

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Thursday, February 07, 2019

TIME: 9:00 A.M.

PLACE: Room EW42

MEMBERS: Chairman Collins, Vice Chairman Stevenson, Representatives Moyle, Anderst, Dayley, Chaney, Gestrin, Addis, Dixon, Furniss, Giddings, Nichols, Ricks, Erpelding, Ellis, Mason

**ABSENT/
EXCUSED:** Representative(s) Moyle

GUESTS: Curtis Schmitz, Smart Transportation; Alex LeBeau, IACI; Jeff Short, INPR; Dan DeGon, BGCM, STMA, WJR, Roadwise, Inc; Mark Mickelson; EIRR; Sean Ellis, Idaho Farm Bureau; Laura McNichol, Watco; Fred Birnbaum, Idaho Freedom Foundation; Elizabeth Criner, Simplot and Clearwater Paper; Rich Garber, Idaho Wheat & Barley Growers; John Watts, Veritas.

Chairman Collins called the meeting to order at 9:02 a.m.

H 61: **Rep. Clark Kauffman** presented **H 61** as an infrastructure bill incentive for railroad infrastructure, specifically short line railroad in Idaho. It provides a 40% income tax credit up front. Railroads have to put money into the railroad before they can get the credit, and the credit has to be put back into railroad infrastructure. The credit can be transferred, but it has to go back into railroad infrastructure. The maximum credit is \$3,500 per mile of short line track in Idaho. **H 61** is effective January 2020 and has a 5-year sunset provision when it can be re-evaluated.

Rep. Kauffman introduced **John Watts**, Veritas Advisors, who informed the committee he was appearing on behalf of Idaho Short Line Railroads, which includes Class II and Class III railroads that he listed and outlined the areas in Idaho which they served. He stated **H 61** provides a 40% income tax credit on the value of investment of a Class II or Class III short line railroad owned or operated in Idaho, capped at \$3,500 per railroad mile. Any tax credits not retained are transferable only to short line railroad customers and vendors, and funds received from the transfer must be reinvested in Idaho railroad infrastructure. The credit transfer is limited to one time by the taxpayer and not transferable by a transferee. A railroad expenditure claimed for the Idaho tax credit shall not be used to claim a federal tax credit under 26 U.S.C. 45G. Qualified expenditures are defined, and the ISTC will review and determine whether the qualifications are met after a short line rail road's investments are made in the ground. ISTC is empowered to oversee the entire program, promulgate rules, administer compliance and report to the Legislature yearly. The tax credit can be carried forward for 5 years. **H 61**'s effective date is January 1, 2020, and it sunsets in five years on December 31, 2024. He opined the credit would help lower the costs of rail infrastructure updates and preserve the rail lines so they are not taken up any more. Shippers stay connected to Idaho and their rural towns, keeping them connected to national and international markets which is important because Idaho is an export state. Per mile of track, the short line railroads need to invest \$8,750 in railroad infrastructure up front before they can apply for the \$3,550 credit. The net fiscal impact to Idaho will never exceed \$3.1 million each year. Idaho has spent over \$300 million on Idaho road and bridge infrastructure and zero on Idaho railroad infrastructure. Short line railroads help Idaho commodity growers.

In response to committee questions, **Mr. Watts** informed the committee to be eligible for the credit again, another cash reinvestment going back into the infrastructure would be required, and the reinvestment is a different dollar, not the same dollar. He explained how the loss of value over time occurs when a credit is transferred. He went on to explain the larger Class I railroads are ineligible to participate because short line railroads operate on margins with very narrow profit points and need help keeping up old railroad tracks. Mr. Watts replied to committee questions concerning ISTC oversight by indicating the ISTC has audit power for enforcement.

Those speaking **in support** of **H 61** were **Alex LeBeau**, President, Idaho Association of Commerce and Industry; **Jeff Short**, Idaho Northern & Pacific Railroad; **Dan DeGon**, Washington & Idaho Railway, Bountiful Grain & Craig Mountain Railroad and St. Maries River Railroad; **Laura McNichol**, Watco Companies, Union Pacific and Great Northwest Railroad; **Rich Garber**, Idaho Wheat and Barley Growers; and **Mark Mickelson**, Mickelson and Company, who said **H 61** is worthy of support to ensure Idaho's short line rail and bridge infrastructure is updated from the original owner under-invested lines. Idaho commerce and agricultural industries use airports, waterways and rails, and short line rails are the most fuel efficient mode of transportation with a 4 to 1 ratio compared to long haul trucking. Short lines serve Idaho's smallest to largest shippers, are the first and last mile for a lot of shipments, and give shippers options to keep prices down. They keep freight off of the highways, which saves costly road infrastructure and makes them safer, and keep rural communities connected to the national network. Every mode of transportation is subsidized, and they are not, although they provide a public value. Having this credit for short lines is an appropriate investment that puts no risk on the state and adds to efficiency, which is key to Idaho's competitiveness. Mr. Short remarked Idaho Northern & Pacific Railroad is a short line railroad, where he is a working manager, conductor and engineer, that puts every dollar every day in the ground to keep the railroad moving, and their workers support **H 61**.

In response to committee questions, **Mark Mickelson** informed the committee short line railroads cannot charge more for capital investment to keep them running because it is Class I railroads who have the pricing interchange and the short lines are held captive to the Class I interchange. He further replied to committee questions remarking that the **H 61** credit could be taken off the short line's taxes depending upon whether it was a deductible expenditure or a capital investment which is based on whether the credit was for maintenance or rail improvement. Rails that are kept up are more reliable and safer.

Those speaking **in opposition** to **H 61** were **Curtis Schmitz**, Smart Transportation, and **Fred Birnbaum**, Idaho Freedom Foundation, opining the railroad property owners should be responsible for rail upkeep and not the tax payers, and passing **H 61** would establish a policy of favoring some businesses over other Idaho businesses wanting to pay less tax. Mr. Birnbaum remarked it is better tax policy to reduce credits and lower marginal rates for everyone Mr. Schmitz informed the committee Smart Transportation represents 791 active and inactive union members for railroad Class I engineers, brakemen and other railroad positions, and they oppose **H 61**.

In response to committee questions, **Mr. Birnbaum** stated the railroad infrastructure should be distinguished from highway infrastructure because the short line railroad track cannot be used by the public and is a narrow sliver of Idaho infrastructure that has an operating expense deduction for a tax credit.

MOTION:

Rep. Furniss made a motion to send **H 61** to the floor with a **DO PASS** recommendation.

Rep. Kauffman closed by remarking **H 61** short line railroads are the ones keeping the rails operating, so they don't become trails. He said the legislation has accountability and a sunset clause.

In support of the motion, **Rep. Ricks** and **Rep. Chaney** addressed the impact of the loss of rails to their districts, the increased costs to the counties for highway maintenance and the devastating impact on the farmers. Rep. Ricks said there is a sunset clause and ignoring the railroad assets would have a greater cost down the road.

**ROLL CALL
VOTE:**

Rep. Nichols requested a roll call vote on **H 61**. **Motion carried by a vote of 13 AYE, 2 NAY and 1 absent/Excused. Voting in favor of the motion: Chairman Collins, Reps. Stevenson, Anderst, Dayley, Chaney, Gestrin, Addis, Dixon, Furniss, Ricks, Erpelding, Ellis, and Mason. Voting in opposition to the motion: Reps. Giddings and Nichols. Rep. Moyle was absent/excused. Rep. Kauffman** will sponsor the bill on the floor

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 10:47 a.m.

Representative Collins
Chair

Lorrie Byerly
Secretary