. Sayer back to the podium to close the discussion. **Mr. Sayer** said there were excellent points raised by smart people. **Mr. Sayer** said this bill is intended not as a replacement for good tax policy. It is intended to go hand in hand with good tax policy. He said the bill is designed to allow Idaho to be competitive in those situations when it is losing projects or where there needs to be stronger incentive tools.

**Mr. Sayer** replied to Mr. Ferguson's reference to a hypothetical yogurt company by saying a yogurt company did come to Idaho over Nevada. He said Nevada had zero taxes and were going to ship milk over the Sierra Nevada Mountains to Reno, but still came to Idaho instead. He said companies are sophisticated enough to know the economics with their analysis of transportation, payroll, and energy costs to select several possible comparable locations. He said after their analysis, the company calls the state to say it is a finalist, and that is when the State of Idaho needs this tool to be competitive.

**Mr. Sayer** offered another example in which Cliff Bar chose Idaho over Utah because Idaho's package was slightly higher than what Utah offered. He said the reason both of those projects were won is because there were substantial urban renewal dollars available as support. **Mr. Sayer** said this tool will allow any company in Idaho, even Mr. Gersoma's company, to access if they make a significant investment in Idaho's economy. He said what that investment is would be 50 or more jobs in an urban area or 20 jobs in a rural area. He said the bottom line is that "in that moment, if we don't offer incentives, other people will." He said the Department is asking for the Committee's support to have this tool that has been carefully designed to be post-performance. He said he stands by the idea that this doesn't require out of pocket costs for the State. He said the Department will know every year what the benefit is, what revenues are coming in, and that a small percentage goes back to the company, but there is a net benefit to the State. He said the way the reporting structures have been designed, he has confidence it will know that every year. He ended by saying he appreciates the opportunity to be before this Committee.

**Senator Vick** asked Mr. Sayer about the constitutionality question that was asked earlier. **Mr. Sayer** said corporate attorneys helped draft the language in the bill, and assured him that it did not block them from judiciary or legal proceedings should they choose that path. He said the wording allows flexibility within state government statutes as an appealable agency action. He said as he is not an attorney, he can't speak to exactly what that means, but the attorneys who drafted it were explicit that this does not block someone from accessing the judiciary process.

**Senator Vick** said his question has to do with Article 7, Section 7, of the Constitution which says that "no one shall be released or discharged from their or its proportionate share of taxes to be levied for state purposes." Senator Vick said he is not a constitutional expert but he wondered, since people will be treated differently under bill, if Mr. Sayer had considered that. **Mr. Sayer** said he is not a constitutional expert either. He would say this bill is not dissimilar to other incentives being used, and whatever premise or foundation established for other incentives would fall under that category. He said this has been carefully designed to allow Idaho to be competitive and carefully managed so the State is protected every step of the way. **Mr. Sayer** said he was not sure how it relates to the constitutional mandate.

**Senator Bayer** said he appreciates all the work the Department does. He asked Mr. Sayer if he "has any knowledge of any comparable scenarios where flexibility of a tax liability lies outside directly in code." He said a lot of other incentives and tools have an "if this, then this" regarding taxes. He said this bill takes a different approach, and he wonders if Mr. Sayer thinks it's "novel" or "if that type of responsibility outside the Legislature exists in some comparable way to this language." **Mr. Sayer** said the only thing he can turn to that is comparable in design is what was passed last year with the Opportunity Fund. He said that is a delegation of authority to oversee \$3 million in grant funds that also were performance based. He said the bill asks for a certain amount of delegated authority to engineer this incentive to fit the situation presented. He said the Opportunity Fund is \$3 million that is under the Director's sole discretion, and this bill is far bigger than that. He said there is no way it would be appropriate for this to be solely in the Director's discretion, which is why there is oversight with checks and balances in the process.

**Senator Bayer** said he appreciates the analogy, but that is a grant whereas this is a tax liability metric. Senator Bayer said he recognizes there has been scrupulous effort to avoid an unwitting competition circumstance with existing Idaho businesses, and asked what if something like that were to develop. He asked what would happen if there was a broad spectrum business coming into the state that overlapped with existing businesses in the State, that could now have implications to their competitiveness regarding the pricing of their products because their margins are now smaller. He asked what dialog has there been around that potential scenario.

**Mr. Sayer** said there has been quite a bit of discussion about that issue. He said that is one of the fundamental tenets of this bill, is to make sure it's not a case of picking winners and losers. He said while evaluating this process, they came back to one fundamental premise, which is that they want to reward any company that makes what is deemed a significant investment in Idaho's economy. He said if the market is presenting an opportunity, an existing company has every right to step in and take advantage of it, and should they expand and bring the same number of jobs an outside company would they would get the same incentive. He said that is where the fairness part comes in, to provide reward to any company who invests in Idaho's economy. He said competitive situations will be monitored and that will be considered in the decision process.

**MOTION:**

**Vice Chairman Rice** moved, seconded by **Senator Lacey**, to send **H 546** to the floor with a **do pass** recommendation.

**Vice Chairman Rice** said there was a question raised about constitutionality, and he has personally looked at the relevant sections of the Idaho Constitution, and he feels the section right before the one read, specifically allows exemptions, and this bill would fall under that constitutional provision. He said his opinion is that this bill would be constitutional.

**Senator Johnson** thanked Mr. Sayer and said he still has more questions and until he gets a higher level of comfort with it, he cannot support it. He said he appreciates the work Mr. Sayer is doing for the State.

**Senator Hill** expressed his appreciation and said he has made it clear that he doesn't like things like this. He said he doesn't like bidding wars with other states, or buying someone's business to come here, and he's made several of Mr. Ferguson's and Mr. Hoffman's arguments. He said he has voted against job incentive bills. He said he has also talked with his colleagues in other states, and "we have to compete." He said it is more than just competing on providing a stable tax structure and education system. He said other people will buy Mr. Guill's business if we don't offer something. He said this bill is the best option come yet. **Senator Hill** said, "You are going to be held accountable. Every single one of these projects that you report to us next year, I will quiz you on, couldn't you have gotten that for 20 percent instead of 30 percent rebate, or couldn't you have gotten that for five years instead seven years, and we will talk about every single one of those, because I want to make sure you made the best deal you could." He said Mr. Ferguson is right that we will never know on some of those if they came to Idaho because of the incentive or if they would have come anyway. **Senator Hill** said, "But I know that I trust you and you will make every effort to do the best job you can for the State of Idaho, as well as for those businesses." He said it is for those reasons he will support the motion.

**MOTION:** The motion carried by **voice vote**. **Senator Johnson** and **Senator Bayer** asked to be recorded as voting no.

**Chairman Siddoway** apologized to Representative Janet Trujillo that the Committee is out of time. He said the Committee would need to postpone the discussion on her bill **H 560** until Wednesday, March 12, 2014. **Representative Trujillo** indicated her understanding.

**ADJOURNED:** **Chairman Siddoway** adjourned the meeting at 4:13 p.m.

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Senator Siddoway  
Chair

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Christy Stansell  
Secretary