

MINUTES  
**SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE**

- DATE:** Wednesday, March 09, 2016
- TIME:** 3:00 P.M.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman Siddoway, Vice Chairman Guthrie, Senators McKenzie, Johnson, Rice, Vick, Bayer, Stennett and Burgoyne
- 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 meeting of the Local Government and Taxation Committee (Committee) to order at 3:02 p.m. and asked the secretary to take a silent roll.
- MOTION:** **Chairman Siddoway** asked for unanimous consent to reorder the agenda to allow Senator Hill to present **H 535** first due to a scheduling conflict. There were no objections.
- H 535** **Senator Hill** presented **H 535**, relating to capital gains deductions for certain livestock. **Senator Hill** explained that current law requires more than 50 percent of income to come from farming or ranching activity in order for gains on the sale of certain livestock to be classified as capital gains, thus qualifying for the Idaho capital gains exclusion. He specified that this is not a federal requirement. **Senator Hill** indicated that this legislation conforms Idaho capital gains law with federal law by removing the gross income requirement that over 50 percent of income be generated from farming or ranching.
- MOTION:** **Senator Burgoyne** moved to send **H 535** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.
- H 534** **Ron Williams**, representing Grand View Solar and SunEdison Utility Holdings, presented **H 534**. **Mr. Williams** explained that this legislation accomplishes three things: 1.) exempts large-scale solar energy projects from real and personal property tax; 2.) replaces property tax with a 3.5 percent tax on gross revenues; and 3.) provides solar production revenues received by local taxing districts are used to reduce property taxes levied to finance annual budgets. He outlined the specific statutory language being proposed that will accomplish these goals.
- Alan Dornfest**, Property Tax Policy Bureau Chief, Idaho State Tax Commission (Commission), reiterated that the Commission has no position on this legislation and no recommendation would be provided. **Mr. Dornfest** provided information and examples on the technical aspects of the legislation. He specified that solar energy tax is levied differently than wind or geothermal energy tax. **Mr. Dornfest** also noted that "operating property" was eliminated from some sections when it pertained to anything other than public utilities and railroads that are assessed directly by the Commission.
- Senator Burgoyne** noted there will be no fiscal impact and inquired if this will remain consistent in the long-term. **Mr. Dornfest** stated it is difficult to determine without knowledge of how much money or what percentage of a taxing district's

budget would be generated. **Senator Burgoyne** sought clarification regarding the percentage of tax on solar energy, asking if the solar industry is projected to pay more or less as a result of this legislation, to which **Mr. Dornfest** indicated he did not have enough information to answer definitively.

**Senator Johnson** asked if this legislation results in a tax shift, to which **Mr. Dornfest** replied that he did not foresee a tax shift.

**Mr. Williams** returned to the podium, and in response to a question from Senator Burgoyne regarding the fiscal note, stated there will be no General Fund impact.

**MOTION:**

**Senator Burgoyne** moved to send **H 534** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**H 372**

**Senator Patrick** introduced **H 372**, indicating that this legislation pertains not only to plastic bags but other types of auxiliary containers and provided a list of supporters.

**Representative Kauffman** stated that the purpose of this legislation is to ensure the uniform and prudent regulation of auxiliary containers, requiring any regulation or taxation of these containers be done by the Legislature rather than individual political subdivisions. He pointed out that it would not interfere or limit municipal or county recycling programs nor prevent retailers from utilizing any type of container they choose. **Representative Kauffman** specified that this regulation does not apply to the use of auxiliary containers in any event organized, sponsored or permitted by a county, municipality or school district; for example, a town may impose restrictions on certain types of water bottles used during a parade.

**Senator Burgoyne** asked if this legislation would apply to events that do not occur on property owned by a county, municipality or school district but instead by a highway district. **Representative Kauffman** responded that the same regulations would not apply to such events. **Senator Burgoyne** then asked if the provision is broad enough, to which **Representative Kauffman** affirmed, stating that to his knowledge, similar requests have not been made for events held within highway districts. **Senator Burgoyne** commented that this legislation may become problematic in his jurisdiction where streets are owned by the Ada County Highway District.

**Senator Stennett** inquired if the intent of this legislation is to impede school activities or projects that focus on plastic bags or food containers because the language prohibits political subdivisions, which include school districts, from regulating auxiliary containers. **Representative Kauffman** stated that he encourages students to participate in these efforts but discussions should occur at the state level. **Senator Stennett** noted that only two companies reside in Idaho that manufacture plastic bags and asked if this legislation was created to protect these companies. **Representative Kauffman** replied that the legislation includes other types auxiliary containers, which are defined in statute, and provided a list of manufacturing companies in Idaho.

**Senator Johnson** referenced sections of Idaho Code relating to solid waste management and the authority of counties to engage in solid waste management practices and their respective roles in that process. He pointed out that language in **H 372** that prevents the limitation of any local or municipal recycling program may, in fact, allow a local municipality to place restrictions on what items are permitted in the waste stream. **Senator Johnson** also referenced Article XII, Section 2, of the Idaho Constitution, noting that it gives local entities the power to regulate sanitation issues, which could include restrictions on plastics or other materials; he expressed

concern about preemption of local municipalities to regulate sanitation when such authority is already granted in Idaho Code.

**TESTIMONY:** **Ariela Gruzka**, as a private citizen, spoke in opposition to **H 372**. **Ms. Gruzka** stated that this legislation infringes on the ability of Idaho cities to make decisions that best serve their communities. Her son, **Matias Vidal Russell**, also offered comments in opposition to the bill.

**John Watts**, representing the Northwest Grocery Association, spoke in support of **H 372**. He stated that he believes the purpose of the bill is not to regulate consumer behavior but the containers used to transport merchandise or food from food and retail facilities. **Mr. Watts** provided examples of how patchwork regulations will affect grocery retailers and ultimately consumers.

**Kelli Brassfield**, representing the Idaho Association of Counties, spoke in opposition to **H 372**. She stated that historically, Idaho counties have not regulated auxiliary containers and local governments are the most appropriate entities to make these types of decisions for their communities.

**Justin Ruen**, representing the Association of Idaho Cities, spoke in opposition to **H 372**. He noted that this legislation does not adequately reflect the diversity of Idaho's 200 cities, which have different needs and concerns with respect to agriculture, timber, tourism and mining. **Mr. Ruen** indicated that locally elected officials should be able to make these determinations for their communities.

**Pam Eaton**, representing the Idaho Retailers Association and Idaho Lodging and Restaurant Association, spoke in support of **H 372**. She pointed out that this legislation protects restaurants and other retailers that use auxiliary containers during the course of business. **Ms. Eaton** stated that businesses take the brunt of these types of regulations, when made by local municipalities, in the form of community education; as a result, these complex decisions should be made at a state level.

**Suzanne Budge**, representing the Idaho Petroleum Marketers and Convenience Store Association, spoke in support of **H 372**, noting that statewide uniformity of the regulation of auxiliary containers will positively impact local businesses.

**MOTION:** **Senator Rice** moved to approve **H 372** with a **do pass** recommendation. **Senator Bayer** seconded the motion.

**Chairman Siddoway** called for a roll call vote. **Vice Chairman Guthrie, Senators McKenzie, Rice, Vick** and **Bayer** voted aye. **Chairman Siddoway, Senators Johnson, Stennett** and **Burgoyne** voted nay. The motion carried.

**ADJOURNED:** There being no further business, **Chairman Siddoway** adjourned the meeting at 4:00 p.m.

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Senator Siddoway  
Chair

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Jennifer Carr  
Secretary