

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Wednesday, February 19, 2020

TIME: 8:30 A.M.

PLACE: Room EW40

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

**ABSENT/
EXCUSED:** None

GUESTS: None.

Chairman Collins called the meeting to order at 8:34 a.m.

H 495: **Rep. Megan Blanksma** said **H 495** clearly defines the method for defining agricultural values. Unlike residential values which are calculated on local comparable properties, agricultural property is based on production value. To get accurate calculations for production value it is necessary to use local rates and prices for accessing agricultural property. Counties in Idaho are very different from each other and do not produce the same crops or use different methods in production. Over the years ISTC has continued to migrate towards generalized costs and prices when calculating agricultural values to the detriment of Idahoans. **H 495** would require the use of local prices and values for value calculation where available and limit the use of generalized national data to instances when no other rates and prices are available.

In response to committee questions, **Rep. Blanksma** stated the land has to be active agricultural land.

Russ Hendrix, Farm Bureau Federation, spoke in support of **H 495** and said assessors need to use local data whenever possible, and **H 495** puts that into Idaho Code rather than leaving it in Idaho's administrative rules as it does now. The way value will be determined for the agricultural land is not changed and agricultural land does not get an exemption from property value but pays on actual use.

MOTION: **Rep. Stevenson** made a motion to send **H 495** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Blanksma** will sponsor the bill on the floor.

H 517: **Rep. Gestrin** informed the committee Idaho has two statutes under which local improvement districts act. Most operate under Title 50, Idaho Code, which defines how they operate and collect their assessments. When the owner of a piece of real property is delinquent on its taxes and their local improvement district assessments, the assessments can be left as an encumbrance on the property, and they will not be extinguished at sale. If the local improvement district certifies the assessment with the county treasurer, it goes into the tax deed, and when the tax deed is sold at auction, everything tied to the property is extinguished. So there is ambiguity between Title 50 and Title 63 of Idaho Code which **H 517** clears up.

MOTION: **Rep. Stevenson** made a motion to send **H 517** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gestrin** will sponsor the bill on the floor.

RS 27711:

Rep. Gary Marshall stated **RS 27711** will give statutory clarity to the ISTC on their assertion of claims in bankruptcies involving convicted criminals' protection of assets embezzled or stolen from victims in Idaho. **RS 27711** prohibits ISTC from claiming a first priority position in a bankruptcy if five conditions are met: the unpaid tax claim is on money obtained by criminal activity; the person owing the tax is convicted of a crime; the criminal files for bankruptcy protection; the victim of the crime files a creditor claim in the same bankruptcy estate; and there are insufficient funds to pay both claims. Rep. Marshall shared the experience of one of his constituents whose business accounts were ebezzled and their problems with their claims for recovery of the stolen funds in bankruptcy.

In response to committee questions regarding the retroactive July 1, 2019 effective date, **Rep. Marshall** replied the emergency clause is to give the victims he mentioned the possibility of resolving their bankruptcy claims. He further answered committee questions by saying he was unaware of similar cases in Idaho that would be impacted by the retroactive effective date.

MOTION:

Rep. Ellis made a motion to introduce **RS 27711**. **Motion carried by voice vote.**

Tom Harris, Chairman, ISTC, informed the committee the Governor asked him to restore confidence in the ISTC, and he would be addressing the reorganization of the ISTC. Chairman Harris provided his background, which he said provided an outside perspective to the ISTC as a state administrative agency. He said at the highest level, the appeals process is being enhanced by adding an appellate body to appeals. Typically, an oversight tax commissioner determines appeals as opposed to the full tax commission. He said he wants to put a director in place to take care of ISTC day-to-day operations because the ISTC is a complex organization and a professional director would be very effective. As commissioners move to a more active appellate body, it will be difficult for them to be impartial if they are a part of the operations of the business. Separation of duties is needed to run a pure appellate function. He described and discussed the organizational chart for ISTC, and he outlined their duties: listen to appeals and hearings; be responsible, constitutionally, for the State Board of Equalization and to oversee county boards of equalization; hold ISTC open meetings; do Economic Estimates Commission once a year; be responsible for tax policy management and oversight; be responsible for rules development and oversight; and have an over \$50,000 settlement process meeting.

In response to committee questions regarding accountability and the oversight of the legislature for the new program **Chairman Harris** replied there is some reporting by statute that comes out of ISTC every year to the germane committees which will still happen, and there is no formal legislative oversight in this process. He said he is unaware of an executive agency that has legislative oversight. He further replied to committee questions that the ISTC is not just accountable to the Governor but to the citizens of Idaho through the executive branch, and he is speaking before the committee today to connect the legislative branch through the executive branch. When questioned why he is telling the committee what is going to be done rather than working with the committee, Chairman Harris replied the process started with trying to do it through statute with a bill, which turned out to be 400 pages because there were some other considerations in play. It was too big a lift, so they proceeded with restructure, which the Idaho Attorney General and the Department of Human Resources said was within their authority today and responsive to taxpayers, citizens of Idaho and the Legislature who asked for a more independent appellate function and professional management of ISTC. He was asked by the committee why, if the legislature had no oversight, time was spent on a 400-page bill to change the statute to enable them to make changes to the ISTC. He said the scope of the bill was much broader than what is presented here and was about consolidating two agencies. Chairman Harris was asked by committee

members to identify a situation where any other commission had unilateral decision making forced upon them like this, and he replied he was not familiar enough with state operations to know. He also said an individual to operate the agency as it fits into the operation was wanted, which is not to be confused with the policy side that needs input from this legislative committee, taxpayers, and citizens. He indicated robust information collection is needed and the appellate process with four commissioners listening to the challenges taxpayers bring will help that. He said this is an iterative process of looking at the statutes causing challenges with Idaho citizens and tax payers, making proactive activities and trying to change the laws of the state to better serve the taxpayers. He addressed committee questions regarding the vision for the current Idaho State Board of Tax Appeals by indicating that it was part of the 400-page bill, but elimination or change to the board is not being considered currently. Chairman Harris also indicated the number of appeals in Bannock County had no impact on this reorganization. He said the current tax appeals manger will be moved over to ISTC because an individual at ISTC should not need to answer to four bosses instead of one manager.

In response to committee questions on why the ISTC commissioners would not be utilized in the same way they have been, **Chairman Harris** addressed the status of the ISTC's current horizontal organization and the reasons for the need to change it to a vertical organization. **Rep. Moyle** commented that per the Idaho Constitution, the ISTC is set up with two commissioners who are members of one party and two commissioners who are members of another party which creates an inherent conflict and makes better policy for Idahoans. The minority is not equal in the legislature but is equal when it comes to the taxpayer.

Rep. Chaney said a single legislator cannot advance a bill, nor can a single county commissioner do anything because a legislature, commission or committee only has power when convened and casting votes. Part of the inefficiencies built into the process, and as much as it may seem like a frustration, current statutory and appropriation limits are accountability measures very different from the private sector. When the legislature has no voice, there is no statutory consistency with what is done. If this action was brought as a proposal rather than an instruction about what already happened, there would be a very different response. Saying the legislature had no place in the discussion does not yield a positive response.

Rep. Moyle said the ISTC should be set up as the committee as a whole, like in the legislature and as it is now. It is upsetting this is going around the legislative processes, and the legislature will fix it. If the legislature doesn't fund the \$200,000 employee, it can probably be done with savings or some other way, but when things are done without legislation like a bill, the legislature can undo it all. These were policy changes and should have included this legislative committee.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 9:28 a.m.

Representative Collins
Chair

Lorrie Byerly
Secretary